PROFFESSIONS

1987

JAN. —— DEC. SEPT.

Judge in 'dock'

1/2/87

(248)

CP Correspondent

THE appointment of South Africa's first black acting judge has caused a storm among radical lawyers in Natal.

Senior counsel Hassan Mall, a former banned person who struggled for many years before he was granted a passport, takes up his month-long appointment next week in the Durban Supreme Court.

Though some quarters welcomed the move, the Durban Democratic Lawyers' Association and the Maritzburg Lawyers for Democracy have condemned him for accepting the post.

The DLA said in view of the oppressive laws a judge had to administer, it was incompatable with DLA membership to sit on the bench.

The PLD said "No advocate should accept judgeship as long as the present system ramains."

The DLA will hold a general meeting in March to decide whether Mall – a founder member of the DLA – should be expelled.

But other lawyers have said every lawyer was just as much part of the system as a judge.

Mall has declined to comment.

Political comment and newsbills by ZB Molefe, headlines and subediting by Jon Swift, all of 204 Ellof Street Ext, Johannesburg

Call for more cash to fund legal aid

By Sheryl Raine

A massive shot in the arm was needed from the Government to increase State funding of legal aid to ensure fair trials for those who could not afford their own lawyers, said a leading advocate

In his annual report for the year ending March 31 1986, the national director of the Legal Resources Centre (LRC), Mr Arthur Chaskalson, said South Africa spent only about R5 million a year on State-funded legal aid

Mr Chaskalson said Britain with double the population of South Africa spent R1 400 million on legal aid in 1986/87

"The comparison indicates just how inadequate is the South African legal aid system," said Mr Chaskalson

HUGE PROBLEM

"Although South Africa cannot hope to match the scope of legal aid services offered by Britain, and has neither the trained lawyers nor the financial resources to do so, it is surely time that something is done to meet the huge problem of legal aid in criminal cases

"A process whereby unrepresented and often ignorant accused persons are required to stand trial — conducted in many cases in a language which they do not understand and which has to be interpreted to them — and are then sentenced to long periods in prison cannot be characterised as a fair trial.

"It is necessary for legal aid to be made more freely available in criminal cases and for the principle to be accepted that accused persons facing serious cases involving the possibility of long jail sentences would be entitled to legal aid and advised of such entitlement before being asked to plead to the charge"

● See Page 15.

FREE UNDE
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Where

Legal watchdog's work grows as SA unrest spirals

By Sheryl Raine

Difficult and unhappy conditions in South Africa led to a growth in the demand for free legal services from the Legal Resources Centre (LRC) in recent months, says the LRC's latest annual report

The LRC, which was first established in 1979 to give free legal advice to those who could not afford it, employs 23 attorneys and advocates and a sizeable support staff to keep going its five branches in major cities around the country

Its major fields of work in the year ended March 31 1986 involved labour matters as well as housing, residence, influx control, human rights, citizenship, consumer abuses and the abuse of power vested in public officials.

In addition a new and demanding set of issues relating to the state of emergency have taxed the resources of the LRC, an organisation dependent entirely on donations for funds

"Unrest throughout South Africa has introduced changes in the pattern of work coming to the LRC," said the Mr Charl Cellers, chairman of the Legal Resources Trust which controls the funding of the LRC

"For most of the year under review a large part of the country was subject to a state of emergency

"Since then a nationwide state of emergency has been declared and this is still in force," said national director of the LRC, Mr Arthur Chaskalson SC

"Under the state of emergency wide powers of arrest, detention, search, seizure and censorship have been conferred upon and used by the police and military

"Ultimately a just society depends upon a legal system which functions openly and fairly and which is readily accessible to all who wish to make use of its institutions

"The work of the LRC, which is directed to this goal, is therefore of fundamental importance and is indeed made more urgent by unrest and conflict within the country."

He said the emergency had added considerably to the LRC's workload.

"Suddenly there are a large number of people wanting information about where their friends and relatives are being detained, about what rights detainees have, what can be done for people in detention and what can be done to get people out of detention"

Following several court challenges to the emergency regulations a substantial number of people had been released

Mr Chaskalson welcomed vigorous protests from the legal profession against the emergency

"It is important that this should be done, otherwise the courts cannot perform their historic role of providing protection to individuals against unlawful conduct of the State or its officials."

Reports compiled from the regonal offices of the LRC said the first state of emergency had "serious and alarming consequences on the protection afforded by an independent judiciary to an individual".

"The numbers suffering under arbitrary action by the police and the army are high"

Every day the offices of the Legal Resources Centre are crowded with people tangled in the legal red tape which rules their lives. Here are just a few of the human stories told to the Centre:

● The Development Board at Paarl told Mr X's employer that his contract as a migrant labourer would not be renewed because he had brought his family with him to the Western Cape without a permit.

In fact, Mr X had brought his three-year-old son to stay with him for a month for medical treatment.

Mr X was arrested for having the child with him. He paid an admission of guilt fine.

The LRC appealed against the ruling, which ended his migrant labour contract, and was successful in winning Section 10 (1)(b) rights for Mr X under the influx control laws.

● Mrs Y wanted to work in Johannesburg and the West Rand Development Board approved, sending the required form to the local labour office in Bophuthatswana The office refused to process the appliation because Mrs Y was not a citizen of the homeland.

The Johannesburg authorities refused to process the application because she was a citizen of Bophuthatswana and required approval from the homeland labour office.

The LRC finally obtained recognition of Bophuthatswana citizenship for Mrs Y, enabling her to work in Johannesburg.

● Mr C, a teenager, was arrested by the police after someone had falsely accused him of theft. He was assaulted by the police.

His brother went to inquire why he had been arrested, was himself arrested and assaulted more seriously than Mr C.

Actions for damages for unlawful arrest and assault were brought against the Minister of Law and Order. Before the court appearance, the Minister paid R1 000 to Mr C and R3 500 to his brother.

Lawyer sues police

BY JO-ANN BEKKER

A JOHANNESBURG attorney who was detained with 16 clients outside the Benoni Magistrate's Court last June has sued the police for unlawful arrest and is claiming R50 000 damages.

Prakash Diar, 30, a partner in the legal firm Ismail Ayob and Associates, filed papers before the Rand Supreme Court shortly before Christmas, alleging his arrest was "unlawful, wrongful and in bad faith". The Minister of Law and Order and a Benoni police officer are named as the defendants.

The 16 men detained with Diar were facing charges of assaulting a prison warder while detained under the 1985/86 State of Emergency.

First black on bench was once banned

By PRAVEEN NAIDOO

A MAN who was once banned and refused a passport has been appointed South Africa's first black judge.

This week, the appointment of Advocate Hassan Mall, SC, as an acting judge was confirmed by the Ministry of Justice.

"Advocate H E Mall has agreed to act on the Natal bench of the Supreme Court during February 1987 in place of one of the judges who is on long leave," said a spokesman for Minister of Justice Mr Kobie Coetsee.

Mr Mall, 62, of Durban, was the first black to practise as an advocate after "dual practices" of attorneys-cum-advocates were stopped in 1934 And he was the first Indian in Natal to take silk.

In 1961, his involvement with two anti-Government organisations — the old South African Indian Congress, of which he was joint secretary, and the Natal Indian Congress — led to a five-year restriction order under the Supression of Communism Act.

He was restricted from leaving Durban and from communicating with other banned people



HASSAN MALL
A good sense of humour

Sportsman

Ten years ago, Mr Mall was granted a passport for six months, it was only in 1982 that he was given another, after several applications

He then went to India to visit the village where he was born. His parents emigrated to South Africa when he was a boy

Mr Mall's father became a travelling salesman and the family settled in Durban.

After matriculating at Sastri College, Mr Mall studied at the University of Fort Hare before obtaining his LLB degree at the University of Cape Town.

A keen sportsman, Mr Mall was captain of the first Western Province Indian cricket team.

He and his Cape Town-born wife, Sylvia, have three children and one grandchild

A close friend and legal associate described Mr Mall as a thoughtful man with a good sense of humour.

SA's first black judge to sit next month

19/1/78

Mercury Reporter (248)

SOUTH AFRICA's first acting black judge, Mr Hassan Mall, a former banned person, will sit on the Durban Supreme Court Bench during February while another judge is on long leave

Mr Mall was banned for five years in 1962 under the Suppression of Communism Act while joint honorary secretary of the South African Indian Congress

Yesterday Mr Mall agreed to be photographed at his Durban home but declined to comment on his historic appointment

In 1978, he became the first black advocate in Natal to be appointed senior counsel

Sapa reports that Mr Pat Poovalingam, Opposition spokesman for justice in the House of Delegates, said Mr Mall's appointment was a 'laudable move' by Natal's Judge-President, Mr Justice John Milne

The Minister of Justice, Mr Kobie Coetsee, also deserved congratulations 'for accepting this in good spirit', he said

Advocate criticised by DLA

By Toni Younghusband

The first non-white person to be appointed to the Bench of the Supreme Court of South Africa, Mr Hassan Mall, has been criticised for accepting his appointment.

Mr Mall — an Indian advocate practising in Durban and a former banned person — will join the Bench as an acting judge for February

Mr Mall's continued membership of the Democratic Lawyers' Association (DLA) is now under scrutiny after his appointment.

A statement released by the DLA said Mr Mall's acceptance of the appointment was in conflict with the principles for which the DLA stood.

"The committee of the DLA is of the firm view that with the present political, social and economic structures existing in this country and the vast number of repressive laws, it is not proper for any of its members to serve in any judicial capacity"

Mr Mall told the Press he was "not in a position to comment".

(248) (243) (322) RUSDAY 27/1/87

Media curbs baffle lawyers, court hears

SUSAN RUSSELL

THE new media restrictions issued by the Commissioner of Police were so confusing that even the legal profession had difficulty in knowing what could be published.

Denis Kuny SC argued this before Mr Justice H Daniels in the Rand Supreme Court yesterday at the conclusion of an urgent application brought by South African Associated Newspapers (Saan) and the Argus Printing and Publishing Company challenging the regulations.

The judge reserved his decision until tomorrow .

Kuny said the notice and order issued by the Commissioner in terms of the emergency regulations on January 8 were so vague they could not be reasonably understood and acted upon.

The new restrictions prohibit the editor of a newspaper, magazine or periodical from publishing any report or advertisement calculated to improve or promote the public image of an unlawful organisation or commend, defend , explain or justify any of it's actions, policies or strategies.

The urgent application has been made on the grounds that the commissioner exceeded his powers under the emergency regulations.

It also asks that the order and notice be declared void and without force and effect in law because they are so vague and unreasonable they cannot be understood and implemented.

P C Van der Byl, SC, who appeared for the Minister of Law and Order and the Commissioner of Police, argued yesterday that the commissioner was entitled to make orders for the entire country and not only in a "particular area" as submitted by Kuny.

Blacks must sit on Bench, says Bar Council

It was essential that blacks be trained for the Supreme Court Bench in South Africa, the executive council of the General Council of the Bar of South Africa decided at a meeting at the weekend

The secretary of the council, Mr Dan Joubert, said it had appointed Mr Arthur Chaskalson, vice-chairman of the General Council of the Bar, to examine steps to encourage more young black people to join the bar.

Mr Chaskalson would consider ways of implementing the Bar's decision to "make a determined effort to draw more young blacks to it by promoting the profession and endeavouring to alleviate some of the initial financial burden it entails"

"The Bar is aware of the difficulties which exist Both the standard of black education and the financial burden which faces any young beginner at the bar make it difficult for young blacks to enter the ranks of the profession," a statement released after the meeting said

"But it is essential to the future of the country that blacks be trained for the Supreme Court Bench," the statement said

The General Council of the Bar is the governing body of all practising advocates in South Africa

It promotes the administration of justice, comments on new legislation and deals with the ethics of legal practice.

The meeting discussed "contingency fees" whereby lawyers were paid only if their client's claim succeeded.

This idea was one "long since accepted by the Bar", the statement said

However, a distinction should be drawn between the payment of proper legal fees if the claim succeeded and the American system in which lawyers negotiated for a percentage of the damages awarded their client by the court.

This system could lead to "grave abuse and can never be supported by the Bar", the meeting decided.

Bench 'should reflect all parts of society'

By Claire Robertson

Men and women of all races practise law in South Africa but acting Natal judge Hassan Mall is the first black to be appointed to the Supreme Court Bench.

"The Bench should ideally reflect the make-up of society — all parts of society," says advocate Arthur Chaskalson, vice-chairman of the General Council of the Bar of South Africa, the controlling body for advocates

Mr Chaskalson chairs a committee set up at a meeting of the executive council of the Bar Council at the weekend to look into ways of encouraging young people to join the Bar

At the same meeting, the council agreed that it was essential to the future of South Africa that blacks be trained for the Supreme Court Bench

The committee will research ways of removing the difficulties facing young black lawyers

These include the standard of education he or she has experienced, and financial barriers Regarding the latter, the committee is to consider setting up a bursary scheme to help prospective lawyers

Opposition and antagonism to black lawyers in South Africa "has not really been identified as a problem", Mr Chaskalson told The Star yesterday

"The impression I have is that the black lawyer will not encounter that sort of problem in the Supreme Court," he said

However, although the Bar Council has identified the need for a black judge, fears have been expressed that it is unlikely one would serve on the Bench under the present Government

Mr Mall was criticised by the Democratic Lawyers' Association (DLA) when he was appointed to the Bench this month

The Durban branch of the DLA said it regretted his acceptance of the appointment because

"We are of the firm view that, with regard to the present political, social and economic structure existing in the country and the vast number of repressive laws, it is not proper for any of our members to serve in any judicial capacity"

However, the Bar Council decision will only bear fruit in 15 to 20 years

"The decision was based on the realisation that the profession is overwhelmingly white and there is a great need for that to change," said Mr Chaskalson

'Too many law faculties'

SA has 'too many law faculties, Cape Town University's law faculty's acting dean Professor Reinhard Zimmermann says in the January issue of *De Rebus*

And he suggests the number should be reduced from the existing 19 faculties to four or five — therefore becoming centres of academic excellence.

Zimmermann says one of the reasons for reducing the faculties is the dire financial situation at universities which is leading to law libraries falling behind international standards

Business Day Reporter

And he criticised the length of time and amount of money wasted by many students trying to get their BA Llb degree

He says "Many of them take up to seven years to finish, learning many things they'll never use"

Zimmermann says a three-year undergraduate degree at a practical legal training school on the technicon level should be introduced for those wishing to do basic legal work

Accounting the cost of SA's 'brain drain'

THELMA TUCH

THE accounting profession is desperately short-staffed as a result of the "brain drain" from SA, according to Margo Steele, newly-appointed head of the department of accounting at the University of the Witwatersrand

Steele — wife of Wits deputy vice-chancellor Jerry Steele — took over as head of the Wits accounting department this month, the first woman ever to head a department of accounting at an SA university

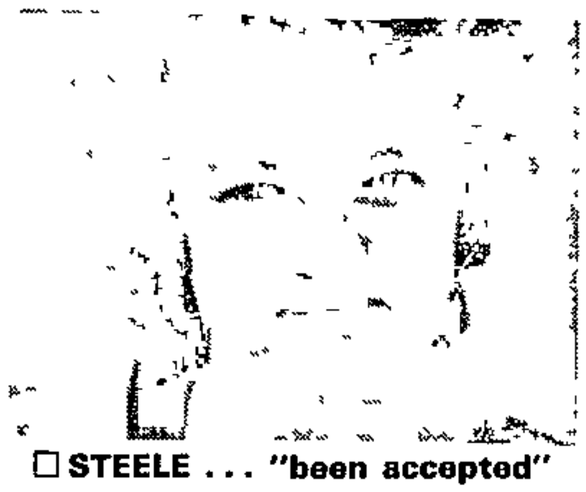
The shortage of accountants is so acute, she says, that a situation has developed where members of the profession actually come on to the campus to canvass graduates for articles

Worsening the situation is the noticable increase in the number of graduates leaving SA, she says Large numbers of the "best" of them are leaving for the US, Britain and Australia Leaving for largely political reasons, they often depart immediately after graduation to avoid military service

She says that last year about 12 graduates who received their call up papers left the country directly after they had completed the course

"I get excellent feedback from the US, UK and Australia about the quality of our graduates," she says

The brain drain also hit Wits accounting staff members last year Two of them emigrated another member has left this year



☐ STEELE . . . "been accepted"

The university has problems finding suitable people to fill these positions, she says, because its salaries are not competitive To deal with this problem Wits has employed more part-time staff members who complement their salaries with other jobs However, the department still faces a staff shortage, this will be one of the biggest challenges facing her in her new position

Steele, longest-serving member of the Wits accounting department, passed the examination of the Public Accountants' and Auditors' Board at the age of 20 — the youngest CA ever to qualify in SA

How does she feel heading a department which is predominantly male? She says "I've been here for so long in a senior position that I know I have been accepted"

Up to 35% of accounting students today are female and they make good students, walking away with a large number of the accounting prizes, she says "Woman don't choose to do this profession unless they are really good," she explains

Steele worked side by side with her husband in the accounting department for years He started off as a lecturer and was head of the department from 1979-1984

"An agreement had to be reached for me to be allowed to stay in the department, because a wife and husband in the same department is not generally allowed by the university authorities"

Her feelings about becoming head of the department? "The position was thrust upon me I certainly would not have taken it out of choice All my life I looked forward to having a nice pleasant and relaxing job, but that certainly has not happened"

...candidates
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hat ...

Lawyers rethink fees

Pretoria Correspondent

Growing pressure for a "no win, no pay" deal between clients and lawyers in civil trials is set to force a rethink on the legal fee structure

The details will be thrashed out at top-level meetings of the legal profession within the next few months, hopefully unlocking the door to legal help for the masses

"The profession is looking at it very hard We must provide greater access to legal help," said president of the Law Society of the Cape of Good Hope Mr Mervyn Smith

Mr Smith, a Bellville attorney, was responding to reports that the executive council of the General Council of the Bar of South Africa was studying the new deal — the so-called "contingency fees"

The Law Society has been giving serious thought to the idea since its last annual conference

According to the Bar Council executive, the concept "is one which the bar has long since accepted, subject to control by bar councils"

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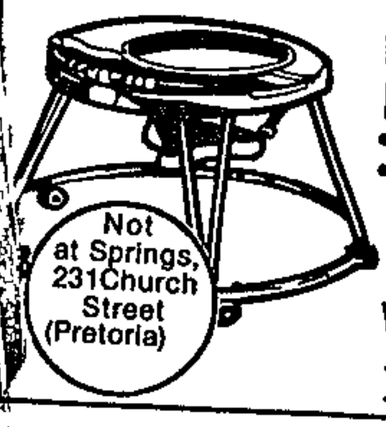

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BIG SAVINGS ON HARD...

A debate that's split the legal profession:

The rights and wrongs of joining a South African bench

South Africa's first black judge begins his month-long term on the Natal bench this week, amid an extraordinary uproar in legal circles The Society of Advocates is delighted, but Hassan Mall's own colleagues in the Democratic Lawyers' Assocation are enraged. CARMEL RICKARD examines the issues

THE uproar over black advocate Hassan Mall's decision to accept a post as acting judge could discourage other advocates from accepting similar appointments, a colleague has warned

Natal Society of Advocates chairman David Gordon said coverage of Mall's appointment had stressed both the fact that he is the first black person to hold such a position, and that he has a controversial political background — having been banned and, for many years, denied a passport

Gordon said the reports could create several problems

He said Mall had only agreed to accept the position after lengthy consideration, and only because he felt it was his duty

"This would be the only motive for a senior counsel to accept such a post," Gordon said

"A temporary appointment disrupts one's practice and is far from financially rewarding because judges are paid appalling salaries

"Nevertheless, Mall decided he should accept the position

"However, the massive publicity could mean he and others will be reluctant to accept appointments in future They could well be reluctant

> If it is wrong for blacks to accept appointments to the bench, why is it any less wrong for sympathetic whites? Why applaud judgements which give effect to human rights?

to have their personal history the subject of public debate"

Further problems could arise, he said, if Mall had to decide on a case involving political legislation

"His colleagues know he will decide such a case based not on his political past but on the facts before him

"However, the publicity he has received may make members of the public doubt this This could bring public confidence in the judiciary into question"

Similar fears were expressed by one of the most senior members of the legal profession in Natal — who cannot be named for ethical reasons

Responding to criticism from organisations like the Democratic Lawyers' Association (DLA), he said

"The DLA has possibly been disturbed that the Supreme Court bench consists entirely of whites Yet when the first black person is asked to serve, they condemn his decision

"Does this mean they have abandoned their complaints about the whites only bench? Or are they content for blacks to be members of the bench as long as they are not members of their association?"

He also asked "If it is wrong for blacks to accept appointments to the Supreme Court bench why is it any less wrong for sympathetic whites to do so, or — if they are already on the bench — to remain there?

"If it is no less wrong, why are members of the DLA overjoyed when, in any case involving human rights issues, they applaud judgements which give effect to human rights?

"Also, if trying to do justice on the bench when dealing with discriminatory laws is collaboration, why is it any less collaboration for DLA members to argue such cases in court?"

He added "The DLA response will make it very difficult for the next person to take up an acting or even a permanent appointment

"Do they want white judges whose judgments they have applauded to pull out of the judiciary? If not, what is the difference between white judges already on the bench and Mall, except that they are white and Mall is not That sounds suspiciously like racism"

Mall is still being criticised for his decision, however

This week the Pietermaritzburg Lawyers for Democracy (PLD) added their voice, saying Mall has 'rendered a grave disservice to the cause of the oppressed people"

"Judges are bound to apply the laws passed by the white-controlled parliament Many of these are repugnant to the rule of law and democratic values

"The Public Safety Act, which is the source of the State of Emergency, and the Internal Security Act are two notorious examples

"The rare criticism of these laws by judges is of little comfort to the victim

"We view acceptance of judgeship by any person who was part of the struggle for democracy as desertion, and an embracing of the ruling-class strategy of co-option"

The PLD said Mall's "process of desertion" started when he accepted a

> Judges are bound to apply the laws passed by the white-controlled parliament Many of these are repugnant to the rule of law and democratic values

brief from Kassie Ramduth, "so-called Minister of Indian Education", to chair a commission of inquiry at the University of Durban Westville

"Later, he accepted a brief in the squabble in the Solidarity Party"

The PLD adds "Our view is that no advocate should accept judgeship for as long as the present system remains The judiciary can only perform a progessive function in a society governed by laws passed by a parliament rooted in democracy"

●The DLA also commented this week, saying "It is not proper for any of our members to serve in any judicial capacity

"Mr Mall's continued membership of our organisation will be discussed at a general meeting"

The meeting is expected to take place early in March, by which time Mall — whose appointment is for the month of February — will already be off the bench

● Hassan Mall has refused to comment on the issue

Lawyers hit out at curbs

Staff Reporters

The legal fraternity has slammed the sweeping new powers granted to the Commissioner of Police late on Thursday, saying this deprived the ordinary citizen of yet another safeguard against abuse by the State.

The Commissioner's new powers were given to him in reaction to a court ruling yesterday that found he had exceeded his powers under the emergency regulations when he sought to muzzle the Press

A spokesman for Lawyers for Human Rights said it had almost been expected the Government would refuse to abide by Supreme Court decisions and would issue new regulations to circumvent them

"This is an inherent weakness in our constitutional system in terms of which Parliament can ultimately do as it pleases and the courts are virtually powerless to stop it," he said

The Chairman of the General Council of the Bar of South Africa, Mr H P Viljoen (SC), said it was a matter of "deep regret" that the Government had found it necessary to curb the independent reporting of factual occurences in as drastic a manner as had been done in the regulations.

New Year weekend, if so, *(a)* on what date, *(b)* what were the circumstances surrounding this incident and *(c)* what action was taken by (i) this gang and (ii) the South African Police on this occasion,

(2) whether the members of this gang have been arrested, if so, when, if not, what progress has been made in the investigation of this matter?

The MINISTER OF LAW AND ORDER

(1) No

(a) A national serviceman was wounded in the Alexandra Township on 1 January 1987 He is number 82274556BG Lance Corporal A W Pearce He has already recovered totally and is not paralysed

(b) Members of the South African Defence Force manned a routine roadblock in the Alexandra Township Several shots were fired at these members from a nearby site during which Lance Corporal Pearce was wounded

(c) (i) After the attack the persons escaped

(ii) The South African Police conducted a follow-up operation and in the process shots were also fired at them The attackers again escaped Nobody was injured

(2) No, but the investigation is proceeding

Retired magistrate

431 Mr A B WIDMAN asked the Minister of Justice

(1) Whether, with reference to his reply to Question No 1 on 15 April 1986, the case concerning a retired magistrate who instituted a civil action against his Department for allegedly withholding promotion from him has been concluded, if not, when is it anticipated that it will be concluded, if so, *(a)* when, *(b)* what was the outcome and *(c)* what were the circumstances surrounding this case,

(2) whether any steps were taken departmentally as a result of this case, if so, *(a)* when, *(b)* against whom, *(c)* what steps and *(d)* why,

(3) whether he will make a statement on the matter?

The MINISTER OF JUSTICE

(1) Yes

(a) June 1986

(b) The plaintiff withdrew his claim

(c) A civil action was instituted on 21 February 1984 because promotion was allegedly withheld from the plaintiff due to certain adverse remarks in reports concerning him The plaintiff alleged that these remarks were not brought to his attention and that it was unjustified He further alleged that he suffered damages to the amount of R125 282,92 In fact some of the adverse remarks had been expunged from the reports after an investigation in September 1983 As a result thereof the plaintiff's date of promotion has been back-dated This resulted in an amount of R494,00 being due to him which amount was eventually paid over to him

(2) No

(3) A statement is not necessary

Citizen Force/Commandos

432 Mr A SAVAGE asked the Minister of Defence

(1) What percentage of Citizen Force and Commando members called up to attend camps *(a)* applied for deferment in 1983, 1984 and 1985, respectively, and *(b)* (i) failed to report for service, and (ii) requested exemption from rendering service in townships, in each of these years,

(2) what total number of persons called up for military service in 1983, 1984, 1985 and 1986, respectively, requested exemption on *(a)* religious and *(b)* other specified grounds?

The MINISTER OF DEFENCE

(1) The honourable member is referred to the reply to section (2) and (3) of the written Question No 879 of 15 April 1986

(2) The honourable member is referred to the reply to section (1) of the written Question No 879 of 15 April 1986

Water from Natal for Transvaal

434 Mr G B D McINTOSH asked the Minister of Water Affairs

(a) How much water was obtained from Natal for use in the Transvaal in 1986 *(b)* what was the price charged per litre of water and *(c)* (i) who paid for this water and (ii) *(aa)* to whom and *(bb)* when was this money paid?

The MINISTER OF WATER AFFAIRS

(a) 440 million cubic metres

(b) The total cost for the State for the supply of Tugela River water, via the Sterkfontein Dam to the catchment area of the Vaal River, amounts to 0,015 cents per litre In determining the Government water tariffs the total cost for providing all water supply components, as well as any other expenditure are taken into account, whereafter an average tariff for the supply of water is determined which tariff presently amounts to 0,0065 cents per litre for domestic and industrial use and 0,0011 cents per litre for agricultural use

(c) (i) The following institutions to whom the water was supplied, paid for the water and it was then, where applicable, recovered from the consumers concerned

Rand Water Board
ESCOM
ISCOR
SASOL
OFS Goldfields Water Board
Western Transvaal Water Company
Municipality of Kimberley
Other small consumers
Irrigators

(ii) *(aa)* The Department of Water Affairs

(bb) Throughout the year

Lesotho Highlands Water Project

435 Mr G B D McINTOSH asked the Minister of Water Affairs

(1) When is it anticipated that the Lesotho Highlands Water Project will commence delivering water to the Republic,

(2) whether a price has been determined in respect of water so delivered, if not, why not, if so, *(a)* what is the proposed price per litre and *(b)* on what basis was this price calculated?

The MINISTER OF WATER AFFAIRS

(1) 1995

(2) Yes

(a) 0,07 cents per litre (provisionally)

(b) The price was calculated on the December 1985 cost of the first phase of the Project and determined for a 15% interest rate in

Top law man urges study of varsity Latin

LAW STUDENTS were advised to take Latin 1 at university level despite the recently tabled Bill enabling advocates who had passed only a preliminary Latin course to practise, the Bar's general council head, H P Viljoen, said yesterday.

He said the Bill was an interim measure to provide relief to those people who had been adversely affected by last year's Appellate Division decision that

THELMA TUCH

Latin courses for the Bachelor of Law degree had to be superior to the matric Latin course.

Viljoen said the decision upset earlier judgments in the Transvaal and Natal which had held that any university course in Latin — including the preliminary course which took students to the level of matric Latin — was sufficent for admission as an advocate

Many students had subsequently taken only the preliminary course in Latin, had finished their LLB and now failed to comply with the standard of first-year university Latin laid down last year by the Appellate Division.

HViljoen said the Minister had the right to reinstate the provision of the Act at any time and students embarking on a legal career were advised to register for a first-year university course in Latin.

'Death penalty in political crimes must go'

THE death penalty in politically-motivated crimes must be abolished and convicts in such cases be granted prisoner of war status, the Democratic Lawyers' Congress urged this week.

In a statement released after their annual general meeting at the St Peters' Seminary in Hammanskraal at the weekend the DLC also reiterated their stance that "no lawyer shall be free until Nelson Mandela the lawyer is free"

The DLC also declared its opposition to the introduction of the Bill of Rights within the framework of the present constitutional set-up adding that such a move would be an attempt to "entrench the white majority and sugar-coat apartheid"

The lawyers urged the Government to abolish the death penalty in politically-motivated crimes and instead grant those convicted prisoner of war status

The DLC also resolved at the meeting to render legal and other related support to all progressive organisations involved in the struggle against apartheid

Resolutions

They also resolved to support the move to establish a new organisation, the South African Association of Lawyers, whose membership would be open to all progressive lawyers

Other resolutions adopted at the meeting were

(1) The establishment of a committee which will give legal and educational support to student detainees

(2) To monitor detainees, especially women and children

(3) To strengthen existing ties with the Intervarsity Law Students Council and to give its members both material and moral support necessary for their development as jurists

(4) To render legal and other related support to all progressive organisations involved in the struggle against apartheid

5 killed

FIVE people were killed and five others injured in faction fighting at Ezakhweni near Ladysmith in Natal, SABC radio news reported yesterday.

Firearms and assegaais were used in the fighting between the Makhandane and Ngubane tribes

The names of those killed and injured have not been released

Journeymen at law?

Legal representatives with diplomas, rather than degrees, should be empowered to appear in the lower criminal courts This would make legal representation accessible to the man-in-the-street at affordable rates, says the president of the Association of Law Societies, Schalk "Billy" van der Merwe.

"Such lower qualified lawyers could do a diploma course at a university specialising in criminal law and procedure," he explains They could then "represent accused who require legal representation in court, but not the specialised knowledge of a highly qualified attorney, who is often forced to consider high overhead costs"

His sentiments would appear to be shared by Professor Reinhard Zimmerman, acting dean of the faculty of law at the University of Cape Town Zimmerman says that while he supports five or six leading law schools (rather than the current 19 in SA), "there is no necessity for a law faculty in Venda which runs an LLM course Neither is a law faculty in QwaQwa really called for

"There is room for something entirely different, particularly in SA Many students, both black and white, at present waste their time and money trying to obtain a BA LLB degree It often takes them six or seven years and they have to learn many things which they will never have to use, which do not interest them, and which they are able to master only with the greatest of difficulty Yet they could be perfectly adequate legal practitioners in many respects"

The answer, as Zimmerman sees it, is to introduce a three-year undergraduate degree at practical level training schools on a technikon level "Why not also revive, for these students, the idea of entering the profession by way of a prolonged period of articles?" he queries. "Both could go hand in hand two years full-time study, two years on a part-time basis, plus two further years of full-time articles"

Zimmerman emphasises that he does not see this type of training as inferior "We would simply be dealing with two different types of legal training — the one aiming at the solid craftsman, the other at the artist It would be quite wrong to require the prospective house painter to pass through an art academy, and it would be equally wrong to look down on him because he had not learnt to paint a portrait. As a matter of fact, one needs him just as much (if not indeed, more urgently and in greater numbers) than his artistic counterpart."

Van der Merwe adds that "people appearing in court, especially magistrates' courts, often do not understand their rights If neither the magistrate nor public prosecutor are able to assist them and an attorney is unable to appear at a low fee, this effectively places legal representation out of reach of a large percentage of the population This is of grave concern to the attorneys' professsion"

Zimmerman contends that the profusion of law faculties at universities across the country can only ultimately lead to an erosion of academic excellence He says that universities would cease to fulfil their role if they were to allow their degrees to be gradually converted to a technikon level

He says "If the money, as at present, is sprinkled over 19 law faculties, none of them will, in the end, be able to maintain acceptable academic standards One merely has to look at what the law libraries of the University of Stellenbosch and UCT are able to spend each year on buying new books to appreciate that the situation has become quite desperate

"We do not need 19 law faculties in SA, all trying to emulate Harvard, Oxford or Cologne We must realise that we are trying to reconcile two conflicting aims (both absolutely legitimate per se) under the umbrella of one single degree We should not be surprised if we see that umbrella tearing"

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THE Black Lawyers' Association Legal Education Centre launched a magazine in Johannesburg last week Among those present were Mr Motsama Makume (left), a Natalspruit lawyer and Mr Sammy Tloubatla, a Soweto attorney.

Lawyers write about their work

A MAGAZINE by black lawyers about their work and the laws affecting their community has been launched by the Black Lawyers Association Legal Education Centre.

By NKOPANE MAKOBANE

The magazine, *African Law Review*, is the first edition of two new publications — the other being the *Occasional Paper*

Both are innovative projects in that for the first time black lawyers in South Africa are writing about their activities

Speaking at the launching in Johannesburg, Mr Godfrey M Pitje, the centre's director, said *African Law Review* is a medium for sharing knowledge of the law

The magazine will carry regular articles on the work of black lawyers today and in the past The first edition features the life of Pixley Seme, the father of black lawyers in South Africa

Review hopes to spread much needed knowledge of the law beyond the legal profession Its advice pages and trade union briefs will regularly publish guides on the law and legal services

Views on education will always rate a mention The education pages will feature news and views from the campuses alongside research done by the Legal Education Centre

According to Mr Pitje, future editions of *Review* will include an "Other Africa" section with legal news from the rest of Africa Contact has already been made with a union of lawyers in Nairobi, Kenya

The ultimate aim of the *Review* is to establish a network of information sharing among black lawyers, students and para-legals in South Africa and beyond

Sowetan 3/3/88 (248)

Exodus could hit varsities

THE exodus of qualified accountants from SA has mainly concerned the accounting profession, commerce and industry so far. But Arthur Andersen managing partner BARRY ADAMS says universities could be affected even more adversely. He suggests setting up a separate school of accounting, in the same way as the Wits Business School is affiliated to the University of the Witwatersrand.

A MAJOR stumbling block to attracting top accountants to teach at universities is the poor salaries offered.

This is partly because their pay has to correspond with scales of other academics. Accordingly, an associate professor in accounting earns roughly the same as a third-year articled clerk who has completed his academic qualifications.

But I believe the dean of a commerce faculty should earn at least R200 000 a year, and possibly R300 000 a year, with other accounting academic staff salaries similarly upgraded.

Certainly the fees paid by the high number of accounting students at universities should enable higher salaries without making the cost structure of the school prohibitively out of line with the fee increase. This is due to the high student-teacher ratio in the accounting department compared with other faculties such as fine arts.

Solving this problem could have a profound effect on the quality of future university graduates.

A possible solution, in my opinion, would be to establish a post-graduate school of accounting that could be associated with a university. Many other professionals worldwide rely successfully on a separate professional school, and they tend to have significantly better pass rates in entrance exams than do CAs.

Professional schools generally have academic respectability; they develop relevant and rigorous curricula; attract capable, highly motivated students, and create a meaningful and continuing interaction with the practising arm of their related profession. Some other possible benefits are:

- ☐ An accounting school would give entrants to the profession a definite career identification.
- ☐ This identification should make it easier to attract capable people Outstanding staff would welcome the opportunity to work with graduate students in their specialised areas.
- ☐ Teaching could be more specifically related to the needs of the students rather than being broadly designed for a wide range of needs.
- ☐ None of the black universities are recognised by the Public Accountants and Auditors Board. The introduction of a school would end this and could improve the basis of introduction of members of all race groups into the profession.
- ☐ A professional school offers the opportunity to develop professional attitudes and synergies, and a professional consciousness among its students.
- ☐ A school is in a strategic position to identify pressing technical and other professional problems and to co-operate in finding solutions through research.

Act No. 16, 1987 JUDGES' REMUNERATION AMENDMENT ACT, 1987

ACT

To amend the Judges' Remuneration Act, 1978, so as to increase the salaries of judges of the Supreme Court of South Africa; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 2 March 1987)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows —

Substitution of Schedule to Act 91 of 1978, as substituted by section 1 of Act 76 of 1986

1. The following Schedule is hereby substituted for the Schedule to the Judges' Remuneration Act, 1978

"Schedule

Designation of office	Salary per annum
Chief Justice of South Africa	**[R98 000]** R122 000
Judge of Appeal	**[R88 000]** R108 500
Judge President	**[R86 500]** R107 000
Deputy Judge President	**[R83 000]** R103 500
Judge	**[R81 000]** R101 500 "

Short title and commencement

2. This Act shall be called the Judges' Remuneration Amendment Act, 1987, and shall be deemed to have come into operation on 1 July 1986

Bringing the law closer

South African attorneys are to give R55 000 next year to universities which run approved legal-aid clinics, in an attempt to make the law more accessible to those who cannot afford it

The grants are aimed at contributing towards the costs of appointing full-time qualified legal-aid directors

The decision was taken at the recent meeting of the board of control of the profession's fidelity fund in Cape Town.

The contributions will increase the profession's financial aid to universities to more than R2,2 million in 1988, according to a statement

The chairman of the Fidelity Fund, Mr Eric Liefeldt, said this represented a substantial increase over this year's figure.

Attorneys' fund helps blacks

MICK COLLINS

THE attorneys' profession has awarded 69 bursaries worth more than R300 000 for post-graduate study in law as part of its drive for more black lawyers

Attorneys' Fidelity Fund chairman Eric Liefeldt said at the weekend that since the bursary scheme was started in 1973, the fund had helped 480 students — 120 of them black

"This has cost us more than R1m but we have given it gladly to help foster legal education The profession is also keenly aware of the many difficulties facing black students and of the vital necessity to turn out more trained black lawyers. Bursaries are therefore granted to black students who wish to complete LLB degrees Other bursaries are granted only for post-graduate study"

The top honour is the prestige Attorneys' Scholar Award worth R40 000, won this year by Pretoria law student Johann Scholtz.

Liefeldt also announced the profession is to give R55 000 to every university in SA conducting an approved legal aid clinic

He added "The grants will certainly contribute to making the law more accessible to those who can't afford it"

Attorneys want law training to be more accessible

(248) SPM 11/3/87

South African attorneys have recommended changes to the training of attorneys, which they hope will make the law accessible to more people

The Association of Law Societies (ALS) has recommended that Latin not be a qualification for a BProc degree — the qualification for some attorneys.

This decision was taken at the recent annual meeting in Cape Town because Latin had generally "fallen into disuse" in schools, according to Mr E Southey, spokesman for the ALS. Last year, less than 500 pupils wrote matric Latin.

Doing away with Latin in the BProc would make it possible for far greater numbers to study law — vital if the law were to be made more accessible.

The association has, however, not recommended the abolishment of Latin for attorneys studying an LL B. It favoured one LL B for attorneys and advocates and the whole question of whether Latin was necessary in an LL B had still to be sorted out.

LOWER QUALIFIED

It also recommended that BProc graduates be permitted to appear in court immediately they were qualified. At present, they have to complete one year of articles before they can represent someone in court.

"It means there will be more lower-qualified people who can appear in court. This will make it cheaper for people to be represented and extend access to the courts."

The ALS previously supported one qualification for attorneys — an LL B. This would mean all attorneys would study for five or six years and would end up with the same qualifications as advocates. At present some attorneys qualify in four years with a BProc.

But, according to Mr Southey, the association came to the conclusion that this policy was "not feasible in the present climate".

"It would put the legal profession beyond the reach of a significant proportion of the population because it would mean an extra one or two years' study. In South Africa, many people simply cannot afford to complete an LL B."

Crossing.

Lawyers seek end to banishment order

THE South African Association of Democratic Lawyers today demanded the "immediate and unconditional" lifting of the banishment order imposed on a Transkeian attorney, Mr Dumisa Buhle Ntsebeza

A statement issued by the association said Mr Ntsebeza was "summarily arrested" and removed from his office at a firm of attorneys in Umtata on March 3

Mr Ntsebeza, chairman of the association's steering committee, was taken to Mhlahlane, Tsomo, — a rural area — and the association alleges that he was not even allowed to make a telephone call after his arrest.

The statement condemned the "arbitrary and harsh" banishment order served on him and others by a colonel of the Transkeian security police

It was issued by Johannesburg attorney Mr Krish Naidoo in PE where the steering committee met today

In terms of the order, the statement added, Mr Ntsebeza was not allowed to leave Tsomo at any time for any purpose, except with the special written permission of the Comissioner of the Transkeian Police

The statement said it was the second banishment order served on him — the first was served in 1985 It was allegedly withdrawn by the authorities before it was due to be disputed in the Transkei Supreme Court

LAWYERS SHOCKED

Colleague banished to mud hut in rural area

A NUMBER of law organisations yesterday condemned the "arbitrary and harsh" banishment order served on well known Transkei attorney, Mr Dumisa Vuhle Ntsebeza by the Transkei government.

By MONK NKOMO

The steering committee responsible for the launching of the National Democratic Lawyers Organisation, in a statement issued in Pretoria, said Mr Ntsebeza had been banished to a thatched mud hut in Tsomo, a rural area in Transkei The order was served on him at his offices in Umtata on March 3

The order was issued in terms of the Public Security Act operative in Transkei which gives the authorities "wide and arbitrary powers to control the movement of persons in Transkei," lawyers said yesterday

The organisations also said in terms of the banning order Mr Ntsebeza was not allowed to leave Tsomo at any time or for any purpose unless with a special written permission from Transkei's commissioner of police

According to the statement, Mr Ntsebeza was summarily arrested and removed from his office without being afforded an opportunity to make any personal and professional arrangements

The statement added that the banishment of Mr Ntsebeza, who is chairman of the steering committee, prevented him from attending to his legal practice

"A large number of men, women and children who are dependant upon his services have now been effectively denied legal representation of their choice," the law organisations said

Water

The law groups, which include the Democratic Lawyers Congress and the Black Lawyers Association, said Mr Ntsebeza has been banished to an unfurnished hut with damp floors and without drinking water and toilet facilities

"The effect of the banishment is to impose severe hardship upon Mr Ntsebeza and his family He is married with two infant children and the usual place of residence is Umtata"

They added that his banishment seriously affected all civil rights lawyers in South Africa including Transkei "It is intimidatory and poses a serious threat to the right of victims of the system to be properly represented in court," a spokesman for the lawyers said

They demanded the immediate and unconditional lifting of the banishment order and said Mr Ntsebeza "must have the right to freedom of movement to enable him to conduct his practice and live with his family wherever he pleases"

FINANCE B1 Dy 10/3/87 (248)

Serious shortage of qualified black CAs

ONLY 10 of the 11 000 qualified chartered accountants (CAs) in SA are black. And proportionately fewer will qualify in the years to come — the number of blacks registered under articles has dropped from 20 in 1985 to nine in 1986.

The paucity of blacks entering the profession comes at a time when white CAs are emigrating in increasing numbers and estimates put the shortage of CAs at more than 7 000 by the turn of the century.

Traditionally the demand for professionals has been met by recruiting abroad However, the unstable political situation and a weak rand has reduced the flow of foreign accountants into SA to a trickle.

Faced with the need to remedy a severe shortage of accountants, it is necessary to ask why so few blacks are entering the profession

The issues are complex, but some reasons advanced are:

- ☐ The inferior system of black education. In a nutshell, this system has failed to provide students with the necessary linguistic or mathematical skills;
- ☐ Differences in cultural perceptions. Black students are not exposed to commerce to the same extent as their white counterparts and are therefore less inclined to choose accounting as a profession; and
- ☐ Reluctance among accounting firms to provide employment opportunities for aspirant black articled clerks.

"This reluctance on the part of accounting firms has been disappointing," says Institute of Accounting Technicians of SA (IAT) education director Bill Shellard. The IAT was formed specifically to address the shortage of accountants.

DAVID COHEN

The IAT has sought to address this shortage by training up a second-tier, technician-type accountant to bridge the gap between unskilled clerks and CAs.

At present, 45 blacks out of a total of 430 students have enrolled for the IAT's National Diploma in Accounting (NDipAcc), a three-year, part-time course run by various technikons. However, Shellard says the number of blacks could have been higher.

"The main limiting factor has been the lack of job opportunities available to blacks In order to qualify either with a NDipAcc or CA, students must be employed. More than 1 200 students are articled each year. And for only nine out of 4 000 black BComm students to be offered the opportunity of being articled smacks of racism."

Stewart Patterson, a senior partner at Price Waterhouse and IAT president, points to the dire consequences of a lack of affirmative action

"If the situation is not remedied, the infrastructure supported by accounting skills will collapse. Commerce and industry, together with accounting firms, in the long term have let down the country by not providing employment opportunities for blacks wishing to become accountants"

Resign or pursue racial justice? There's no easy answer

Judiciary under spotlight

By SARA MARTIN

The role of the judiciary has come firmly under the spotlight as a result of an interim report by the International Commission of Jurists — but one of South Africa's leading law experts says there is no easy answer

"Should a judge resign or use his office to pursue racial justice? It's an acute dilemma facing members of the Bench today," said Professor John Dugard, professor of Law and Director of the Centre for Applied Legal Studies at Wits University

Reacting to recent comments by the Geneva-based International Commission of Jurists (ICJ), Professor Dugard said the spotlight would once more focus on the South African judiciary on Monday at the resumption of the Delmas "treason trial" when the presiding judge hears an application arising out of his dismissal of one of his assessors, Professor W Joubert

The application will raise questions abut the handling of political trials and judicial independence at such trials

The ICJ's interim report questions the country's claim to an independent judiciary as well as the capacity of judges to administer justly

The commission commented that the country's supreme arbiters of law, by their presence on the Bench, are "lending undeserved credibility to a legal system in which personal and political freedoms are left unprotected"

It adds that judges are open to criticism not only on account of participation in the system — however reluctant they may be — but in administering ordinary law that calls for decisions and the imposition of sentences which are, in the team's view, "appallingly harsh"

Professor Dugard admits that the performance of the South African judiciary in the 1960s and '70s "supports this radical position"

"But there is no easy answer to the question of whether judges in South Africa should resign or use their office to pursue racial justice

"However, in recent years there have been signs of a re-awakening of the judicial conscience as is evident in Natal, and of the determination to oppose the injustices of the apartheid State among some judges In such an environment advocacy of resignation may be counter-productive"

He points out it may be wiser for critics to stress the positive role that judges can play, by emphasising areas of judicial choice, by condemning judicial cowardice and by praising judicial courage

"Obviously there comes a time when the moral judge has no option but to resign Many may argue that this point has already been reached in South Africa — that the passing of discriminatory laws, or the introduction of indefinite detention without trial, should have served as signals for resignation

"As it is, no judge has resigned in protest against the enactment of such laws and the present judiciary have all accepted appointment after the passing of these laws Clearly those judges who oppose such laws — and there are a number of them who do — believe that they contribute more to the advancement of racial justice from their position on the Bench than they could by emigration or by indulging in lucrative commercial-law practice"

'Individual liberty': courts criticised

SATURDAY STAR FOREIGN NEWS SERVICE

LONDON — Mr Geoffrey Bindman, the solicitor who was one of the International Commission of Jurists who visited South Africa, has attacked judges in South Africa for "endorsing the validity of a system which has virtually removed their power to safeguard individual liberty"

The attack comes at the end of an article written by Mr Bindman and appearing in *The Guardian* newspaper in London.

Mr Bindman writes "As in Britain, the judges are constitutionally bound to apply the law passed by Parliament. Some have invalidated some regulations and ordered the release of a few detainees.

"But they can mitigate only marginally the impact of the security laws Furthermore, by their presence on the Bench, they endorse the validity of a system which has virtually removed their power to safeguard individual liberty"

Mr Bindman also attacks the Government's "reforms' as largely cosmetic. "The Government presents itself to the outside world as if already having abandoned apartheid — it was now eager to bring about democratic change and willing to negotiate with responsible black leaders."

But, he says, "the evidence obtained by the mission shows this picture is false the foundations (of apartheid) remain intact"

He points to the Group Areas Act, which "remains in full force"



PROFESSOR JOHN DUGARD There is no easy answer to the question of whether judges in South Africa should resign or not ● Photograph Ruvan Boshoff

All-out fun for Rand Show

TONI YOUNGHUSBAND

The "grand" Rand Show o 1987 opens its gates o Monday, April 6, with th focus on non-stop ente tainment.

For the first time in 9 years, show organisers ar providing 13 hours of no stop entertainment dail at a cost of more tha R500 000

Music festivals — fro Gospel on Sunday to jaz — are expected to dra big crowds.

The Cape Coons hav been brought up for th show as has an unusua Cape trapeze group mad up of professional busi nessmen and women.

Another major event o the entertainment agend is the Arwa Show Ma jorettes Spectacular — glitzy extravaganza fea turing 400 entertainers.

The Macro Mighty Ma contest features brawn beefcakes pulling truck and rolling cars. There i also a Swiss wrestling cor test and a Steintosse (stone throwing) compet tion

Bill of Rights stirs up much interest

3/4/87 248

By Claire Robertson, Pretoria Bureau

The South African Law Commission task group involved with a possible Bill of Rights for South Africa has received more than 400 representations and comments on the form such a Bill should take from churches, universities, individuals and the business sector

The leader of the task group, Mr Justice P J J Olivier, said the group hopes to present an analysis of all contributions in the form of a working paper to the Law Commission at its July sitting.

The Law Commission, which sits about four times a year, will then consider the paper and may call for any other input.

Mr Justice Olivier said the banned African National Congress had not yet made a representation but it would be included if they did so

The group has already studied the Freedom Charter, which was once outlawed

TREMENDOUS RESPONSE

The long-distance indaba started 11 months ago, and the four-man group has travelled around South Africa interviewing academics, community leaders, and lawyers among others

"There has been a tremendous response, and some very useful contributions," Mr Justice Olivier said yesterday

Aspects to be studied by the task group include whether human rights were adequately provided for in South Africa, whether the courts could protect human and group rights without a Bill of Rights, and what should be the content of a Bill of Rights, and how it should be entrenched, the judge said

"If you measure our legislation against any generally accepted Bill of Rights, there may be quite a number of statutory provisions which will not measure up If that is the finding of the Law Commission, they will inform the Government of this, and advise it as to the necessary amendments."

The kwaNatal Indaba, which drew up its own draft constitution and Bill of Rights, submitted these to the task group which also met some of the academics who advised the indaba, and some of the participants, the judge said

If South Africa gets a Bill of Rights it will join 132 countries which already have such an article in their constitution.

Human rights centre for Tukkies

STAR

Pretoria Bureau

The first Centre for Human Rights Studies at an Afrikaans university has been established at the University of Pretoria.

About 15 members of the academic staff of the university's law faculty are members of the centre which will, among other things, work for the acceptance of a Bill of Rights.

"The establishment of the centre partly results from the important symposium on a Bill of Rights for South Africa that took place at the University of Pretoria in May last year," a spokesman for the centre said yesterday. Aims of the centre include

- Research on theoretical and practical human rights
- The advancement of the protection of human rights
- Co-operation with human rights organisations and regular seminars and workshops

Professor Johann van der Westhuizen, head of the department of legal history, comparative law and legal philosophy, was appointed director.

The board of control is made up of the dean of the law faculty, a Supreme Court judge and a representative of the Law Society, the Pretoria Bar and the Pretoria branch of Lawyers for Human Rights

Coffee prices tumble

JOHANNESBURG — The prices of coffee, peanut butter and peanuts, which soared at the end of last year, have dropped

The second cut in the price of coffee this year came into effect yesterday bringing the price of some house name brands down to R6 for 750 g, according to radio news reports

This represents a drop of 15 per cent in the price of coffee in the past month

Peanut butter, which shot up by about a rand for a 410 g jar at the end of last year, has come down by about fifty cents and now retails at about R2,29 —Sapa

Lawyers merge to form new national body

By THAMI MKHWANAZI

DEMOCRATIC lawyers' organisations have merged to form a national body with, as its stated aim, "the realisation of a non-racial, democratic society".

The South African Association of Democratic Lawyers (Saadel) will be launched at a conference later this month, where a draft constitution will be adopted by delegates from six lawyers' groupings — including the black consciousness-orientated Black Lawyers' Association (BLA)

Except for the BLA, all other groupings dissolved to facilitate the formation of Saadel. They are the Transvaal's Democratic Lawyers' Congress (DLC); Durban's Democratic Lawyers' Association (DLA), Maritzburg's Lawyers for Democracy (LFD), Western Cape's Democratic Lawyers Organisation (DLO); and the Eastern Cape Democratic Lawyers' Association (ECDLA).

Saadel steering committee member advocate Mathole Motshekga says the BLA, a national body, will not dissolve but be an affiliate member of Saadel

He said Saadel will work with individuals and organisations, locally and internationally, "having aims and objects consistent with those of the association.

"It will strive for a non-racial, democratic and just society, free from oppression and exploitation

"It will also promote the study of and research into alternative legal education, legal institutions and methods of admission to the profession"

Motshekga has already prepared a paper on this, and it will be delivered at the organisation's congress in Pretoria

Cape Town-based advocate Dulla Omar will deliver the opening address.

Saadla has its roots in a call from the ECDLA last year, when it called on lawyers to play a meaningful role in the resolution of the present crisis It then held a meeting with other lawyers' in Bisho, attended by 53 delegates, where it was decided to form a national body

A series of steering committee meetings were held, chaired by Umtata-based attorney Dumisa Ntsebeza — at which Motshekga and attorney Ismail Ayob were mandated to draw up a draft constitution.

price increases will inevitably hit the housewife's pocket

Sappi Kraft MD Andre Vlok says a mid-year price increase is planned If it is in the region of 10% as expected, Sappi's packaging paper price increases will have totalled 38% since January 1 1986

Meanwhile rival Mondi is also expected to review its prices in a few months Mondi has already increased the price of liner board and fluting by 27% in two tranches — January 1986 and January 1987

With margins in the R3 billion-a-year packaging industry already tight, such cost increases will be impossible to absorb, says Consol Group MD Piet Neethling. Consumers will have to dig deeper into their pockets

For example, corrugated packaging price increases closely follow any rise in paper prices Kohler Corrugated increased its prices by 26% last year and expects to push them up again in July

Metal Box also foresees a 10% hike in the price of food cans this year, while Consol's glass prices rose by 15% in February And plastics usually follow the general trend

Food is the packaging industry's major consumer, accounting for an estimated R1,9 billion of packaging sales last year The relationship between packaging and food prices is therefore strong

A breakdown of product use has been provided in a comprehensive annual survey conducted by Pretoria-based industrial market research group Business and Marketing Intelligence It shows that, by volume, food manufacturers last year used 62,7% of the glass, paper, cardboard, plastic and metal packaging produced

Paper and board has the biggest share (R970m) followed by plastics (R760m), metals and aluminium (R685m), glass (R280m) and other materials like jute, hessian and wood (R305m combined)

What it boils down to is that basic commodities are not entirely to blame for the runaway cost of food — there's also a high price to be paid for wrapping it up ■

FOOD FM 10/4/87 (244)

Costing a packet

Price increases expected later this year on paper, tin, plastics and glass packaging hold out little hope for any relief from sharply rising food prices (*FM* March 27)

Packaging contributes an estimated 30% of food production costs — and with paper-based packaging making up about 32% of total packaging volumes, imminent paper

Argus 16/4/87 244

COMMODITIES

TCOA increases domestic coal price by up to 22pc

From TEIGUE PAYNE

JOHANNESBURG — The Transvaal Coal Owners Association (TCOA) has increased its domestic prices of coal by between five percent and 22,5 percent, but competition and increasing pressure on the market mean that price rises to many consumers are likely to be discounted

The domestic price of coal was deregulated from April 1 Yesterday, Mr Gerald Robinson, TCOA's general manager finance, would not disclose details of the various increases, but said they were below the expected inflation rate

He said that, barring 1986 (when prices for various grades were increased by between 19,7 percent and 20,6 percent), price increases had for the past 10 years always been below the inflation rate

However, there is fierce competition between the TCOA and independent producers, who this week disclosed the TCOA increases as A grade (high quality) sized coal, 22,5 percent, and dust and smalls, 17,5 percent, B grade sized coal 17,5 percent and dust and smalls 15 percent, C grade sized coal 15 percent and dust and smalls 5 percent, and D grade sized coal 12,5 percent and dust and smalls 5 percent

The TCOA, which has lost heavily from sanctions and increased domestic competition, and has been under investigation by the Competition Board, is secretive about statistics, but probably 60 to 70 percent of coal sold on the domestic market is C and D grade, which is also most plentiful in supply

Dust and smalls are particularly plentiful and hard to sell

The increases are thus apparently tuned to supply and pitched to encourage demand for low grade coal and fines

The price of coal to consumers is, of course, also heavily affected by cost of transport, wholesale and retail margins The final increases in rail costs, which are particularly important to consumers far from the Transvaal's producing areas, have not been announced

In the interim Budget the increases were 30 to 40 percent and it is thought that in the main Budget in late May, after the election, the overall increase could be as much as 70 percent

For Cape consumers, for instance, the TCOA's increase is small, compared with that for railage The TCOA is prohibited from selling in Natal because mining costs there are higher

The domestic market for coal is made up primarily by Escom power stations and Sasol, both of which conclude contracts direct with mines

The balance is supplied to the transport and mining industries, merchants, municipal power stations and households, and it is in this market that the TCOA is facing increasing competition from independent coal producers

It is estimated that about 16 million tons of coal are sold on this market, and that independent producers are now selling about 20 percent of that

The independents say their share of the market is increasing and will continue to do so They say they have no cartel or collaboration and that because they are a "lean, mean machine", their individual price increases will generally be less than those of the TCOA

They say the TCOA is already discounting to cement producers and favoured coal merchants, and that they will have to discount more widely in future to stay competitive

According to analyst Kevin Kartun of brokers Simpson McKie, the outlook for coal industry generally remains bleak The TCOA in particular is vulnerable to sanctions as well as price cutting and increasing supply and competition on the export market At home, demand is declining slowly and there is increased competition, he says

Civil war looming in SA, says Chaskalson

THELMA TUCH

SA WAS on the brink of a civil war which had the potential to increase the existing divisions in the society, tear the country apart and leave it impoverished, advocate Arthur Chaskalson, SC, said last night.

Chaskalson, director fo the Legal Resources Centre and the second South African to be elected an honorary member of the Bar Association of New York, was addressing a graduation ceremony at the University of the Witwatersrand.

"Some would say the war has already started, and that may be correct, though its full fury has not yet been unleashed."

He said it was not easy to plan for a future in this society The years ahead in SA were likely to be years of great political change, uncertainty, turbulence and conflict.

"All of us have a responsibility to drag the country back from the abyss and to lead it in a direction in which justice can emerge and flourish."

He appealed to those graduating as lawyers last night to apply their skills to build a just legal system in SA.

SA's legal system, which already denied fundamental freedoms to large sections of the community, had become even more rigid and unyielding under emergency rule, he said.

We must pull SA back from the abyss

Guest speaker at last week's graduation ceremony at the Wits University Faculty of Law was Mr Arthur Chaskalson SC, director of the Legal Resources Centre. These are excerpts from his address.

Perfect justice may be unattainable, but minimum standards of justice which acknowledge and respect fundamental freedoms are well within our reach and now, more than ever before, governments are being called upon to account for the manner in which the legal system meets and responds to the basic needs of individuals and groups within society

Fundamental freedoms are respected in most developed legal systems not only because of the ethical belief that people are entitled to live in dignity and freedom, to establish and enjoy self-esteem and a sense of self-worth, but also because of the practical consideration that a denial of such freedoms will always threaten the safety and security of the society as a whole.

Under emergency rule our legal system which already denied fundamental freedoms to large sections of our community has become even more rigid and unyielding The solutions to our problems do not lie in harsher laws or in the curtailment of fundamental freedoms They lie in the creation of a just society This is not disputed even by the government which has imposed the emergency

We in this country have lost many of our liberties We have recently gone backwards and now we must undertake not only the painful process of retracing our steps and reclaiming the liberties that we have lost, but also the essential process of eradicating the disparity between races and creating a just society

These steps will have to be taken in an atmosphere of suspicion, fear and anger I think that we should be particularly concerned about the anger It exists throughout our society and it is likely to escalate if the violence continues

Killing people and damaging property in time of conflict has happened all over the world We know that government forces in different parts of the world shoot and kill strikers and protesters at times of crisis.

After World War 2, angry crowds in different parts of Europe lynched people believed to be collaborators and we know only too well the anger of people and the violence in places such as Ireland and Lebanon.

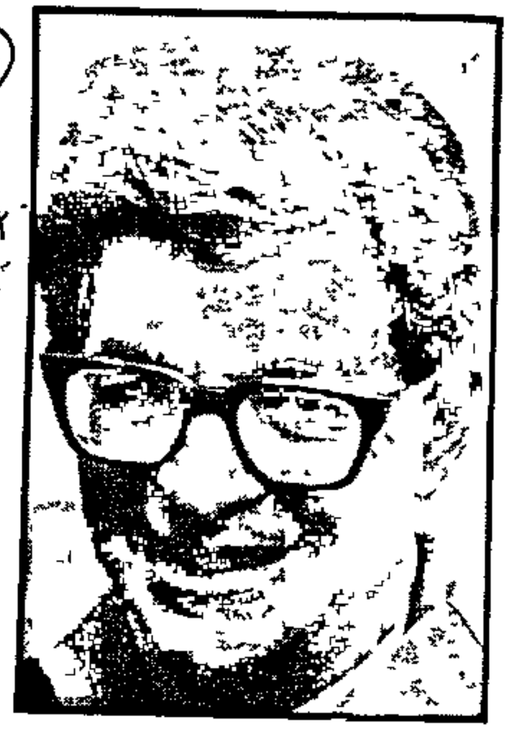
I mention this, not because I believe that violence and destruction are inevitable and that we can do nothing about them. On the contrary, I believe they can be prevented and that a failure to do so has within it the awful possibility of a slide into anarchy and lawlessness

I mention it because the anger is there and it makes it more difficult for us to live together We need continually to be aware of this, to deal with each other not judgmentally but in the knowledge that anger and fear exist. And most urgently we need to eradicate the causes of the anger and the fear

It is not easy to plan for a future in a society such as ours The years ahead of us in South Africa are likely to be years of great social and political change; they are also likely to be years of uncertainty, years of turbulence and years of conflict. We are on the brink of a civil war Indeed, some would say the war has already started and that may be correct, though its full fury has not yet been unleashed.

It is a war which has within it the potential for creating even greater divisions within our society than exist at present; it has also the potential for tearing the country apart and leaving it divided and impoverished All of us have a responsibility to drag the country back from the abyss and to lead it in a direction in which justice can emerge and flourish.

There is too much at stake for any of us to ignore what is happening in our country We cannot change the past and nothing is to be gained by mourning over what might have been if things had been different. We can, however, be vigilant in regard to what is happening around us and respond to the realities of the situation in which we find ourselves.



Chaskalson . . . call for a just society

Those of you who are graduating tonight as lawyers are particularly well placed to play a constructive role in the future of South Africa By the application of your skills and energies you can help to build a just legal system in this country An essential part of that system will have to be the recognition of and respect for fundamental freedoms and the provision of access to the courts in an effective and not merely formal way to all who wish to turn to the courts in order to assert or defend their rights.

There can be no freedom without justice, nor justice without freedom. It is here that the legal profession has an important part to play, not only in helping to formulate the system but also in enforcing it by responding to the needs of all sections of the community

DO YOU KNOW?

There is a shortage of about 169 218 houses in the "non-independent" homelands, no figures are available for the "independent" homelands It has been reliably estimated by the Urban Foundation that there is a current housing shortage of 700 000 homes in the rest of South Africa.

It says about 516 000 homes are needed for blacks in white designated areas.

At the end of 1984 the Department of Local Government said 62 997 housing units were needed for Indians and 67 000 for whites (which includes thousands of "welfare cases"), 54 003 coloured families needed homes

Government expenditure once again shows the discrepancy between real need and ideological factors Its allocation for 1985/86 was R42,5 million for blacks, R97,4 million for coloureds, R53,8 million for Indians and R54,3 million for whites

	Estimated Need Units	Expenditure
Blacks	675 218	R42 505 000
Coloureds	54 003	R97 467 000
Indians	62 997	R53 797 000
Whites	67 000	R54 358 000

Release detainee curbs:

Cape legal men join protests

248 DD 17/4/87

CAPE TOWN — The Cape Bar Council has added its voice to protests by legal men against the government clampdown on campaigns for the release of detainees.

The council has decided to write to the Minister of Law and Order "to call for the withdrawal of the prohibition in its present form".

On Wednesday the Association of Law Societies (ALS), representing the majority of attorneys in the country, called for "reconsideration" of the new regulations issued by the Commissioner of Police.

The president of the ALS, Mr Billy van der Merwe, said the ALS was concerned that, under the new regulations, parents whose children were detained could face a fine of R20 000 or 10 years in prison if they asked a school principal or even an MP to write letters to the Minister of Law and Order testifying to the child's good character.

The Bar Council said the prohibition was "so far-reaching that it prohibits acts, which, as conceded by the Commissioner, are perfectly legal and carry no threat to public safety"

Another objection was that the new regulations did not make clear "precisely what acts are prohibited", raising doubts which "could bring the law and the administration of justice into disrepute".

Meanwhile, the Archbishop of Cape Town, the Very Rev Desmond Tutu, and 46 Anglican ministers have called on the State President to release detainees or bring them to trial.

In an open letter to Mr P. W. Botha yesterday, they said they realised that making the request was breaking the new regulations but they did so "deliberately and consciously out of Christian conscience" because the recent promulgations were immoral and dangerous.

Six Dutch Reformed Church ministers have expressed "shock and concern", saying the regulations "attack the very heart of the Christian faith". The signatories were Dominees B J Kotze, H. J. D Brand, G. F. Wessels, O. R Olivier, F. D. J Basson and C. A. Anthonissen.

The leader of the Progressive Federal Party, Mr Colin Eglin, has confirmed the party is to test the tightened-up regulations in court.

Mr Eglin said his contacts with President Botha on the matter had not been satisfactory and the Commissioner of Police, General Johan Coetzee, had added to the confusion with his interpretation of the regulations.

At the United Nations, Security Council members called on South Africa yesterday to revoke the regulations, which it said were contrary to fundamental human rights.

The appeals were contained in an agreed statement, discussed during closed-door consultations on Wednesday night among the council's 15 members.

Tutu letter page 11

Law conference is 'crucial, challenging'

The 1987 Law Conference next month is likely to be one of the most crucial and challenging held in South Africa, says the president of the Association of Law Societies (ALS), Mr Billy van der Merwe.

The emphasis would be on immediate and practical issues affecting attorneys, he said. The theme of the conference — from May 17 to 20 — will be "The Challenge of the Future".

South African-born author and philosopher Sir Laurens van der Post will be guest speaker at the conference banquet on May 18.

Mr van der Merwe said there was no place for academic theorising at the conference, and maximum participation from the floor would be encouraged.

Attention would be focused on subjects such as legal aid, paralegals, contingent fees, specialist courts, professional confidentiality, advertising, and the future of reserved work.

Other speakers will include Mr Clem Sunter, Anglo American's co-ordinator of scenario planning, Mr Arthur Chaskalson, SC, vice-chairman of the General Council of the Bar, and Professor Brian Kantor, economics professor at the University of Cape Town.

Jurists lash out at SA legal system

By MOIRA LEVY

MANY of the sentences imposed recently on public violence cases are unreasonable and harsh to the point of barbarity, according to representatives of the International Commission of Jurists.

South African judges, by their very presence on the Bench, "lend undeserved credibility to a legal system in which personal and political freedoms are left unprotected".

These are the chief findings of the preliminary report of a four-man team that was sent by the ICJ to South Africa in February to investigate the legal situation in the country.

The final report will take months to complete, but in a preliminary statement the jurists concluded: "In administering the ordinary law, (judges) have made decisions and imposed sentences which are appallingly harsh, particularly sentences on juvenile offenders.

"We found this even among judges whom we met and who were eminently civilised and sensitive in conversation."

The four jurists question the country's claim to have an independent judiciary.

The British member of the team, solicitor Geoffrey Bindman, said judges were left only limited areas to protect individual liberty, "and these are becoming more limited all the time".

"When the court finds loopholes to favour individual liberty, the government tries to change the law if it considers it important enough."

Judges 'ignorant'

He said judges, who were usually white, tended to be ignorant of black attitudes.

"They are too ready to believe what the police tell them. The judges are frightened people in many cases, unable to escape from their personal interest as members of an embattled white community."

He said judges tended to "hide behind" the notion that they should not get involved in politics. They should be more open in criticising the government and its legislation.

"Judges, you see, are necessarily involved in politics, whether they like it or not."

He said they had "an almost pathetic faith" in the the legal system.

"But at the end of the day how much do they achieve?"

The Cape Town branch of the Democratic Lawyers Organisation has welcomed the preliminary report as "a breath of fresh air."

MARWICK'S MARRIAGE

On September 1, SA's Peat Marwick Mitchell and Aiken & Carter are expected to merge to form SA's biggest accountancy firm The "marriage" has been agreed to in principle, and will follow the international merger between Peat Marwick and Kleynveld Main Goerdeler (KMG), represented in SA by Aiken.

The international agreement allowed firms in each country to make their own decision; but the reasons for the merger were clearly aimed at creating a firm with enhanced international muscle

In SA, Peat's national senior partner, Guy Smith, says the planned merger will allow development of further specialisation "I see, for example, the creation of industry business units comprising audit and other specialists, operating together to provide full service to individual clients in financial institutions, engineering and energy industries."

If the merger is finalised according to plan, Aiken's Herc Hefer will be chairman and chief executive partner. "The US and UK mergers have gone through," Hefer says. "As I understand it, the Germans and Dutch are also about to merge In SA, the two firms have agreed on the main contentious issues — the image of the firm, and management structures. There is lots of detail still to discuss."

Of all South African accounting firms, Aiken has the highest number of clients listed on the JSE, Peat Marwick probably has the highest degree of marketing penetration in the banking sector.

The cherry on top was the recent appointment of Hefer as non-executive chairman of new financial giant UBS Holdings

ACCOUNTANCY

The services supermarket



Until a few years ago, it was a 10-to-one bet that when accounting firm and client got together, the main topic would be company finances and the balance sheet But no longer

Today, the odds have shortened to around evens that accountant and customer won't be talking figures at all They're just as likely to be looking at a computer deal, a takeover or merger — or even ways out of a labour dispute

In short, accounting and auditing firms are becoming service supermarkets, and CAs are becoming modern-day entrepreneurs

The close relationship accountants enjoy with clients makes the sales job a relatively easy one but, to a large extent, the changes have been born of necessity

The problem started with the computer, which has been white-anting the traditional audit base for years The trend gathered momentum in SA in the early Eighties, when the economic slowdown forced accountancy firms to look for business beyond the balance sheet

Since, in theory, accountants may not even talk to the press, we have little chance of getting an accurate breakdown of South African fee splits But the range of services now being offered outside traditional accountancy, is a matter of public knowledge

Offerings among the top 13 firms vary Often a partnership will have its own forté, but perhaps the most sophisticated additional service on offer these days relates to mergers and acquisitions — once the preserve of merchant bankers

Accountants now offer a host of services that go far beyond scrutinising the bottom line. In the process, the profession has applied its energies in a host of contingent services. This process is inevitable.

Other examples Arthur Andersen SA has a large consulting arm specialising in computers, Kessel Feinstein hard-sells "Leissure Time Industries," a service offering specialist expertise in the business of hotels, entertainment centres and so on

As a general rule, auditing still supplies the bread and butter Indeed, some smaller firms continue to rely on auditing for their sole source of income But larger concerns will also handle property valuations, organise seminars, install computer hardware via their own agencies, design software — and undertake virtually anything else which the law allows

Other recent areas of specialisation (see diagram) include (lucrative) liquidations, JSE flotations, business broking, investment services, portfolio management and trusteeship

Under an archaic ethical rule — confirmed in a referendum in SA last year — accounting firms may not advertise, and the lack of public knowledge about their expanding service base is thus not surprising

But figures from the US show just how the trend has gone In 1986, for example, Arthur Andersen earned less than half its US$1,35 billion turnover from audit work This was probably the first time in history that an accounting firm had breached the 50% mark for non-audit (or non-attest) services

Fee income was split thus (give or take 1%) 47% audit, 21% tax consultancy, and 31% management advisory services (MAS) The firm is a good example, since it is the world's biggest with a staff of 20 120 and is known as the most aggressive

In most Western countries, it has long been a statutory obligation for companies to have audits by independent firms of accountants There have been criticisms that this gives accountants a closed shop, but the truth is that no one — especially investors and creditors — seriously questions the need for independent assessment

The problem is that the audit base, as a source of fees, is in a process of irreversible contraction Thanks mainly to the computer, companies are learning to keep tidy books, reducing the time an outside auditor needs to spend on the job

The auditor is also using much more powerful tools and, in the process, working himself out of a job — or a good part of it The less time he spends on the books, the less he earns

In the circumstances it was inevitable, perhaps, that CAs should decamp of all qualified accountants in SA, only 28% were in public practice last year

Opportunities outside the professional firms often offer lucrative and challenging propositions Indeed, many of today's business leaders, from the Sol Kerzners to the Meyer Kahns, have come this route

For those who remained, expansion into new areas was the obvious answer to the shrinking audit base But accountancy firms

NUMBERS GAME

CA's (SA) 1986 stats

Not in public practice	5 647 49%
In public practice	3 172 28%
Absentee (abroad)	1 671 15%
Honorary and associate life	624 5%
Affiliate	141 1%
Other	205 2%
Total	11 460

WHO COMPETES?

A survey of 106 SA accounting firms, conducted by a source which cannot be revealed, shows how the forces of competition have worked in accountancy

The accountants surveyed (most firms had one to five partners) rated their main competitors, in order of priority, as

- ☐ Bookkeeping/secretarial services,
- ☐ Tax consultants,
- ☐ Attorneys,
- ☐ Management consultants,
- ☐ Banks,
- ☐ Insurance agents, and
- ☐ Stockbrokers

Overall, 88% of firms felt competition was increasing, 65% felt their profitability was decreasing and 63% said their non-audit involvement was increasing

Some 56% of firms said encroachment on the accountants' domain was best counteracted by free market practices The other 44% felt legislation, like company audits, offered the better hope

On the subject of advertising, 91% of firms felt the proposition that this would jeopardise the accountant/client relationship was untrue

Of 103 clients, randomly selected, 59% felt the quality of accounting services would be upgraded by advertising

Some 60% of the accounting firms agreed that today's rapidly changing business environment made it increasingly difficult for them to adapt And 96% agreed that firms with a distinct marketing strategy had an advantage Only 22% of firms did not practise marketing

The survey, undertaken for academic purposes, led the researcher to conclude "The smaller firms, who helped swing the 1986 national referendum on advertising 56 44 against, don't seem to realise they're no longer in the same business as the big firms"

Financial Mail

GOLD AND THE ECONOMY

To the rescue again?

As the bullion price touches US$450 an ounce and the rand US50c, the standard euphoria has set in yet again But what does this really mean?

Without doubt a higher gold price is welcome. If the rand holds at US50c every US$50/oz increase in bullion price adds R2,1 billion to the value of current annual gold output. If SA's dollar revenues improve, our ability to repay foreign debt is enhanced Other things being equal, the balance of payments (BoP) should also improve in rand terms.

The strength of BoP has virtually doubled the dollar value of gold and forex reserves from the 1986 low — a performance that would look even better if the steep decline in the Reserve Bank's own dollar liabilities (US$1,3 billion at the time of the standstill) is taken into account. Real net reserves are the highest for several years.

But our good fortune is largely a reflection of the dollar's bad fortune. The rand has firmed 40% against the dollar from its low, and 30% against a trade-weighted basket of currencies But with the dollar constituting the bulk of the basket, performance against other major currencies has been less impressive. As the graph indicates, the rand has shown no appreciation against (for example) the Swiss franc since late last year

Equally, while currency uncertainties and fears of a possible pick-up in world inflation rates later this year have pushed up the bullion price in non-dollar terms, its gain has been far less marked (again, see graph)

True, the dollar price is what matters to the gold mines But even then, what is good news for the gold mines may not be good news for everybody else.

Other exporters suffer from a strong dollar, and domestic suppliers complain that imports are becoming more competitive — which may help check inflation but dampens any revival in demand for local manufactures

Moreover, with gold mining's high rate of marginal tax, the bulk of any increased revenue goes straight to the taxman; when the rest is finally passed on in dividends, some is drained off by financial institutions and retentions at the mining houses.

So the ultimate increase in personal incomes is both muted and delayed.

The upshot is that semi-official estimates of a R5 billion BoP current account surplus and 3% growth rate this year have not yet been adjusted upwards. They were, after all, based on an average gold price of US$425; and the average this year (already four months gone) is only about US$410. It will take another couple of months of bullion around US$450 before more optimism can be justified

The Bank, incidentally, denies having fixed targets for the rand, claiming the basic policy of managed floating has been unchanged since 1979.

Governor Gerhard de Kock points out that attempts to set rates a long way from market perceptions are usually unsustainable — as the Group of Five has found: "What we can say is that if only gold rises and nothing else changes, we would be reluctant to see the rand go up too much. But if the dollar goes down too, the rand must go up, or we will depreciate against the D-mark and Swiss franc — and that would not be desirable"

There are as yet no signs that the dollar has bottomed against the yen However — echoing their local counterparts — Japanese exporters are starting to complain that the strength of the yen is pricing them out of some export markets There is even evidence of selling below cost to maintain market share.

At some stage automatic mechanisms will cure the massive Japanese BoP surplus Already there are signs that in volume terms exports are not behaving as well as in yen terms.

As markets always exaggerate, when the turning point is reached the dollar could manage a sharp partial recovery. Until that happens, to assume that any particular set of exchange rates — however favourable — will be lasting, is dangerous.

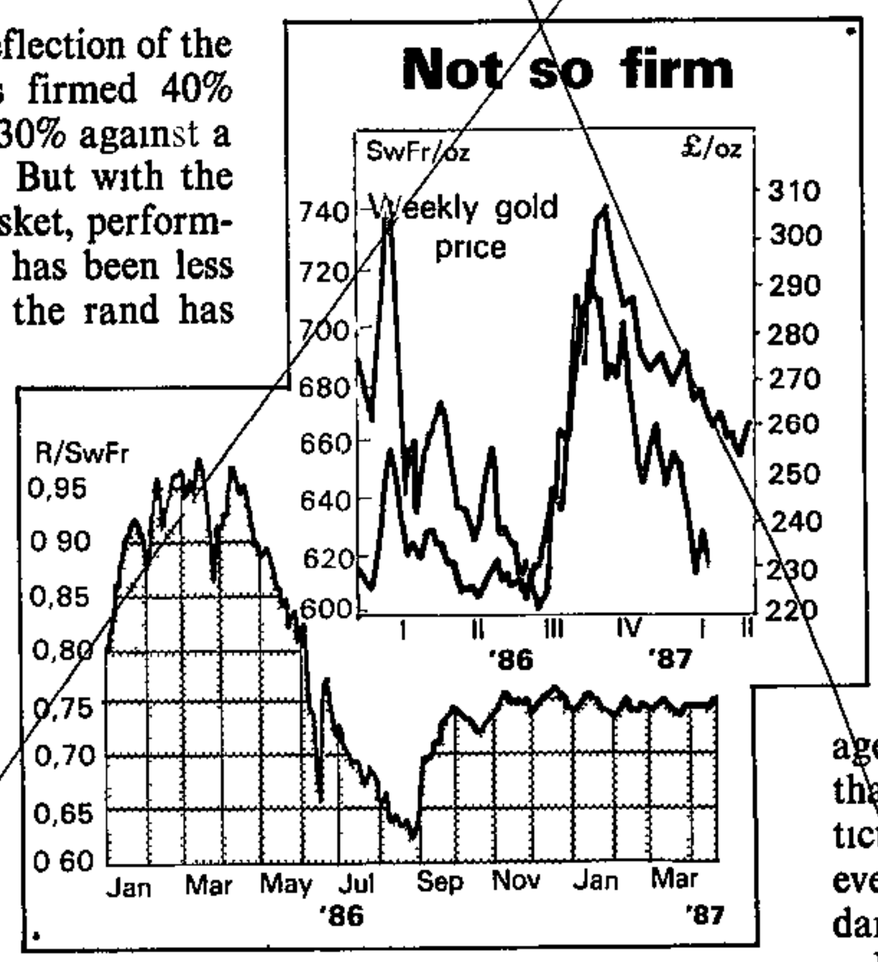
In virtually every respect the economy is healthier than it has been for years.

The price has been high. a decline in overall living standards which has fallen hardest on those least able to afford it. But it is important to note that it has been achieved not with foreign banks leaning over themselves to extend new credits, but with the added constraint of having to become a net exporter of capital. Not for us the Latin American solution.

Current economic forecasts for 1987 may well turn out too conservative But, like a massive oil tanker, an economy does not pick up speed immediately the wind turns favourable. It is safer to say that, if present conditions continue, the duration (and acceleration) of the upturn could be extended at least well into 1988.

Late last year, business confidence remained low when there were many signs of a pick-up in real economic activity Conversely, confidence is now growing fast; but further quickening of the tempo of real activity is harder to generate.■

Not so firm



have to be partnerships by law, so they needed to bring in outside experts to deliver their new services And to do this, they had to form associate entities

This meant employing highly qualified non-CAs, for example, MBAs, computer science graduates, merchant bankers, human resource experts, public servants and lawyers

Today, the biggest *single* fee generator is tax consulting But even this is a multidisciplinary function, needing input from CAs, lawyers and computer experts

The challenge, therefore, has been to ensure the continuing high standard for which South African CAs have been known for years So far the challenge has been met

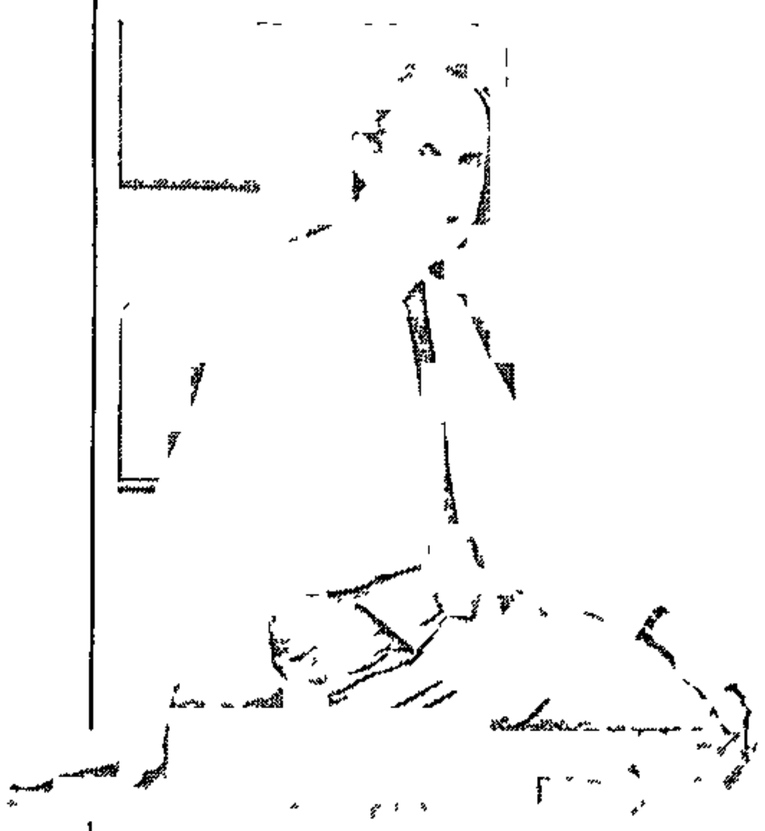
Fisher Hoffman Stride's Charles Stride reckons our CAs are the most highly regarded in the world "Our accountants have open tickets to the most coveted job markets in the world, including the US," he asserts

Which, of course, highlights one of the main problems facing the profession — emigration The days of newly qualified CAs from Britain coming out for a South African stint are gone — for the foreseeable future at any rate Some fear that one result may be a drop in training standards, and an erosion of quality

But then the world's top eight accounting firms are all represented in SA, giving clients instant access to technical support Often specialists are flown to SA for a one-off job There is no shortage of international synergy

Says Arthur Andersen's Sam Abrahams "One of the major challenges facing the accounting profession is to ensure that appropriate in-house training is provided to its professionals, to enable them to serve the needs of commerce and industry There is a pressing need to monitor whether firms are meeting these requirements"

The concern starts at grassroots level with the number of articled clerks coming into the profession In 1984-1985, the number of new entrants increased only 3%, to 4 558 And in 1986, there were 11 460 recognised CAs — with 3 172 in public practice, and 1 671 classified as "absentee" (meaning abroad)



Charles Stride . . . SA CAs in great demand

But the shrinking of the CA skills-base is a characteristic common to most of SA's other human resources areas More to the point is that local CAs have identified the problem, and moved into new lines of business where the most dynamic developments are taking place

Accountancy in SA, however, faces other problems Apart from the no-advertising rule, which has largely been foisted on the big firms by the smaller ones, there are some long-standing ethical rules which many consider to be anachronistic Examples

- ☐ CAs may not charge on results, fees must be based on time spent and the "complexity" of the matter,
- ☐ CAs may not solicit business, and
- ☐ Fees or commissions may not be taken from an outside party without disclosure to the client However, as the *FM* understands it, most accountants continue to believe that this restriction is necessary

The time-charging rule, however, is said to be particularly archaic All in all, it has created some concern — and a degree of confusion — among many accountants about the direction their profession is headed Says a senior CA "Perhaps the biggest challenge, and the most difficult thing to get, is businessmen accountants It's easy to turn out theoretical accountants, but what you really need are entrepreneurs — especially in SA with its critical need for job-creation

"We have lots of graduates who expect high incomes from the start But there are still many fields in accounting that do not require entrepreneurial flair, and we can't afford CAs with tunnel vision"

CAs, unfortunately, are still trained, by and large, to look for negatives They're not easily given to risk-taking, and it is said that many successful CAs see themselves as administrators rather than businessmen

In the process of separating accounting from consulting, audit fees have remained static — or have even shrunk One of the counters was to offer high-cost consulting services to recoup, but audit partners came away with the feeling that their work was inferior — simply because it was not so

GETTING THE MESSAGE

For many of SA's CAs, the single biggest obstacle to further progress is the ethical rule against advertising In most, if not all Western countries, the rule has been relaxed

SA's more progressive pros argue that in accountancy firms' new fields of endeavour are found "competitors" who can and do advertise Financial institutions are a prime example "For many of us," says a senior CA, "the advertising issue is like a dog trying to catch its own tail

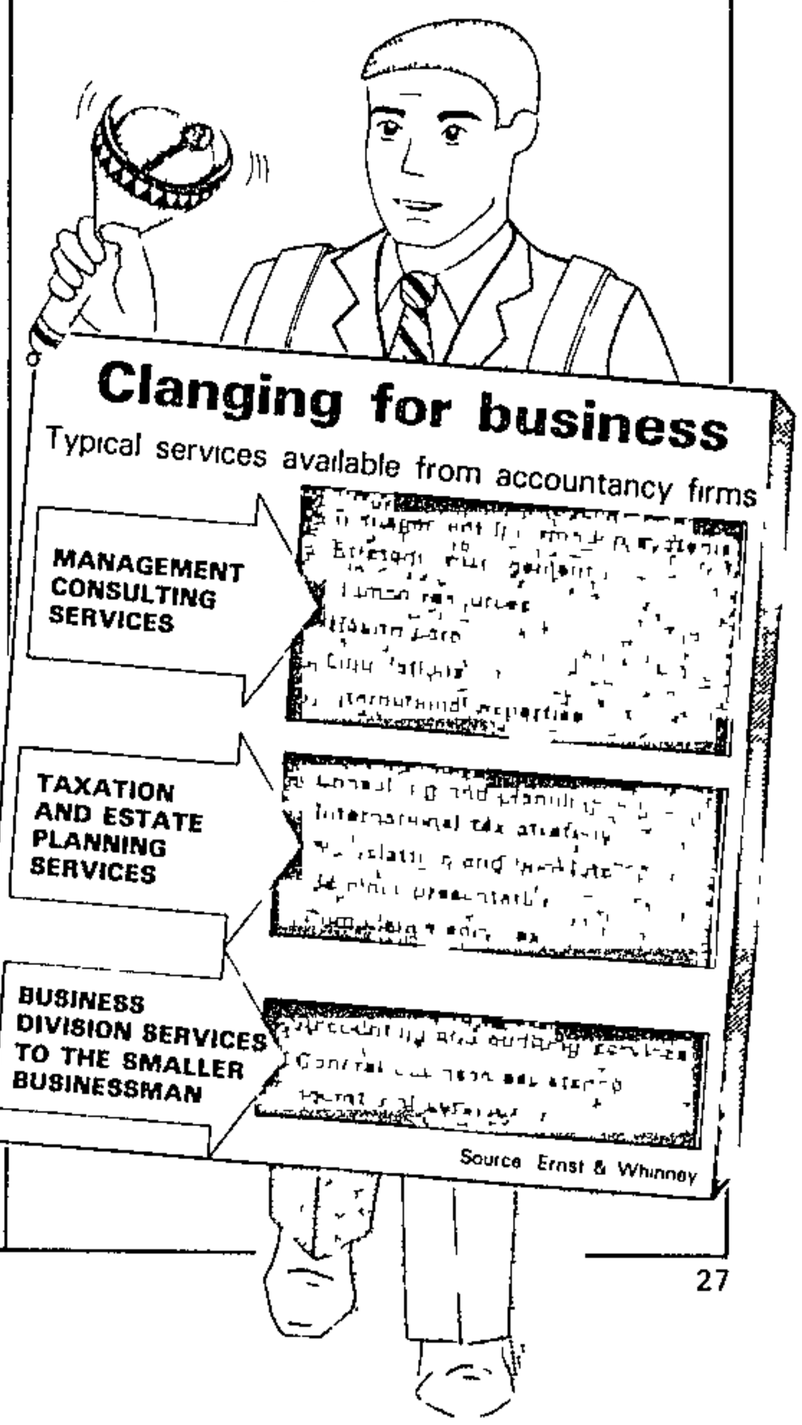
"We don't want to advertise our audit service There integrity and independence must be preserved at any cost We want to advertise our newer services against competitors outside the profession, who may advertise

"Without advertising, the profession is having an internal fight for a bigger slice of a static pie If we could advertise, we could increase the size of that pie"

Some accountants point to the fact that, right on their doorstep, the Institute of CAs in Zimbabwe has announced a relaxation of the rules governing advertising and publicity In a letter dated March 13, prior to seeking the opinion of practitioners, the institute noted that the matter was "vitally important to the wellbeing of the profession"

But although smaller firms have effectively scuttled the idea in SA for the moment, another force is at work which could well overturn the local ruling The Competition Board has already abolished restrictive advertising rules for some professions — and partly opened some closed doors in the process

"The same may be expected for accountants," says a CA Feelings on the issue run high, particularly at the larger firms Says a partner in one of them "If the rule was relaxed, you can be sure that certain firms would be out there placing ads the very same day"





lucrative

Says a partner in one large firm "There is the possibility that professional audit standards may have suffered"

Another threat to the quality of audits are client audit committees, which are constantly on the lookout for ways of cutting costs In some cases this can even involve calling for tenders But, says a CA, "this boomerangs There is huge pressure to keep audit fees down — with less and less work being done Our firm, for example, has held the cost of some audit fees for three years While salaries must go up, fees are expected to remain unchanged

"You end with the 'CYA audit' — the cover-your-ass audit That means a nice set of files, and you missing what the exercise was all about The tragedy is that the client ends up with less business advice emanating from the audit"

There are other problems as well, such as professional indemnity Abroad, professional accounting firms have been sued for sums running into hundreds of millions for professional negligence The first big case in SA — involving two firms being sued for R30m — is currently under way

In SA, the cost of insurance cover for negligence is prohibitive Also, insurers prescribe ceilings on their liability — now said to be about R10m a firm

Further, accountants face issues of conscience One of the stickiest areas is liquidations, which they have broken into in a big way since the start of the recession. "Liquidations earn us handsome fees," explains a CA, "but we know we should really be lobbying for a change in insolvency law As things stand now, our fee is based on a percentage of the assets realised In other words, the quicker we crucify, the more we earn

"The law is in our interest, but it's against the national interest In the UK, liquidators are paid a fee agreed to by creditors. There, the incentive is to get the company up and going again, jobs are retained, and a business is kept alive"

But at least some sectors of the accounting profession in SA can hardly complain about fee-fixing Take, for example the Natal Society of CAs, which has clamped a ceiling on the salaries of articled clerks — certainly not the stuff free trade and competition are made of

Yet, through all the turmoil of the Eighties, it is fair to say that the profession has come through with its integrity and independence intact

The old problem, of course, is that managements sign the cheques — and managements want their balance sheets to look as good as possible

The way the top men tell it, this continues to cut no ice with accountants, despite the contraction in work opportunities

Mike Woods, Ernst & Whinney's national chairman, and immediate past chairman of the Public Accountants' and Auditors' Board, sums it up "The maintenance of the highest standards, particularly in the audit attest function, is not negotiable We cannot afford to lower the reputation we have in the international accounting field" ■



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Butter price rises

PRETORIA — The wholesale price of butter is to increase by seven per cent, or 30 c a kilogram from May 1, the Dairy Board announced in Pretoria yesterday.

A kilogram of butter will then cost R4,30 and the 500 g pack R2,15, a spokesman said. It was pointed out the board was still subsidising the price of butter from its stabilisation fund.

The butter price decreased last year when the subsidy was fixed at R1,45 a kilogram. This had now been decreased by 28 c to R1,17. — Sapa

Non–racial, democratic lawyers association to be launched

Dispatch Reporter

UMTATA — The national launch of the non-racial South African Association of Democratic Lawyers' (SAADEL) is expected to take place in December

A statement issued on behalf of the steering committee of SAADEL by the chairman here, Mr Dumisa Ntsebeza, said the body would be the official voice of all "democratic lawyers" in South Africa

He said the formation of the organisation had been the subject of debate for a long time in legal circles

"With the worsening of the security position throughout the country and the significant and important role which concerned lawyers were expected to play in the context of that situation, the formation of an association of concerned lawyers became extremely urgent," he said yesterday

Mt Ntsebeza said the organisation was not only open to black lawyers, but that SAADEL specifically stated that members would commit themselves to the establishment of a "non-racial democratic and just society free from oppression and exploitation".

Advocate Deva Pillay of the Bisho Bar was elected secretary of the steering committee which would draft the constitution

Litigation to be made easier

Top representatives of South Africa's legal profession met in Johannesburg on Saturday to discuss proposals to make civil litigation cheaper, simplify it and bring it closer to the man in the street along the lines of the highly successful small claims courts.

The Minister of Justice, Mr Kobie Coetsee, revealed "tentatively" proposals for the new legislation at the Jan Smuts Airport meeting.

Instead of creating a new court, as was the case with the small claims court, the idea was to make provision for an alternative procedure for the adjudication of civil cases in magistrate's courts.

This procedure would enable the court to adjudicate cases in an "inquisitorial manner" at the choice of the litigants, and legal representation would not be allowed.

Mr Coetsee said the presiding officers at such actions would also be appointed, as in the small claims courts, from the ranks of the advocature, the attorneys, and the legal academics, and that they would possibly be paid — Sapa.

Car prices to increase again soon

DAVID FURLONGER
Industrial Editor

CAR prices are about to increase for the second time this year.

Volkswagen confirmed yesterday that prices of its VW and Audi ranges would rise by an average 3% next week. Other manufacturers are expected to follow suit

Samcor officials were meeting yesterday to decide on Ford, Mazda and Mitsubishi vehicles prices. They are likely to announce increases of between 3%-4%.

A Mercedes-Benz spokesman said a decision on Mercedes and Honda vehicles "is likely in the next few days".

BMW implemented its previous price increase a month later than most other manufacturers and its prices will not go up before June

A Delta spokesman said its prices were not about to rise. Nissan and Toyota officials were unavailable for comment, but industry sources said it was unlikely VW and other companies would increase their prices unless they were sure market leader Toyota was about to do so.

The increases are the second quarterly rise this year and are in line with industry forecasts of a 12%-15% increase in car prices during 1987.

Legal clinic workers held by police

By THAMI MKHWANAZI

POLICE this week detained three women and a man during a raid at the Pietersburg branch offices of the National Institute for Public Interest, Law and Research (Nipilar) said spokesman, Advocate Mathole Motshekga. Documents were also removed.

Two of the officials detained are Simon Lemao and Quindy Montjane.

Last June security police raided the Mamelodi branch of Nipilar, in which documents were removed, said Motshekga, who is also chairman of the Democratic Lawyers' Congress (DLC).

Nipilar was established by the DLC and community organisations. It runs legal clinics in Mamelodi, Pretoria, Katlehong, Thembisa, Pietersburg, and Rustenburg.

National association of lawyers

PORT ELIZABETH. — The newly established non-racial South African Association of Democratic Lawyers (SAADEL) is to be officially launched in Durban at the weekend.

The chairman of the association's steering committee, Mr Dumisa Ntsebeza, said the organization would be a "voice of all democratic lawyers in South Africa"

Its formation would unite into one powerful organization the Johannesburg-based Black Lawyers' Association, Eastern Cape Democratic Lawyers' Association, Western Cape's Democratic Lawyers' Association, Durban-based Democratic Lawyers' Association, Lawyers for Democracy in Maritzburg and the Democratic Lawyers' Congress in the Transvaal

Mr Ntsebeza said that with "the worsening of the security position throughout the country, the formation of an association of concerned lawyers became extremely urgent".

New multi-racial law body launch

Dispatch Reporter

UMTATA — The national launch of a new multi-racial organisation, the South African Association of Democratic Lawyers (SAADEL), takes place today in Durban.

SAADEL says that its members will commit themselves to the establishment of a truly non-racial democratic society free from oppression and exploitation

The launch of the body is closed but a statement will be released afterwards

The chairman of the steering committee of the association, Mr Dumisa Buhle Ntsebeza, said in a statement that the body would be the official voice of all democratic lawyers in South Africa

This has been a subject of debate for a long time in South African legal circles, he said

The idea gained momentum in 1986 when on January 19 representatives of the Black Lawyers Association (BLA) met with the Eastern Cape Democratic Lawers Association (ECDLA) in Bisho where the idea of a single body of lawyers with certain clearly defined principles was mooted

"With the worsening security position throughout the country and the significant role which concerned lawyers were expected to play in this context, the formation of an association of concerned lawyers became extremely urgent," the statement said

Mr Ntsebeza said under the leadership of a King William's Town attorney, the president of the ECDLA, Mr T M. Mdlalana, the initiative was assumed by the ECDLA

An inaugural meeting was held in Bisho in August

At the meeting the following bodies of lawyers were represented BLA, ECDLA, the Democratic Lawyers Organisation (DLO) based in the Western Cape, the Democratic Lawyers Association (DLA) based in Durban, Lawyers for Democracy (LFD) based in Pietermaritzburg, the Democratic Lawyers Congress (DLC) based in the Transvaal and the "Independents" from Natal

Mr Ntsebeza said the "Independents" were formed at the meeting as an ad hoc body of democratic lawyers from Natal, not either in the DLA or LFD

A steering committee consisting of two representatives from each of the constituent bodies was established at the meeting under the chairmanship of Mr Ntsebeza, a member of the ECDLA, which covers the area between Umzimkulu and Port Elizabeth

All attorneys in this area, politically divided into Transkei, Border, Ciskei and the Eastern Cape, still fall under the Law Society of the Cape of Good Hope and all advocates in the same area are members of the General Bar Council of South Africa, Mr Ntsebeza said.

The steering committee met in Port Elizabeth on March 15 for the first time without Mr Ntsebeza, who had been banished by the Transkei Government to Mhlahlne Administrative Area in Tsomo

In a resolution the committee condemned "the arbitrary and harsh banishment order served on Mr Ntsebeza, together with others, by a colonel of the Transkei Security Police"

The resolution acknowledged Mr Ntsebeza for his "courageous handling of political and civil rights cases"

"The banishment of Mr Ntsebeza seriously affects all civil rights lawyers in South Africa," the resolution said, "It is intimidatory and poses a serious threat to the right of victims of the system to be properly represented in court"

News in Brief Cape Times 5/5/87

Lawyers form new body

JOHANNESBURG — The National Association of Democratic Lawyers (NADEL) was launched in Durban at the weekend with a membership of 300. Mr Nelson Mandela was elected an honorary member The organization declared "all persons should be equal before the law, should enjoy full and equal rights of citizenship in a unitary state and should have the right to participate in all organs of government"

France's estimated televi-

n.

Lawyers join hands

THE National Association of Democratic Lawyers was launched in Durban at the weekend.

According to a statement released by the body's president, Mr Dumisa Ntsebeza, 300 lawyers "committed to a democratic and just society free from oppression and exploitation formed themselves into the new body".

Nelson Mandela was elected honorary member. — Sapa.

GINAL

Lawyers say police incorrect

The police were incorrect in declaring they could continue to enforce the emergency media regulations scrapped by the Natal Supreme Court pending the State's appeal, lawyers said today

The Supreme Court had stated the law for citizens to follow and this could only be altered if another court made a different decision, according to legal opinion

The Police Public Relations Division in Pretoria released a statement yesterday saying the police would continue to apply the regulations until the result of the appeal was known

"The SAP will, in every instance where the media regulations concerned are breached, take steps required by the law," the statement said

Eight newsmen were arrested while covering unrest on the University of Witwatersrand campus yesterday They were released on warning pending an investigation

The Star's attorney, Mr Peter Reynolds, said today his firm's view was unchanged "The judgment invalidates those portions of the media regulations dealt with by the judgment

"That it was given in Natal and that there is a pending appeal does not alter this fact It is the law until such time as the decision is altered"

He said he found the police attitude strange because, while they declared their intention of enforcing the regulations, The Star had received no warning for publishing reports on unrest or a "Help Free the Children" advert.

An advocate said his view was that a decision of the Supreme Court laid down the law and citizens were bound by it

● A morning newspaper today declared that a full-page advertisement relating to detentions placed by the Black Sash had been withdrawn on legal advice

South NEW

Fiery birth of lawyers body

(248) South 7/2/1987

DURBAN CORRESPONDENT

A NEW national lawyers organisation, the National Association of Democratic Lawyers (NADEL), had a fiery birth at a two-day conference here at the weekend

Although the 300 delegates and observers from all parts of the country finally decided to commit themselves to strive for a non-racial, democratic and just society, ideological differences emerged during the conference

And the conference ended on a unifying note with the unanimous adoption of a motion by Seraj Desai that the ANC's Nelson Mandela be made an honorary member.

Organisations

The participating organisations included the Durban-based Democratic Lawyers Association (DLA), the Johannesburg-based Black Lawyers Association (BLA), the Cape Town based Democratic Lawyers Organisation (DLO), the Pretoria-based Democratic Lawyers Congress (DLC), the Maritzburg-based Lawyers for Democracy and other independent lawyers

Their political views expressed were as divergent as the policies of the United Democratic Front, the Azanian Peoples' Organisation and the New Unity Movement

The differences in political thinking among the lawyers were highlighted in the first hour on the opening day on Saturday when a member of the BLA, which had about 60 representatives at the conference, objected to Mr Dullah Omar from Cape Town delivering his official speech.

A representative of the BLA said it would be unfair for Mr Omar to be given an advantage to speak if he was going to be one of the candidates for the national executive

A vote was taken and Mr Omar was prevented from delivering his address An address by Mr D Motsheke, an advocate from Pretoria, was also shelved.

There was also dissatisfaction when Mr Raymond Tucker of the Lawyers for Human Rights was asked to make a choice between the new organisation and the Lawyers for Human Rights

Delegates pointed out that the membership of the Lawyers for Human Rights included judges who passed death sentences on political activists and dual membership of this organisation could therefore not be allowed

Mr Tucker was offered observer status at the conference, but he turned it down saying he wanted full membership

Office bearers

Persons elected as office-bearers were Dumisa Ntsebeza (Umtata), president, K Kunene (Johannesburg), vice-president, Don Kali (Durban), vice-president, D Omar (Cape Town), vice-president, Ismail Ayob (Johannesburg), secretary, Im-raam Moosa (Durban), assistant-secretary, D Moseneke (Pretoria), treasurer and J Poswa (King Williams' Town) assistant-treasurer.

Mr Ayob was elected after three ballots were held, defeating Mr Moosa who had earlier argued for the terms anti-racism instead of non-racialsm and Azania instead of South Africa in the constitution.

Mr Omar was elected unopposed.

The official launching of the organisation received messages of solidarity and support from about 23 national and inter-national organisations — including Commonwealth Secretary General Shridath Ramphal,

The basic aims of the organisation would be to develop, promote and maintain an equal and fair system of justice and law, to support and promote the African Charter on Human and People's Rights and the U N Declaration of Human Rights and to render legal assistance to persons and organisations involved in matters affecting human rights

Mandela elected to new society

By DAN DHLAMINI

THREE hundred lawyers committed to a democratic and just society, free from oppression and exploitation, last weekend elected the jailed ANC leader, Nelson Mandela as their honorary member at their inaugural meeting held in Durban.

The newly established body is the National Association of Democratic Lawyers (NADEL).

NADEL was formed at the instance of the Black Lawyers Association, the Democratic Lawyers Association, the Democratic Lawyers Congress, the Democratic Lawyers Organization, the Eastern Cape Democratic Lawyers Association, Lawyers for Democracy and independant Lawyer groups.

The newly formed Association declared that all persons should be equal before that law, should enjoy full and equal rights of citizenship in a unitary state and should have the right to participate in all organs of government.

Lawyers form pact of unity

By PRAVEEN NAIDOO

A NATIONAL body of lawyers has been formed to give lawyers throughout South Africa a "forceful voice'

Delegates from nine organisations, which represent more than 600 lawyers, met in Durban over the weekend to form the National Association of Democratic Lawyers (Nadel)

The inaugural meeting elected imprisoned African National Congress leader Nelson Mandela as an honorary member and agreed to affiliate to major international law bodies

Johannesburg attorney Mr Ismail Ayob, who acts for the Mandela family, was elected secretary, and Transkei-based lawyer Mr Dumisa Ntsebeza, president

Mr Ayob said after the launch "For the first time, democratic lawyers isolated in different parts of the country can speak with one, forceful voice"

Equal

Mr Ayob denied reports that the association was controlled by Black Consciousness supporters

Mr Ntsebeza said founding members of Nadel were "committed to a democratic and just society free from oppression and exploitation"

"They declared that all persons should be equal before the law, enjoy full and equal rights of citizenship in a unitary state and have the right to participate in all organs of government"

Membership is open to all articled clerks, attorneys, advocates and law academics committed to these ideals

The first national executive council elected at the launch included three regional vice-presidents — Mr Donald Kali in Durban, Mr Abdulla Omar in Cape Town and Mr Keith Kunene in Johannesburg.

Durban lawyer Mr Imraan Moosa was elected assistant secretary and Mr Justice Poswa, also of Durban, assistant treasurer

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Law in SA at an impasse?

(248 DD 14/5/82.)

Prof: problems caused by use of title to provide security

Dispatch Reporter

GRAHAMSTOWN — South African law had reached an impasse, Professor and Head of Department of Law at Rhodes University, Grahamstown, Professor J. R. Harker, said in his inaugural address last night.

He said "The depersonalisation of the concept of ownership brought about by the wide-scale use of title as a device to secure payment of a debt has created problems in the South African law which cannot be resolved with reference to the existing principles of law"

He also said the use of title to provide security in movable property constituted an inappropriate security device

Professor Harker said the use of title in hire-purchase transactions and "sale and leaseback transactions" was a wholly inappropriate means of providing security for payment of a debt

"It provides no machinery whereby members of the public at large can be informed of the creditor's right of security At the same time the use of title as a security device in this way is firmly entrenched in our law"

If the law were to fulfil its function of regulating the conduct of individuals in society and of providing a just and equitable solution in circumstances in which a conflict of interest arose, it was apparent that a change to the law was required, he said

Professor Harker said there were two possible solutions, both of which would require statutory intervention

The first would be to introduce a limitation on the right of the owner to vindicate movable property in certain circumstances

He said the limitation he had in mind would be similar to that which existed in French and German law where "the bona fide acquisition of property by a third party from a person to whom the owner had voluntarily given possession of his property" should be recognised and enforced

He said such a limitation would go a long way to protect the third party who at present had no independent means of discovering any limitation upon the right of a person from whom the property was acquired

Professor Harker said "Such a change in the law, however, would seriously impede commerical activity It would deprive the creditor of the right of security which the reservation of title seeks to give him unless suitable criminal sanctions could be introduced to discourage the buyer from fraudulently acting in breach of his contract"

He said a more fruitful and successful approach would be to introduce legislation along the lines of the Special Notarial Bond Act of Natal to make it possible to create a real right of security by means of a special notarial bond of movables

The registration of valuable movables should not present any real practical difficulty in the Deeds Registry he said

Professor Harker said "With computerisation of the system of registration in the Deeds Registry there would be no real difficulty for prospective purchasers or creditors to undertake a search in the Deeds Registry to ascertain where the ownership of specific property lies and what real rights, if any, have been conferred on others in relation to a specific property"

To make the registration of real rights of security in movable property a workable system it would be necessary, at the same time, to cut down on the effect of servation of title in a hire-purchase sale and the effect of a "sale and leaseback transaction" by providing that a creditor enjoy no real rights in respect of the property unless the contract was registered in the Deeds Registry, Professor Harker said

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Black lawyers to hold seminars

THE Black Lawyers' Association Legal Education Centre has organised three-day seminars on trial advocacy training at three major cities in the country later this month and next month.

The seminars, to be held in Cape Town, Johannesburg and Durban, are to be conducted with assistance from the internationally renowned National Institute of Trial Advocacy (NITA) in America

Special lecturers from Nita will lead the programme, using South African case material and assisted by a number of prestigious South African judges, advocates and attorneys

Lecturers participating in the programme include Mr James Ferguson, a leading black civil rights lawyer in America, Mr A Chaskalson, SC, Legal Resources Centre national director (Johannesburg session only), Mr C Nicholson, Legal Resources Centre regional director (Durban session only) and Mr A Omar, Cape Town Bar member (Cape Town session only)

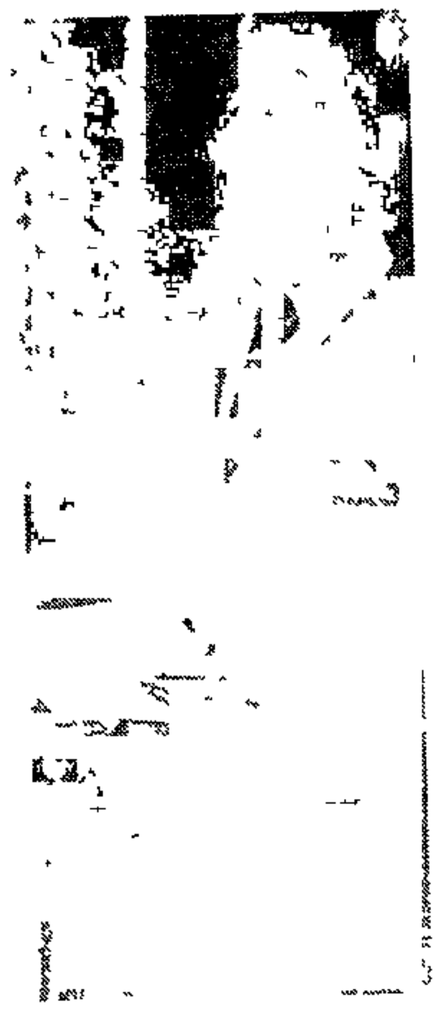
Performance of the participants in the seminars will be critiqued by, Mr Justice Ackerman judge of the Supreme Court of South Africa (Pretoria), Mr Godfrey Pitje, BLA Legal Education Centre (Johannesburg), Mr T L Skweyiya, Durban Bar member and trustee of BLA Legal Education Centre and Mr E D Moseneke, Pretoria Bar member and also a trustee of the BLA centre

Improve

Mr Seun Moshidi, general secretary of the BLA, said the judicial system in South Africa makes the trial lawyer a key figure in the courtroom As a result, trial advocacy training is essential for both attorneys and advocates

"In South Africa the poor education available at black schools and universities, along with the inherently prejudicial legal system puts both the black lawyer and their client at a disadvantage

"As the purpose of the training is to improve trial performance, participants are take



GODFREY Pitje . . . to address seminar.

through the rigours of a full simulated trial Each participants are taken provided with prepared case studies of trials that have actually taken place The participants will also be given techniques on how to examine, cross-examine and re-examine ordinary and expert witnesses, use of exhibits and closure of arguments," he said.

The Cape Town seminar will be held at the Woodland Heights Conference Centre from May 29 to 31 In Johannesburg the seminar will take place from June 5 to 7 at the Alfa Training Centre, Broederstroom and the venue for the Durban seminar is Moot Courtroom, School of Law, University of Natal from June 12 to 14

Registration is R25 a person and the participants are requested to make early bookings Registrations can be made telephonically at the following places, (Johannesburg) (011) 337-1535/6/7, (Cape Town) (021) 637-1350/1 and (Durban) (031) 301-7527/8 Participants are further requested to bring a blank VHS video tape to record their performance

248 Sowetan 18/5/87

'Cloud' over law profession

JOHANNESBURG — Commercialism was the "darkest cloud" hanging over the legal profession today and lawyers should "struggle to ensure our highest values", the vice-president of the International Bar Association, Mr Reece Smith, said in Johannesburg today.

The American lawyer was addressing the 12th South African Law Conference of the Association of Law Societies

The proportion of younger lawyers to older ones had increased dramatically, making it "difficult to inculcate the young with old values which uphold the standard of the profession," he said

"The increasing number of women becoming lawyers may alter the profession Psychologists say woman have a different way of dealing with problems" — Sapa

What about the children in prison? asks Sir Laurens

By Jo-Anne Richards

"What about the children in prison? Who is thinking about them? Who is doing something about them?"

Sir Laurens van der Post, writer, scholar, philosopher, addressed a banquet of the 12th South African Law Conference last night and asked this of his audience

He spoke to them about law

"Law is inseparable from the religious concept of life — law as the Greek gods saw it Even Jupiter couldn't interfere with fate The Creator Himself is bound to obey the laws of His own creation"

And he spoke of South Africa

"What we have here is an immense human problem, a human tragedy To see it only as a political problem is to miss the point of it."

But mainly, he spoke of the law — what it should be and what role it could play in solving our problems.

THE ULTIMATE

"We have to think seriously about the law and what is happening in our land today.

"Can we be certain here that the ultimate has not been reached in what has happened to children? Can't those upholding the law say 'We can't uphold the law justly when it is used for ends like that, however grave the emergency'?

"And the reasons for the emergency . I do accept the African National Congress could play a role in violence, but ultimately it is home-made, the product of 40 years of political history"



Through just law, the country could be transformed into a shining light to the world, Sir Laurens van der Post told the South African Law Conference last night

"We must redeem ourselves," said Sir Laurens, so that the country could be run "in line with the laws of life, the universe, of time"

With just law, the country could be transformed into a shining light to the world.

And what was happening to our black leaders? asked Sir Laurens

"What do we do? We don't talk to them We offer them terms they can't accept without losing the authority they have over their people"

One of the greatest blasphemies taught here was that a culture could not survive unless it had political supremacy.

"We can survive even if we lose our language, country and people, God forbid"

The upholders of the law could do something practical about detained children and in reinforcing the Natal Indaba — a "move towards consultation instead of confrontation"

Where would they get the strength? When people "put themselves in the way of the universe, in the law and order of the universe", there was nothing they could not do, Sir Laurens said

Drastic changes in legal system mooted

Leading lawyer tilts at high cost of going to court

248

SMR 19/5/87.

If the high cost of going to court is not remedied soon "we will find that the 'people's court' is the cheapest in South Africa", says Mr Billy van der Merwe, president of the Association of Law Societies

At the 12th South African Law Conference in Sandton yesterday, Mr van der Merwe called for a sevral changes to increase access to the law

South Africa could not afford the dual system of advocates and attorneys, he said

Every person with an LI B qualification should have the right to appear in the Supreme Court — "the present training of attorneys is such that there can be no argument about their qualification to appear in higher courts"

Mr van der Merwe also proposed that there should be lower courts in which both advocates and attorneys could appear and in which the presiding officers were chosen from attorneys, advocates and academics

Those best qualified to be judges in higher courts could then readily be identified — and not just chosen from advocates

Such a lower court could deal with matters such as divorces and motor accident claims

Practical training school

To allow more people, particularly blacks, to qualify as attorneys, Mr van der Merwe suggested that the two year system of serving articles be abolished in favour of a type of practical training school

There were now more students studying law in the five black universities than in all the white universities, he said

"Attorneys can't article even the white students who want to be attorneys So what will we do about all the black students?"

Mr Arthur Chaskalson, SC, said whether the Bar were divided or not, the problem remained — most South Africans could not afford access to the courts

"If attorneys do the work advocates have traditionally done, it will affect who will earn what and the monopoly of the two professions — but it will not have any affect on access"

Most criminal cases were heard in the lower criminal courts where attorneys could appear And, even there, 80 percent of the accused were unrepresented

'It's a disgrace that people are sent to jail without legal representation," he said

No easy solutions

There were no easy solutions — the only possible way out was to increase legal aid

Mr Justice O Galgut said the fees paid to attorneys and advocates were not too high Lawyers had a long and arduous training period and had to apply a high degree of skill to their work

Legal costs were increased by pre-trial delays and unnecessary procedures and paperwork

The jurisdiction of the magistrates' courts could be increased to deal with civil matters involving amounts up to R15 000

He disagreed with recent statements by Mr van der Merwe that less qualified people could provide some representation at lower cost in magistrates' courts

"The conduct and ability of such persons will not measure up to the high standards presently set by attorneys"

But he urged that articled clerks appear in lower courts in criminal and civil cases

Mr Justice Galgut also proposed that the Small Claims Court, which was highly successful, be set up in smaller centres and have its jurisdiction raised from R1 000 to R2 000

No one would suggest attorneys were less capable of being judges, he said But a legal practitioner needed to work in the hurly-burly of courts to qualify for the Bench

Advice offices can fill the gap in legal aid network, says advocate

Star 24/5/87 By Jo-Anne Richards (248)

Legal aid services in South Africa were woefully inadequate, Mr Arthur Chaskalson, SC, told the 12th South African Law Conference in Sandton yesterday

Government spending on legal aid last year was about R5 million. England, with twice the population, spent about R1 500 million, he said

While the legal profession did not have the resources to solve this, it could help improve people's access to the law by encouraging and supporting community advice offices such as those run by the Black Sash, said Mr Chaskalson.

Advice offices had an important role to play in developing an extensive legal aid network

"One of the greatest failings of the legal aid system is that it does not give meaningful support for the defence of criminal cases Tens of thousands of people are convicted each year and sentenced to imprisonment without the benefit of legal representation," Mr Chaskalson said

"In most of these cases the accused are black, the judicial officer and prosecutor white, and the court proceedings conducted in a language not properly understood by the defendant. It is not surprising that the criminal justice system is viewed with suspicion by the black community"

If the resources of the Legal Aid Board and the profession were directed at providing defence in criminal cases, advice offices could fill a gap in providing much of the advice needed by people

Lay people running advice offices had built up expertise in dealing with problems about citizenship and influx control, Mr Chaskalson said

"I would think that well over 90 percent of the problems are solved without reference to lawyers."

Many problems concerned illiterate or ignorant people fighting their way through red tape and bureaucracy.

During 1985/86, the advice offices serviced by the Johannesburg Legal Resources Centre conducted 8 000 interviews. All but 1 000, which were referred to lawyers at the centre, were handled by advice office staff The advice office case load had increased to almost 20 000, said Mr Chaskalson, and the percentage of cases referred to lawyers was reduced to between five and 10 percent, as staff confidence and expertise grew

While untrained people might make mistakes, most people using the offices would never have reached lawyers' offices and would probably have done no better by dealing with the matter themselves, he said.

Mr I M Bredenkamp said the Legal Aid Board and the legal clinics should come to an arrangement to concentrate on certain kinds of cases

He suggested the Legal Aid Board set up a trust fund to help finance clinics and that the private sector should get involved LlB students, who are used in clinics, could be given a limited right of appearance in court

Legal costs: A bit out of hand?

Cape Times 20/5/87 248

By PETER DENNEHY

CAN the "man in the street" still afford to take a dispute to court, or are legal costs getting out of hand?

Mr Billy van der Merwe, president of the Association of Law Societies, expressed concern on Monday at the opening of the 12th South African Law Conference in Sandton over the high cost of litigation, and called for remedial action to "increase everyone's access to the law".

The Cape Times approached office-bearers at the Cape Law Society and the Cape Bar Council yesterday and spoke to attorneys in an effort to establish the present state of legal fees.

Attorneys who could not be named for professional reasons agreed that the minimum in legal costs one could expect to pay in, say, a simple dagga case involving a single court appearance was about R350.

Tariffs are laid down by the Cape Law Society in "non-litigious matters" such as ordinary consultations. The tariff is between R30 and R100 a half-hour.

Cape Bar Council guidelines could not be obtained yesterday, but an official said figures such as "R5 000 a day for the first day of appearance" of a "senior silk" in the Supreme Court gave the public the wrong impression, since the fee for preparation for the matter was included.

Mr Van der Merwe suggested that litigation costs could be brought down if every LlB graduate had the right to appear in the Supreme Court, and if the two-year-system of "serving articles" were abolished in favour of a practical training school.

'Make it easier for black lawyers'

THE legal profession must strive to eliminate problems relating to blacks entering the profession, according to a leading black attorney.

Speaking at the 12th annual South African Law Conference in Sandton, Mr Godfrey Pitje, director of the Black Lawyers Association Legal Education Centre said it was disturbing that out of 6 000 lawyers in the country, only 250 are black.

By NKOPANE MAKOBANE

He said many black legal graduates have a BProc or BJuris, but most firms of attorneys prefer to article students with LLB degrees This was one of the main obstacles faced by black law students

"Black students on the whole cannot afford to spend five years at university for an LLB degree. They have brothers and sisters at home who also need to be educated

"So-called 'Bantu education' is an inferior type of education meant to ensure that 'there is no place in the European community above the level of certain forms of labour'," he said, quoting from Dr H F Verwoerd's address to the Senate in 1954

Mr Pitje said a white child is expected to be bilingual As for the black child, he said, he must be trilingual and then if he chooses a career in law, he must learn a fourth language — Latin

Lawyers elect Omar

By MOIRA LEVY

CAPE TOWN advocate Mr Dulla Omar was elected unopposed as president of the Democratic Lawyers Organisation at its annual general meeting in Lansdowne at the weekend

Omar is vice-president of the National Association of Democratic Lawyers (NADEL), the umbrella body representing five democratic lawyer organisations and individual lawyers throughout the country.

The DLO called for the lifting of the State of Emergency, the release of Nelson Mandela and other political prisoners, and an end to the persecution of trade unions, especially the Congress of South African Trade Unions (Cosatu)

"We also said there would be no peace in our country until organisations like the ANC and PAC are unbanned," Mr Omar said

The AGM, attended by about half of its 100 members, re-elected Mr Huxley Joshua as secretary Mr Seraj Desai was elected assistant secretary, Mr Les Rose-Innes treasurer, and Mr Percy Sonn vice-president

Mr E Moosa, Mr Y Ebrahim and Mr A Abercrombie are also on the executive.

RETURN OF THE RULE OF LAW

We, the undersigned members of the Faculty of Law of the University of Cape Town, wish publicly to associate ourselves with the call from our colleagues from the University of Natal for a return of the rule of law. Like them, we find our position as teachers of law at a South African University increasingly untenable. The teaching of law is demeaned when the idea of justice is flouted in practice.

We agree that:

"The legislative function of parliament has been usurped by the executive and the judicial function of the courts emasculated by the emergency regulations.

New criminal offences are created by the Commissioner of Police which fly in the face of basic legal principles such as the rule of law and the freedom of association and speech.

The role of the judiciary as protectors of civil liberties has been undermined by denying large numbers of political detainees access to the courts.

These acts by the executive have severely damaged the local and international reputation of not only the South African legal system but also the legal profession - judges, advocates, attorneys and academics. They have also made a mockery of the general election for the House of Assembly, inhibited the lifting of sanctions and prevented the holding of meaningful negotiations to solve South Africa's present political impasse."

Only a return of the rule of law, which implies the lifting of the State of Emergency and the release of political prisoners, would provide the basis for creating a just order in our country.

SIGNATORIES

Professors: R Zimmerman; D van Zyl Smit; D P Visser; M Blackman; I Leeman; D B Hutchison; D J Devine; **Associate Professors:** J Taitz; D M Davis; Bennett; **Father** J Hoffman; **Messrs:** C Thompson; R Brusser; R Purvis; W Scharf; J Roos; A Cockrell; J Glazewski; **Mesdames:** I Ackermann; B Clark; B J van Heerden; C Timoney; C Beckurts; C Hall; N Vasta

Restructuring of Nuclear Activities: committee

*13 Mr R R HULLEY asked the Minister of Economic Affairs and Technology

(1) Whether the Committee of Inquiry into the Restructuring of Nuclear Activities in the Republic of South Africa has submitted a report on its findings to him, if not, why not, if so, (a) on what date, (b) what were the findings and (c) who was the chairman of this committee,

(2) whether this report will be laid upon the Table of the House, if not, (a) why not and (b) what action will be taken in regard to this report, if so, when,

(3) whether he will make a statement on the matter?

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

(1) Yes, to the then Minister of Mineral and Energy Affairs, Mr F W de Klerk

(a) 31 March 1981

(b) the main recommendation of the Committee was that all the nuclear activities in the RSA funded by the State, should be placed under the control of a single body, as a state corporation, in order to achieve greater efficiency by eliminating duplication of activities

(c) the chairman was the late Dr A J A Roux, at that time chairman of the Uranium Enrichment Corporation (UCOR)

(2) No (a) and (b) The recommendations were in the main accepted by Government and legislation to implement these recommendations was introduced in 1982 and fully debated and accepted by Parliament

(3) The whole matter was dealt with in 1982 and no further statements are envisaged at this time

Graskop: bus accident

*14 Dr M S BARNARD asked the Minister of Education and Development Aid

(1) Whether he has received representations for an inquiry to be instituted into a bus accident at Graskop on or about 23 May 1987 involving pupils of Alexandra High School, if so, (a) from whom, (b) when and (c) what was his response,

(2) whether he will make a statement on the matter?

†The DEPUTY MINISTER OF EDUCATION

(1) Yes

(a) Automobile Association requested a commission of enquiry to investigate certain aspects of the accident

(b) 29 May 1987

(c) In the light of the fact that—

(i) normal investigatory procedures are currently being conducted by the S A Police in view of the possibility of an offence having been committed (which investigation will include the mechanical aspects),

(ii) further light will also be shed on the Automobile Association's concern about the mechanical and structural safety aspect of the bus by the "Bus Safety Standards" team of the CSIR which is involved in this matter and on which the AA is represented,

(iii) it has already been announced in a press statement of 27 May 1987 that a departmental team, whose report I am expecting shortly, is engaged in an investigation,

(iv) on the initiative of the Automobile Association, a meeting with leaders in the field of tourism in the Lowveld to discuss improvements to emergency services has been

requested, and is acknowledged with appreciation,

the government has decided that it would be neither appropriate nor desirable to establish a commission of enquiry

(2) Yes Press statements have already been released on 23 May 1987, 27 May 1987 and 16 June 1987 by the Department

Rhine Road, Sea Point telephone exchange

*15 Mr C W EGLIN asked the Minister of Communications

Whether any extensions are being made to the automatic telephone exchange at Rhine Road, Sea Point, if so, (a) when is it anticipated that these extensions will be completed, (b) what is the nature of these extensions and (c) what additional services will be provided as a result of these extensions?

The MINISTER OF COMMUNICATIONS

Yes,

(a) it is expected that the first extension to the telephone exchange will be completed towards the end of this year A second extension which has also been planned is anticipated to be completed during the second half of 1989,

(b) and (c) the first extension comprises an electronic concentrator with an allocatable capacity of 800 lines The second project is a major extension of the exchange entailing the provision of 2 400 additional lines

Legal aid: means test

*16 Mr D J DALLING asked the Minister of Justice

Whether he intends to take action during the current session of Parliament to raise the limit set by the means test in respect of applications for legal aid, if so, what action, if not, why not?

†The MINISTER OF LAW AND ORDER (for the Minister of Justice)

The Legal Aid Board is an autonomous body which was established by section 2 of the Legal Aid Act, 1969 (Act 22 of 1969) Consequently the Board is the only body which has the power to raise the limit of the means test In its latest report the Board indicates that it would give attention to the matter as soon as funds become available

Foreign media representatives

*17 Mr D J DALLING asked the Minister of Home Affairs

(a) How many foreign media representatives are there in the Republic at present and (b) in respect of what date is this information furnished?

The MINISTER OF HOME AFFAIRS

The admission of representatives of foreign media to the Republic is being controlled by visas Visas are granted to 3 categories of media representatives, namely

(1) those stationed and accredited in the Republic of South Africa

(2) those who are not stationed here, but who are accredited at the Bureau for Information, and

(3) those who are not stationed or accredited here, but who intend to visit the Republic of South Africa for a specific period and purpose

The Department's system of control of the entry, residence and departure of persons does not lend itself to determine how many foreign media representatives are in the country on a given date The system is aimed at the individual who has entered into or departed from the country and is not directly linked to his or her occupation

In the circumstances I am not in a position to indicate the number of foreign media representatives present in the Republic at a specified time

Mr D J DALLING Arising out of the hon the Minister's reply, I should like to ask him whether he is able to give us an estimate?

The MINISTER Mr Chairman, the hon member is also a lawyer, and he will know that one does not make oneself guilty of

Kwa-Thema	36 686	27 119	47 674
Tokoza	21 668	11 282	30 219
Tembisa	71 675	47 857	40 255
Tsakane	15 289	17 143	33 123
Duduza	9 706	7 642	15 157
West Rand			
Soweto	185 820	190 060	163 802
Dobsonville	21 784	18 481	36 350
Diepmeadow	87 843	83 212	41 435
Alexandra	29 215	33 642	20 323
Kagiso	15 300	23 400	38 280
Mohlakeng	16 200	16 478	21 083
Northern Cape			
Galeshewe	19 905	22 783	40 378
Nonzwakazi	2 460	2 666	4 850
Western Transvaal			
Jouberton	12 300	13 500	25 800
Ikageng	11 993	11 678	19 827
Eastern Cape			
Ibayi	71 469	83 077	138 843
Rini	11 131	12 861	26 560
Paballelo	3 424	1 710	11 306
Kwanobuhle	35 190	44 022	25 992
Lingelihle	3 270	3 996	8 734

Legal training

202 Mr D J DALLING asked the Minister of Justice

How many (a) White (b) Coloured, (c) Indian and (d) Black persons (i) attended and (ii) successfully completed courses in (aa) functional and (bb) legal training provided by the legal training branch of his Department in 1986?

The MINISTER OF JUSTICE

		(a) White	(b) Coloured	(c) Indian	(d) Black
(aa)	(i)	966	2	5	163
	(ii)	966	2	5	163
(bb)	(i)	240	6	—	3
	(ii)	140	2	—	1

In respect of (bb) (ii) I may add that if a student was unsuccessful in only one examination paper, it is deemed that he has not he has not completed the course successfully

Magistrates/prosecutors

203 Mr D J DALLING asked the Minister of Justice

(a) How many (i) White, (ii) Coloured, (iii) Indian and (iv) Black persons were employed by his Department as (aa) regional court magistrates, (bb) magistrates and (cc) prosecutors as at the latest specified date for which information is available and (b) in which magisterial areas was each of the above categories of posts filled by (i) Coloured, (ii) Indian and (iii) Black personnel as at that date?

The MINISTER OF JUSTICE

As on 31 May 1987

(aa) Regional Magistrate

(a) (i) 140
(ii) 0
(iii) 0
(iv) 0

(b) (i), (ii) and (iii) Fall away

(bb) Magistrates

(a) (i) 828
(ii) 0
(iii) 15
(iv) 0

(b) (i) and (iii) Fall away
(ii) Chatsworth
Inanda (Verulam)
Lower Tugela (Stanger)
Durban

(cc) State Prosecutor

(a) (i) 920
(ii) 49
(iii) 39
(iv) 11

(b) (i) Malmesbury
The Cape (Cape Town)

Bellville
Wynberg
Paarl
Kuils River
Worcester
Port Elizabeth
East London
Kempton Park
Alfred (Harding)
Vanderbijlpark
Johannesburg
Alberton
Roodepoort
Randfontein

(ii) Inanda (Verulam)
Chatsworth
Durban
Umzinto (Scottburgh)
Eshowe
Lower Tugela (Stanger)
Pietermaritzburg
Pinetown
Johannesburg Vanderbijlpark

(iii) East London
Pretoria
Wonderboom (Pretoria North)
Pietermaritzburg
Johannesburg
Inanda (Verulam)
Springs
Krugersdorp
Wynberg

Dairy Board

206 Mr D J N MALCOMESS asked the Minister of Agriculture

(a) What were the fixed assets of the Dairy Board as at 28 February 1986 and (b) which of these assets had an original value of R50 000 or more?

The MINISTER OF AGRICULTURE

(a) Head Office building, Arcadia, Pretoria, office building, Bellville and two old renovated dwellings used as offices at Bloemfontein and Pietermaritzburg

(b) All the aforesaid fixed assets had an original value of more than R50 000

Fish Hoek/Noordhoek Valley: kaolin

212 Mr R R HULLEY asked the Minister of Economic Affairs and Technology

(1) Whether he will furnish information on applications for loans received by the Small Business Development Corporation, if not why not if so

(2) whether the Corporation has received any applications for loans to finance the mining of kaolin in the Fish Hoek or Noordhoek Valley area if so what are the names of the persons or companies that applied,

(3) whether any of these applications were granted, if so (a) what are the names of the persons or companies that were granted these loans (b) what was the amount of each loan, (c) on what date was each loan granted and (d) in respect of what specified kaolin deposit was each successful application made?

The MINISTER OF ECONOMIC AFFAIRS AND TECHNOLOGY

(1) No Although the Small Business Development Corporation is a public company and particulars pertaining to the operation and finances of the Corporation as such are available to the public and are, in fact published in the Corporation's Annual Report which is also tabled in Parliament, individual applications for loans received by the Corporation are internal matters the divulgement of which could jeopardise the applicants concerned

(2) and (3) Fall away

Dairy products imported

224 Mr R W HARDINGHAM asked the Minister of Agriculture

Whether any dairy products were imported into the Republic in 1986, if so, (a) what products and (b) (i) in what quantity, and (ii) at what cost, in each case?

The MINISTER OF AGRICULTURE

Yes

(a) Only exotic cheese which is either not manufactured at all or manufactured in insufficient quantities in the RSA

(b) (i) 869 tons, and
(ii) unknown, since the cheese was imported by private importers

Insurers reluctant to offer cover

Accountants fear massive claims

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JENNY BOBERG

THE accounting profession is at risk of being sued out of existence unless liability for professional negligence is limited, accountants say.

The alarming number and size of claims brought against accounting firms overseas have made insurers reluctant to offer the cover needed.

Partner in Pim Goldby Bev Humphris said the maximum cover offered by the local insurance market to accounting firms is R10m a year — only R5m of which is automatically reinstated in the event of a claim.

"This is pitiful considering the potentially enormous claims which can be brought. An Australian firm is at present appealing against a claim for A$145m," he said.

Getting more cover through the international market is difficult. The large number and size of claims brought against accounting firms worldwide have driven insurers out of the market, Humphris said.

Goldberg Jaffe Joselowsky partner Phillip Jaffe, said only 50% of the cover required was available on the overseas market.

"As no insurance market can cope with the potential exposure and the unlimited liability which goes with it, the cover shortage is an international problem."

Adding to the number of claims, and consequent cover shortage, is the "deep pocket syndrome", Jaffe said. Some clients tend to become more enthusiastic about pursuing a claim if they know an insurer will be paying

In the end, the accounting profession itself becomes threatened, he said.

A committee, on which both Jaffe and Humphris sit, has been set up by the Public Accountants and Auditors Board, in conjunction with the SA Institute of Chartered Accountants to examine the problems in obtaining professional indemnity cover. The committee is to meet with government to study ways in which liability for professional negligence can be limited.

Magistrates are put in the dock

SUSAN RUSSELL

FIGURES given at a recent law conference in the Transvaal have shown that a staggering 80% of people serving prison sentences in SA did not have legal representation at their trials

The problem of legal representation is a major concern to the profession as a whole in SA

Now two recent full bench judgments setting aside the convictions of three people have confirmed and extended certain of the principles governing a person's right to legal representation in the Magistrates's Courts.

In both instances the court found there was a duty upon the magistrate to inform an unrepresented accused of this right.

Recognition

The magistrate's failure to do this, the court found, could result in a conviction and sentence being set aside

In the one judgment, Mr Justice Goldstone, with Mr Justice Van der Merwe concurring, said the right to full legal representation was given statutory recognition by Section 218 of the Criminal Procedure Act No 31 of 1917 and the fundamental importance of this right was now beyond question

The judge said the inherent and fundamental nature of the right to legal representation in criminal trials is now universally recognised in most civilised societies.

Mr Justice Goldstone said that if there was a duty upon judicial officers to inform unrepresented accused of their legal rights, he could conceive of no reason why the right to legal representation should not be one of them.

This was especially so where the charge was a serious one which might merit a sentence which could be materially prejudicial to the accused.

"Such an accused should be informed of the seriousness of the charge and of the possible consequence of a conviction," he said.

"Depending upon the complexity of the charge, or of the legal rules relating thereto and the seriousness thereof, an accused should not only be told of this right but should be encouraged to exercise it "

Mr Justice Goldstone said the magistrate should give the accused a reasonable time to do so and, in appropriate cases, inform him of his right to apply for legal aid

"A failure on the part of the judicial officer to do this," he said, "having regard to the circumstances of a particular case, may result in an unfair trial in which there may be a complete failure of justice "

John Gwebu was sentenced to eight years imprisonment for the theft of a motor vehicle. His advocate withdrew from the case and the regional court magistrate gave him an hour to find alternative representation.

Gwebu was unable to do so and the magistrate compelled him to proceed unrepresented.

In finding that the magistrate had misdirected himself, Mr Justice Goldstone, with Mr Justice Vermooten concurring, said it was hardly surprising that Gwebu had not managed to get the service of an attorney or advocate within an hour.

'Inexcusable'

"Let me say immediately that the conduct of the magistrate is inexcusable and deserves the strongest censure," he said.

"The understandable frustration perhaps of the magistrate, and even his annoyance at the conduct of counsel, in no way justified his rude, bullying and unfair treatment of the appellant.

"The magistrate knew full well that, with regard to the conduct of the attorney and counsel, the appellant was in no way to blame

"The magistrate's behaviour was calculated to bring his court — and, indeed, the whole system of justice — into disrepute "

Mzoli Radebe and two co-accused were sentenced to four years imprisonment each for car theft.

Mr Justice Goldstone, with Mr Justice Van der Merwe concurring, said the case against Radebe and the two co-accused was a strong one.

He said at no time were the accused informed of their right to legal representation and it nowhere appeared that they were aware of it.

"On the assumption — and, indeed, the probability — that the appellant was not aware of that right," Mr Justice Goldstone said, "I am of the firm opinion that the magistrate erred in not having given the appellant the oppurtunity of seeking legal assistance

"Had the appellant obtained legal assistance, the outcome of the trial against the other two accused may well have been affected

"Justice accordingly demands that the conviction and sentences of the other two accused must also be set aside " .

Simon Mbonani was sentenced to 10 years imprisonment for public violence, two of which were conditionally suspended

Mr Justice Goldstone said in this case that the magistrate was to be commended for having raised the question of legal representation but was too easily satisfied with the accused's readiness to proceed without it

"The finding that the appellant was prepared to proceed unassisted was not therefore justified and, in my view, amounted to a misdirection by the magistrate," he said.

He said the severe sentence imposed by the magistrate could only be explained by his being influenced by the one-sided nature of the evidence led.

"Looked at objectively, the sentence can only be regarded with a sense of extreme shock.

"It follows in this case, too, in my opinion, that there was a misdirection resulting in a fatal irregularity."

Appreciated

Dealing with the principle of legal representation, Mr Justice Goldstone said the desirability, if not the necessity, of legal representation — especially where persons stood to lose their liberty — had become ever more widely appreciated in SA in more recent years

Mr Justice Goldstone also criticised the habit of magistrates and some prosecutors of addressing accused persons as "accused" or "beskuldigde".

"Members of the public who appear in our courts, whether as accused or as witnesses, are entitled to be treated courteously and in a manner in keeping with the dignity of the court," he said

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THE LAW

Not such an ass

Most South Africans, according to recent research, believe the law favours the rich (who can afford lawyers) and prejudices the poor

To overcome the ignorance, a special "street-law" programme is being pioneered in Natal If successful, it could become part of the curriculum for all South African schools

The programme was started in 1986 at the University of Natal by Professor David McQuoid-Mason, deputy dean of the law faculty, and is backed by the SA Association of Law Societies A pilot project involving schools across the spectrum of backgrounds and colour has produced positive results and now involves 20 000 Natal pupils

Says McQuoid-Mason "The street-law courses are regarded as one of the most exciting legal education projects to be funded anywhere by law societies"

Programme co-ordinator Mandla Mchunu, who has been appointed full-time to lecture teachers and guidance counsellors, explains that the street-law idea originates from Washington DC inner-city ghettoes where many black people saw themselves as being oppressed by the legal system After 15 years, the crime and juvenile deliquency rate has fallen 80% in areas where street-law has been taught

The research has found that although many black schoolchildren are in conflict situations with the police in SA, they are mostly ignorant of their rights.

At a street-law conference last weekend, law faculties from universities around the country discussed ways of establishing the programme nationally

McQuoid-Mason, who also initiated the university-based legal aid clinics to provide people with better access to the courts, hopes the programme will eventually reach 250 000 pupils a year

He readily concedes that the course originated out of the current political crisis and this has shown that "pupils are not prepared for life

"The universities form part of a larger community and we have more black students now," he explains "Most black students come from a Third World environment and ghettoes As a result, they have quite a different view of the law from their white counterparts who tend to see the laws as protecting society"

The idea of the street-law course has been further stimulated by the visit to SA and Lesotho of Edward O'Brien, a co-director of the National Institute for Citizens Education under the Law This body formed the street-law courses in the US The idea has gone down so well in Lesotho that street law has been included in the "O" level school syllabus.

Mchunu says the most difficult aspect of his job is fighting despair in black schools "Unemployment and poverty and the fact people are deprived of rights does affect their social behaviour." Each year, he adds, 250 000 people in SA are convicted and sentenced without defence, the majority for petty criminal offences.

The programme is taught through a number of pedagogic skills, brainstorming, role playing, questions and answers, fact sheets and field excursions The objective is to enable the pupils to understand the law objectively, what makes a good law and a bad law, how the laws are made and why taking the law into one's own hands is wrong.

"The course is particularly relevant in SA because it is a highly regulated society," McQuoid-Mason says But at street level few blacks understand that they are entitled to a lawyer and not obliged to answer certain questions.

The point that emerges from the classes is that the police are given powers and orders and the law should be respected. The police also have to remain within the law and be accountable

"We want to create preparedness," he explains, "because if people realise they are more than simply workers or the occupants of broken down houses, they are less vulnerable" In this situation, knowledge is power.

The street-law courses cover criminal law, juvenile justice, consumer law, family law, welfare and housing law, and employment law

Although the course is basically designed to help individuals, the country as a whole could also benefit because, as McQuoid-Mason says, "educated citizens make better citizens"

Appeal Court slams the door on civil liberties

A law expert's comment on one little-noticed — but crucial — Appeal Court judgement last week 'The message to civil rights lawyers is to pack their bags' CARMEL RICKARD reports

CIVIL rights lawyers believe their cause has been dealt a major — possibly irreversible — blow by a recent judgement handed down by the Appeal Court in Bloemfontein

The judgement was written by the Chief Justice, PJ Rabie, with three other Appeal Court judges in agreement. A fifth judge, GG Hoexter, gave a dissenting judgement, disagreeing with his colleagues on several key issues.

So tough are the implications of the decision that a security law expert commented "The message to civil rights lawyers working on the Emergency is basically to pack up their bags."

He said the decision gave the State President the right to make any regulation or order he wanted, virtually unfettered by the courts

The judgement concerned three appeals involving Emergency detainees, all of which were argued on March 3 and judgement was handed down at the end of June

In each case, the majority judgement went against the rights of detainees, and at the same time dealt a blow to two other judgements from the lower courts on which human rights lawyers had relied heavily

The better known of these two was the Metal and Allied Workers application, heard by a full bench of the Natal Supreme Court in Durban In this case, amongst other things, the three Natal judges declared invalid the restrictions governing access to detainees by lawyers

Under the regulations controlling conditions of detention, lawyers had to get special permission for a visit from the Minister of Law and Order or someone designated by him

The Natal judges in the Mawu case said the State President had no power to make such a regulation They referred to the established principle that access to a legal adviser was a common law right.

They said while parliament could make laws in which such visits were prohibited, "subordinate legislation", such as Emergency regulations, could not contain such an infringement. "There is nothing whatsoever in the enabling act which attenuates the right to even a whole host of visits by legal advisers to a detainee," declared Judge Didcott, who delivered the ruling

The Mawu judgement enabled lawyers to see their detained clients under the normal conditions operating when lawyers visit any client in prison

However, this key ruling has now been nullified by the Appeal Court in the judgement on the case of Abdullah Omar and several other Emergency detainees arrested in October 1985

During November, the Minister ordered that they would be held for "as long as the regulations remained in force"

Their case challenging this order concerned several important issues, including the right of detainees to be heard before an order for their further detention could be made (the *audi alteram partem* rule)

The detainees also complained about the rule stating that a lawyer had to obtain permission from the minister or his appointee before being allowed to visit a detained client.

On the question of a hearing, the appeal judges said parliament had indeed contemplated "that the need to ensure the safety of the public might necessitate the taking of extraordinary measures which might make drastic inroads into the rights and privileges normally enjoyed by individuals"

They agreed that the provision allowing the minister to order indefinite detention was "drastic" but added "When proper regard is had to the fact that the regulation was made as an emergency measure it cannot be said that the regulation is so grossly unreasonable as to justify the conclusion that Parliament could not have intended to authorise it."

It was a correct statement of law that the principal allowing a person to be heard and put their point of view "embodies a fundamental right", but the judges said they could not accept the argument that the State President was not empowered to make a regulation which removed that fundamental right.

"It is an emergency measure that was intended to apply in an emergency situation"

On the question of legal access, they were equally adamant that the State President had the power to issue orders as he chose to contain an "emergency situation" and that the court could not intervene on the issue

"The court cannot substitute its view of what measures would be necessary or expedient for that of the State President As to the question of reasonableness, also, I find myself unable to (agree that the provisions) are so unreasonable that they cannot be held to have been authorised by the Act"

In their dismissal of the appeal they took a legal swipe at the crucial Mawu judgement, saying it was, in their view, incorrect.

Ruling on the appeal by Mary Bill, wife of the then detained Presbyterian minister, Francois Bill, they again took the attitude that the State President has virtually unfettered powers

The Acting Chief Justice said he "appreciates" that his view of the regulation under consideration did away completely with the *audi alteram partem rule* (that a person has the right to be heard), "and that this is not a view which one should lightly entertain I think however that this is what (the regulation) entails

"There is no doubt that if this is the effect of the (regulation) as I consider it to be, it is a very harsh provision, but it nevertheless seems to me that, when regard is had to the extremely wide powers which the Act confers on the State President to make such regulations as appear to him to be necessary or expedient for coping with the Emergency situation, it cannot be said that the regulation is *ultra vires*"

Twilight of the liberal view

IN his dissenting judgement, Judge Hoexter disagrees with the other judges on several issues and speaks strongly on at least one

Commenting on the possibility that a person detained solely for the purpose of securing his own personal safety (as the Emergency regulation permits) will be dependent on the permission of others for access to a lawyer, Hoexter says, "I find myself quite unable to assign to Parliament the contemplation of so manifestly indefensible an encroachment on a right which our law properly regards as a fundamental one"

Natal University's Professor Tony Mathews said all the painstaking gains made through a number of enlightened judgements were "swept away" by the latest ruling

"It seems that after this judgement the room for improvement under the Emergency is reduced almost to nothing

"What is so depressing is that the State of Emergency is a programme of lawless official behaviour and the attempt of the law courts to make officials more accountable to law are simply dashed by this judgement.

"The courts should be furthering the law wherever possible and making people accountable to it, instead of virtually putting them beyond the law"

He said there had recently been a number of "very courageous, well-reasoned and enlightened judgements", and that in the face of these, the latest rulings seemed to be a case of "the old guard striking back".



Picture WENDY SCHWEGMANN, Reuter

Two years for 'prisoner' Klaas

It is two years yesterday since anthropologist Klaas De Jonge, charged with smuggling arms to the ANC, fled a police car in downtown Pretoria and sought refuge in the Dutch embassy Pretoria has repeatedly called for De Jonge's surrender for trial But the Netherlands, whose laws ban extradition of its nationals, has refused Meanwhile, the official stamp of approval was given this week for the ANC to open an information office in the Dutch capital, Amsterdam

Next on the rent evictions list: The rents man

By EDYTH BULBRING and CATE TURNER Port Elizabeth

AN ex-rent collector will be evicted this week if he fails to pay his rent arrears of R1 188

Fezile Mbelekane, 67, a former rent collector and council policeman, was served with an eviction notice on June 26 giving him 10 days to vacate his two bedroomed house in Zwide township

'I am not paying rent because of my poverty," said Mbelekane, "I have no job How must I pay rent of R75 a month?" He has managed to pay a small amount towards the bill in the hope of staving off eviction, but after resigning from the Ibhayi Town Council two years ago Mbelekane has been unable to find work

"I had to work 12 hour shifts guarding the homes of the councillors We were given a gun with six bullets and six spares If a comrade threw stones at the house we had to shoot My son is a comrade, I didn't want to shoot him or his friends"

Port Elizabeth township residents live under the constant reminder that the Ibhayi Town Council gives nothing away for free Glossy billboards proclaim that housing, transport and water are 'bargains, but even bargains must be paid for" However, the cost of housing is more than they bargained for

Since February the Legal Resources Centre has been approached by over 80 families regarding pending and actual evictions In all the cases, action has been taken in terms of the Housing Act (section 65 B) which stipulates that a warning notice of seven days be given to the tenant After that, eviction without legal recourse to the law follows

According to the LRC, 90 percent of their eviction cases arise from 'unemployment and desperate poverty"

Ibhayi Town Council's mayor, Jimmy Nako, denied that families were being evicted and said that final notices were issued as a "scare tactic"— East Cape News Agency

Wanted for spanking new airport: One airline

By LOUISE FLANAGAN, East London

JULY has been a good month for official openings in Ciskei

Last week a two year old hospital, worth R16-million, was finally opened in northern Ciskei This week an international airport near Bisho was opened and a new airline inaugurated.

The only problems which marred the openings were that most of the 250 bed hospital remained closed due to lack of staff, and the aeroplanes didn't arrive from America The managing director of the Ciskei International Corporation also failed to attend the airport opening

The R25-million Bisho International Airport — which can be reached from Bisho by driving through South Africa — has a 2,5km landing strip capable of handling 747 jets This makes it larger than the nearby East London Airport

The airport has been using the Ciskei government and Defence Force aircraft However, the CDF has only skyvans and tends to borrow the government's two helicopters and light planes

The airline intends operating flights to South African centres and international flights are also planned

The hospital has also been criticised as a prestige project

Doctors in Ciskei agree that a general hospital is needed in the area, but say that Hewu Hospital is inappropriate

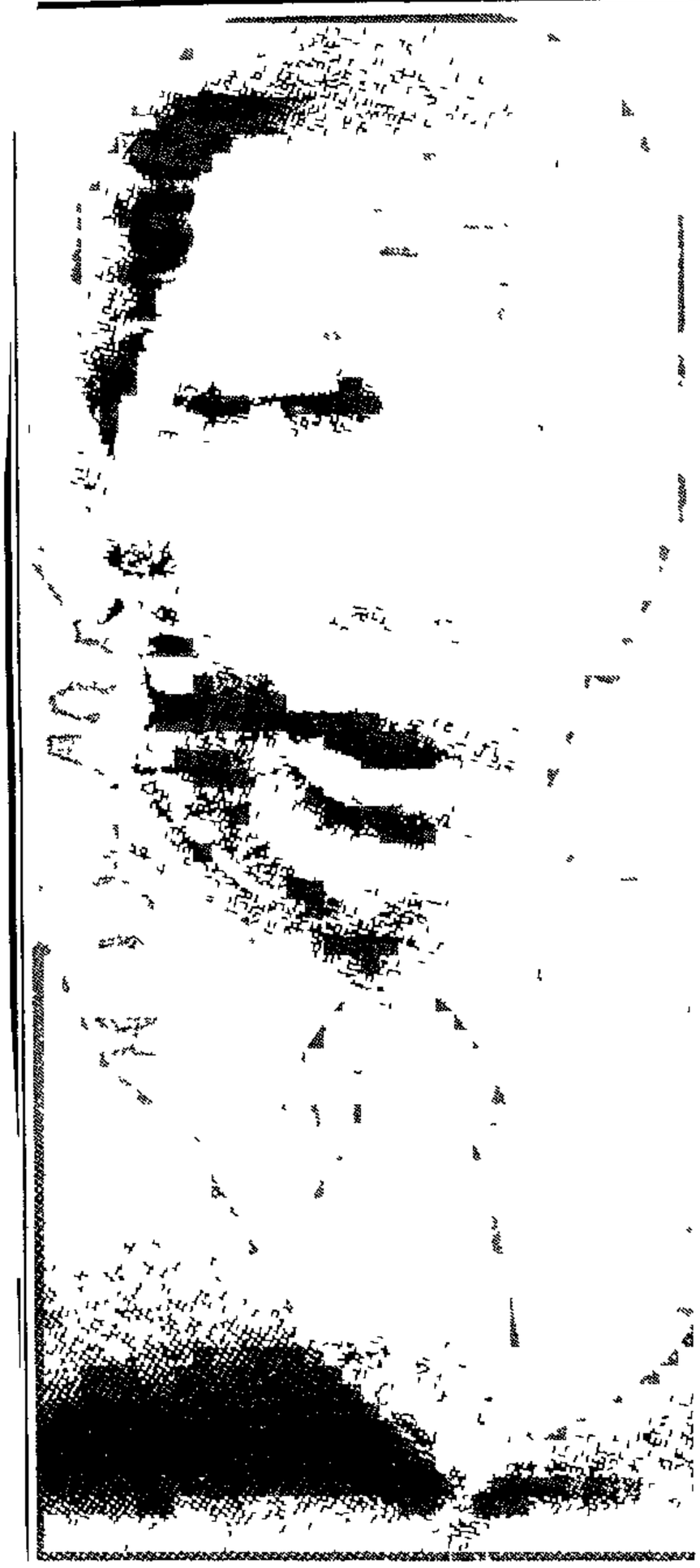
The four operating theatres, X-Ray departments, laboratories, neurology wards and a physiotherapy department may have been cheap at the price, but most of the hospital is still in its original plastic wrappings With only one doctor, a handful of nurses and no paramedical staff the hospital seems unlikely to be fully used. — Elnews

South African Jewish Board of Deputies
CLUB 44
Invites you to hear
Dr Tom Lodge
(Department of Political Studies University of the Witwatersrand)
who will speak on
"Certain Aspects of Recent Developments in Black Politics"
at The Connoisseur Hotel,
Wednesday 15 July at 8 00 pm
Entrance and refreshments R3 00
To ensure seating please telephone 331-0331 by no later than 13 July

St Barnabas College
ADMISSIONS IN 1988
Parents who intend entering their children in St Barnabas College in 1988 are advised to make application without delay The school operates on non-racial principles, and its main intake is at Standard Five level Applications for admission to Std Five in 1988 close on 24th July 1987
Application forms and other information about the school are obtainable from
Mrs B Watson
Telephone (011) 673-6741

(248) Jowuthu 13/7/87

MOLOTO IS COMMITTED TO JUSTICE



Mr JUSTICE Moloto, new director of BLA Legal Education Centre.

THE newly-appointed director of the Black Lawyers Association Legal Education Centre, Mr Justice Bakone Moloto, is a man committed to the development of the black community in South Africa.

Mr Moloto (43) is the second man to hold this position in the centre since it was established in January, 1985 Previously based in Durban, he took charge of the reigns at the centre's headquarters in Johannesburg on July 4

He succeeds Mr Godfrey Mokgonane Pitje, a well-known Johannesburg attorney, who resigned from the position early this year to go back to full-time legal practice

Born in Pilansberg, Rustenburg, Mr Moloto did his primary education in Moruleng, Saulspoort He completed his secondary education at Tiger Kloof High School, Vryburg in 1963

The following year he went to Turfloop for a year In 1965 and 1966, he branched to the University College of Fort Hare to do a Bachelor of Arts degree in law He did not finish his studies at the university after there were interruptions on the campus

During 1967, he was employed as a private teacher at Orlando West High School in Soweto and Barolong High School in Mafikeng

Politics

He returned to Fort Hare in 1968, but trouble broke out once again, and he was expelled in September because of his involvement in student politics

He finished his law degree with the University of South Africa (Unisa) in 1973

During 1969 up to 1970 he was president of the University Christian Movement (UCM)

With the UCM, he was employed as full-time trainer of literacy teacher/trainers His employment with the UCM was terminated in September, 1971 — while he was the movement's general secretary — by a three-year banning order and a banishment from Johannesburg to Mafikeng

While under the banning order, he was employed by the then Bantu Investment Corporation (BIC) in Mafikeng as a bookkeeping clerk He got married during this period in 1972 to Dr Vuyelwa Mashalana, a general practitioner in Umlazi, Durban They have three daughters

When his banning order expired in 1974, Mr Moloto joined his wife in Durban The previous year, he had enrolled with Unisa for his BProc degree which he obtained in 1978, the same year that he completed serving his articles

"I regard my new job as a challenge because I was fortunate to be appointed from 11 applicants ,My main task would be to enhance the image of the centre and take over the splendid job done by my predecessor

Projects

"During my first two-year contract, I would like to continue and develop the centre's projects These include mainly training of articled clerks, improvement of the quality of black attorneys and arrangement of seminars on trial advocacy training for qualified lawyers

"The centre would also like to expand its law clinics in black townships They offer legal assistance for public interest and human rights cases to people in need — housing, consumer, influx control and labour matters as well as cases of political nature

"I have always been keen to develop and improve the lot of the black man in South Africa"

Law fees fixed for under-R1 000 earners

Staff Reporter

PEOPLE who earn less than R1 000 a month can have a "fixed fee" consultation with an attorney for R20 or less — a fraction of the normal fee, the Cape Law Society points out.

Society president Mr Mervyn Smith says the fixed-fee system was introduced because attorneys were concerned that high legal costs were "preventing the man in the street getting his fair share of justice".

The purpose of a fixed-fee consultation is to enable the attorney to assess the strength of a client's case.

The society stresses that people who want a fixed fee consultation should say so when making an appointment.

The SA Consumer Council has applauded this step as "making the law accessible to virtually all consumers".

PE SOUTH, JULY 23 TO 29 1/1

A SOLITARY shot fired by an over-excited policeman was the turning point at the funeral of Ashley Kriel in Bonteheuwel at the weekend.

In eye-witness accounts, members of the Democratic Laywers Organisation (DLO) charge that the police not only broke their undertakings to the clergy, but also acted outside the law

The DLO says: "We wish to state that our members who witnessed this ghastly spectacle are prepared to repeat exactly what they saw in any court of law." Here is a text of the lawyers' statement.

2 48

Shot fired the crowd

WE, the members of the Democratic Lawyers Organisation (DLO), feel duty-bound as responsible citizens to let the truth be known.

DLO members had been asked to attend in their capacity as lawyers to assist at the funeral in negotiations and liaison with the South African Police on legal matters or on any action that may be taken by the police

We were asked to obtain permission to walk in a procession with the coffin but this request was turned down

Both sides reiterated that they were not seeking a confrontation and did not wish one to take place

Major Odendaal specifically said that as long as people came out of the church, placed the coffin in the hearse and then moved peacefully to their transport, the police would not take any action

Later on a Colonel During arrived He was apparently in charge of the police

Archbishop Stephen Naidoo inquired whether General Wandrag would not be present to oversee the proceedings because this was what the clergy had been led to understand

Colonel During made it clear that General Wandrag would not be present

It was once again reiterated that both sides did not want any confrontation

Similar reassurances were later made to the Rev Allan Boesak Colonel During also pointed out that the time limit of 12 noon for the funeral to end should not be ignored

Boesak then, like the other clergy before him, asked the mourners in the hall to please conduct themselves with dignity and restraint when they left the hall, and that the police would then not take any action

He also asked all the mourners in the hall to remain seated until the coffin and the other clergy had left the hall

Then to allow things to proceed orderly the pall bearers and clergy left for the gate of the church and proceeded to place the coffin in the hearse

The coffin was draped with a banner in green, black and gold colours, the ANC colours

Many of our members proceeded to where the coffin was to be placed in the hearse

We did not see Colonel During in the vicinity of the hearse



As the coffin was being placed in the hearse, Major Odendaal lunged forward and took hold of one end of the banner draping the coffin

Some of the mourners grabbed the other side and a tug-of-war ensued

At no stage were any of the police in the immediate vicinity in any way whatsoever physically molested One of our members in fact implored Major Odendaal to let go of the banner to avoid any retaliation from the mourners

Soon thereafter, the major in fact did let go of the banner which was hastily thrown on top of the coffin as the hearse raced away

Most of the mourners were on the premises of the church, many still inside the church on their way out

Suddenly as the hearse went down the road, a shot went off It was a very young policeman who appeared to be a constable as he had no markings to indicate rank

It appeared to our members within touching distance from him that he had got over-excited with the hearse moving off and accidentally pulled the trigger of his weapon

For a brief moment everyone was frozen, stunned by the sudden turn of events

It was only moments thereafter that Major Odendaal shouted words to the effect "skiet die gas, wat wag julle nog voor"

One of the policeman also then shouted "moet nie nog in die lug op skiet nie, skiet sommer reguit in die mense in"



It was at this stage that the police shot gas bullets/canisters almost at point-blank range into the persons directly in front of them

People scattered in all directions as the police disloaded their firearms directly into the crowd on the premises of the church

We then witnessed a horrifying spectacle as people were falling over each as they ran, either climbing over walls or running back into the church

What was particularly horrifying is that some of the policemen did not even attempt to disperse the persons, but shot into their backs as they ran away from the shooting

A particular horrifying spectacle was that of a group of mourners, most of them young girls and women, who were trying to get back through one of the doors into the church

Five to six policemen, no more than ten to twenty paces from the group shot into their backs with gas bullets/canisters

A large cloud of gas enveloped the people at the door so that one could not see them anymore, and yet the police kept on firing into this cloud of gas where the people had been Some of our members implored the police to stop firing as the women were in any case running away

At this stage some stones and other objects were hurled — some from where the mourners ran — to positions from where the police had started firing

After a while Major Odendaal gave the order to cease fire, which was not immediately heard by all the members who kept on firing until the people in the street also shouted that they should stop firing as they had been ordered to cease fire

The police had blatantly broken the undertaking that once the coffin had been put in the hearse, the persons would be allowed to move towards their transport to leave for the cemetery

No warning that the shooting was going to commence or no order whatsoever to disperse were given The 12 noon deadline had definitely not expired.

Not only had the undertaking been broken, but the police had also acted outside of the law

No attempts whatsoever were made to arrest any of the mourners while they were being dispersed Clearly there was no reason for it because no one had done anything wrong

We also condemn the fragrant breaking of the law and breaking of the undertaking given to the mourners

As far as we are concerned, the mourners were doing exactly what they were told to do

We also question the fact that a high-ranking officer like Colonel During was not present to command the situation at the most crucial stage.

248 BD 23/7/87

Advocates concerned over Transkei acts

Dispatch Reporter

UMTATA — The Society of Advocates of Transkei expressed "great concern" yesterday at the passing of two acts in the closing days of the National Assembly which its members felt constituted a serious invasion of fundamental common law rights.

In a press statement, the society said the question of whether the courts in Transkei were still capable of providing appropriate relief for injustice was raised

The Public Security Amendment Act of 1987 and the Indemnity (Civil Claims) Act of 1987 have been criticised by various bodies since they were passed

A Supreme Court judge, Mr Justice Douglas Mitchell, criticised the Public Security Amendment Act when he granted interim relief in the application by the former State President, Paramount Chief Kaiser Matanzima, against the government by staying the execution of the banishment order against him until August 6

The Society of Advocates said some clauses in these laws severely eroded the rule of law

The Public Security Amendment Act put presidential action, regarding the removal (deportation) or banishment of persons, beyond the jurisdiction of any court and also relieved the Minister of Police of the duty to disclose the reasons for such action, the society claimed

The society said this Act, together with the Indemnity Act represented a repudiation of the assurances of the National Assembly and the constitution for social, political and economic justice, the freedom of speech, assembly and worship and unimpeded access to and equality before the law

"In terms of these two Acts and the principles embodied in them, the Acts are extremely far reaching and clearly disturb fundamental legal values," the society said.

The society said that it strongly supported the view that Transkei's common law as applied by the courts, acted as a resilient instrument for the benefit of both the State and individuals

"It remains to be seen whether, notwithstanding this latest legislative action, our courts are still capable of providing appropriate relief to injustices or for the protection of fundamental human rights"

The society reaffirmed its commitment to the rule of law and its opposition to legislative inroads into the fundamental principles of Transkei's legal system

The society also expressed concern at the ousting of the jurisdiction of the Supreme Court in these Acts and thereby causing irreparable harm to the authority and autonomy of the Supreme Court.

The Society of Advocates said it intended discussing the Acts with the Minister of Justice, Professor Digby Koyana

Judges' political role criticized

Cape Times 28/7/87

Staff Reporter

THE appointment of Supreme Court judges to head commissions of inquiry into pronounced political issues has been criticized by the General Council of the Bar of South Africa, which represents the country's advocates.

The council's stand was yesterday welcomed by Mr Dave Dalling, Progressive Federal Party MP for Sandton, who said he agreed with the sentiments expressed and intended raising this principle during the justice vote in Parliament on Friday.

In May this year, Mr Dalling made controversial remarks in Parliament about Mr Justice George Munnik and his one-man commission of inquiry into the funding of UDF advertisements

The House of Assembly appointed a select committee to investigate an alleged breach of parliamentary procedure after Mr Dalling criticized Mr Munnik's appointment to the commission because of his dealings with Barclays Bank, who had closed his account The other factors were Mr Munnik's personal friendship with the State President, Mr P W Botha and his support for the National Party

In April, the Munnik commission concluded that Mr Chris Ball, managing director of Barclays Bank, knew that a R100 000 overdraft granted in January was to pay for advertisements calling for the unbanning of the ANC "on behalf of the UDF"

At its annual general meeting in Kimberley last Friday and Saturday, the council said Supreme Court judges should not be appointed to head political commissions of inquiry, after the matter was raised in a memorandum from the Cape Bar Council

A press statement yesterday quoted a passage from a leading text book on administrative law, which said governments could dissipate the essential assets of the judiciary — "widespread public confidence in the impartiality and independence of the judiciary" — by involving judges in inquiries with pronounced political aspects

"The danger to which attention is drawn in the passage quoted is even more pronounced in the South African context, where political feelings run high In the opinion of the General Council of the Bar this danger should always be borne in mind," the council said

29/7/87 Argus CITY/INTERNATIONAL ... 248

Ex-lawyer stole from clients, fined R10 000

Court Reporter

A FORMER attorney has been fined R10 000 (or two years) in the Cape Town Regional Court for stealing nearly R130 000 from seven clients

Osman Abduragman Karjieker, 42, of Athlone Street, Athlone, who was struck from the roll in 1980, pleaded guilty to stealing the money between 1978 and 1980

Magistrate Mr A L Laubscher took all seven counts as one for purposes of sentence and imposed a further four years' imprisonment conditionally suspended for five years

Karjieker admitted misappropriating trust funds for his own purposes and stealing R5 000 from R L Hendricks, R6 138,42 from Muram Normandy (Pty) Ltd, R59 900 from S H Gaibie, R30 387 from the estate of the late H A Hamid, R10 849,90 from S A Najaar, R7 545,21 from A A Banderker and R9 696,60 from D G Murison

Paid back

Karjieker's attorney, Mr A R Wilkinson, told the court his client's estate was sequestrated and some of the stolen money was paid back after he was struck from the roll

A sum of R101 000 was refunded to people by the Attorneys Fidelity Fund

In mitigation of sentence, Mr Wilkinson said the offences were committed seven years ago and Karjieker had since rehabilitated himself and was working for an estate agent at a salary of R2 000 a month

He had two teenage children studying at the University of Cape Town

Mr Wilkinson read a character reference from Karjieker's former employers, Multibou Development, who testified to his "loyal, honest, dedicated character" and "high integrity and moral and ethical behaviour"

The court heard that Karjieker had applied three times for an estate agent's fidelity fund certificate and had been turned down

Wept

Mr Laubscher said "Society always places a large amount of trust in an attorney and you have harmed the good name of the profession

"As a former attorney you know that the court favours direct imprisonment for offences of this nature"

Karjieker wept as Mr Laubscher said he had reluctantly decided against direct imprisonment, only because of the long time lapse since the offences were committed

He could find no excuse for Karjieker's conduct

Mr Laubscher ordered that the fine be paid in instalments of R500 a month

Mr J C Gerber of the State Attorney's office prosecuted

Detainees and the access to lawyers

The prospect of human rights challenges to the emergency regulations has been dimmed by the Appeal Court's overturning of Supreme Court decisions that emergency detainees should have access to lawyers. GEOFF BUDLENDER, of the Legal Resources Centre, examines the implications of the appellate ruling

SOUTH AFRICAN common law regards it as the individual's fundamental right to have access to his or her legal adviser. Another fundamental right recognised by our courts is the rule described as *audi alteram partem.*

What this entails is that before a functionary makes a decision prejudicially affecting the rights of an individual, that individual should be given a fair hearing.

In a recent judgment, the Appeal Court has now held that these fundamental rights have lawfully been removed from emergency detainees. The judgment is very disturbing, not only in its direct consequences for detainees but also in its wider implications.

The background to these appeals is the following. The State President has made regulations which empower any member of the security forces to arrest and detain any member of the public, if in that member's subjective opinion it is necessary for certain stated objectives

If the detention is to continue for longer than 30 days (previously 14 days), it must be extended by the Minister of Law and Order.

The regulations provide that the detainee has no right to a hearing before the Minister extends the detention.

The State President has also ordered that no person (other than officials) may have access to a detainee without official permission. This regulation is clearly intended to remove the detainee's fundamental legal right to have access to his or her lawyer.

The ban on access to lawyers without permission has been attacked in the courts on various grounds.

In a Natal case, the Supreme Court held that the ban was invalid because it was not authorised by the Public Safety Act, in terms of which the emergency had been declared.

In the Witwatersrand Local Division of the Supreme Court, a similar result was reached by a different route. The court held that a detainee retains the right to a hearing *after* the detention has been extended by the Minister.

Once you are entitled to a hearing (which in this case means by written representations), other consequences follow.

You are entitled to know the official reasons for your detention, so that you can know what issues to deal with in your representations. And you are entitled to have access to your lawyer so that you can prepare your representations.

The result of these cases was that detainees were routinely able to see their lawyers, subject to administrative arrangements Numbers of detainees were released as a result of the legal consultations which took place: because of the representations which were subsequently submitted and because of applications which were made to the Supreme Court.

It was not only releases which followed. The closed system of detention was opened up by the exercise of rights rather than by asking for privileges.

Detainees and their lawyers believe that the regular visits by lawyers played a very significant role in limiting the abuse of detainees and the denial of the limited rights they enjoy.

Now our highest court has put an end to the exercise of these rights. By a majority of four to one, the Appeal Court has held that the ban on access to lawyers without permission is quite lawful.

It has also held that a detainee has no right to a hearing, even after the extension by the Minister. The result is that the detainee has no right to know the reasons for his or her detention.

This is not the place for criticism of the legal merits of the majority judgment. It is sufficient here to point out that the court could clearly have reached a different conclusion.

One Appeal Court judge, and six other Supreme Court judges, have found that one or both of these fundamental rights are not excluded by the emergency regime.

What is most disturbing is the implications of the Appeal Court judgment

For detainees, the implication is that the system of detention will again become a closed system, unless officials give permission to the contrary

It needs no imagination to know that abuses flourish in closed systems of this sort It also needs no cynicism to consdier that, if it should happen that detainees are assaulted, permission for access is not likely to be granted while wounds are still visible

It will become much more difficult to challenge the legality of a detention if the reasons for the detention are not given

The wider implication for the state of emergency is the express premise underlying the judgment.

The State President's power to make regulations is described (as it was once before) as giving him "the amplest possible discretion in the choice of method" as to how to deal with the emergency situation

Even where fundamental legal rights are involved, the court will clearly be slow to find that the State President has exceeded his powers. The prospects of success in challenging other regulations — for example, censorship provisions — seem to be very limited.

The implications may be wider still. The unarticulated premise seems to be a "hands-off" approach on the part of the majority to issues which are regarded as security matters.

There seems to be a new (or perhaps renewed) reluctance to intervene in this area. If this conclusion is correct, we have taken a serious and far-reaching step backwards.

Cape Times 31/7/87 248

Reform and industrial schools for 'derailed'

HOUSE OF DELEGATES. — Reform schools and industrial schools are to be built by the government to provide for blacks who had become "derailed" due to circumstances beyond their control, the Deputy Minister of Education, Mr Sam de Beer, announced yesterday.

Introducing the Education vote in the House, he said it was planned that two schools of industries and one reform school would be established by June 1988.

Each school would provide for 300 pupils and R100 000 had been set aside in this year's budget to cover initial planning expenses.

Mr De Beer said schools of industry would provide for the "reception, care, education and training" of children sent there under the Child Care Act

Reform schools would fulfil the same function for children under the Criminal Procedure Act

He said that in addressing the unique needs of the individual, attention was given to the fact that in any community there was a group of unfortunate children who had been "derailed because of various economic, social and environmental circumstances over which they have little or no control".

Although there were five reform schools in the self-governing states and in one independent state, no school of industries had been established.

The Department of Education and Training was now in a position to extend its broad educational and social responsibility to include these children

As far as reform schools were concerned, he said a thorough evaluation was essential to ensure that each child was placed in the correct school and in the most appropriate study direction to suit his personal interests, aptitudes and abilities

"The department gladly accepts this important responsibility, mindful of the implications it entails," Mr De Beer said.

In the evaluation process, factors that had caused the children to be in need of special care would be kept in mind, such as broken family ties, economic and social circumstances and the general increase in crime.

The schools should equip pupils spiritually and physically to cope with the demands of society — Sapa

Legal 'baby' has a happy fifth birthday

CP Correspondent

DURBAN has just celebrated the fifth birthday of one of its best known and most useful "children"

The rapidly growing "baby" is the city's Legal Resources Centre, which gives legal advice and help to people who would not otherwise be able to afford assistance

The LRC usually takes on problems which act as "test cases," so that many people can benefit from the judgment if the case is successful

Their clients are often people who live in remote areas and who would not usually have access to lawyers

Acting director of the LRC, Richard Lyster, said they have acted for farm workers who, with domestic workers, were "the most oppressed part of the labour force in South Africa"

The centre has acted for workers who have been assaulted, or in one case, for a woman worker who was raped by a farmer

In 1982, when the woman's child was already 13, LRC discovered about the case and sued the farmer for maintenance of the child – born as a result of the rape – and the family is still paid a monthly cheque by the farmer

Commenting on the effect of cases like this, and those against farmers who abused their workers in other ways, Lyster said they usually had "a very big impact" on local farmers

"The traditional methods of dealing with labour, sometimes little better than slavery, is challenged, and we have found that a single case can have an effect on farmers' attitudes throughout an entire district"

Another area in which LRC has been very active, is in cases against corrupt township officials

Speaking of this kind of case, Lyster said they had involved officials "whether they are township manager, policemen, influx control officials or pension officials who have incorrectly interpreted laws – sometimes to benefit themselves"

"This part of the centre's work is probably of the greatest importance, because the lives of black people are governed by petty officials in almost every aspect of their lives

"Challenges to these officials and their policies has had very far-reaching effects for thousands of people"

But it's not just through cases that go to court that the LRC has been making a contribution

It has helped set up a series of advice offices in Natal townships, training workers to run them

"This helps communities to deal with their own problems, so that they don't become dependent on us"

Two LRC staff are specially employed to run seminars which train workers for these advice offices – right down to teaching them administrative skills

Many of LRC's cases are to get Supreme Court protection for township people threatened by vigilantes and a number of these interdicts have been against members of Inkatha

One of its most news-making cases involved a 13-year-old girl who was raped and became pregnant

When it went to the magistrates' court, the magistrate ruled she had not been raped and she was therefore refused permission to a legal abortion

LRC immediately took the matter to the Supreme Court with an urgent application and the judges gave the go-ahead for the child to have an abortion

Many of itsr cases involve workers who have been unfairly dismissed, underpaid or otherwise unfairly treated

LRC has also done important work on the question of influx control and pass laws and it has acted for many detainees or relatives of detainees

SOWETAN, Thursday, August 6, 1987 Pag

ATTORNEY BEKWA STRUCK OFF THE ROLL

A SOWETO lawyer who allegedly stole a client's money and is now declared a patient suffering from "chronic alcoholism" has been struck off the roll of attorneys by the Pretoria Supreme Court.

By MONK NKOMO

Mr Vuyo Adonijah Bekwa, of Dube township, Soweto, was struck off the roll by Mr Justice van Niekerk with Mr Justice Roux concurring this week following an application by the Law Society of the Transvaal

Mr Bekwa was admitted as an attorney on March 25, 1970

In an affidavit submitted by the Law Society which said they had received various complaints since January this year relating to the manner in which Mr Bekwa conducted his practice

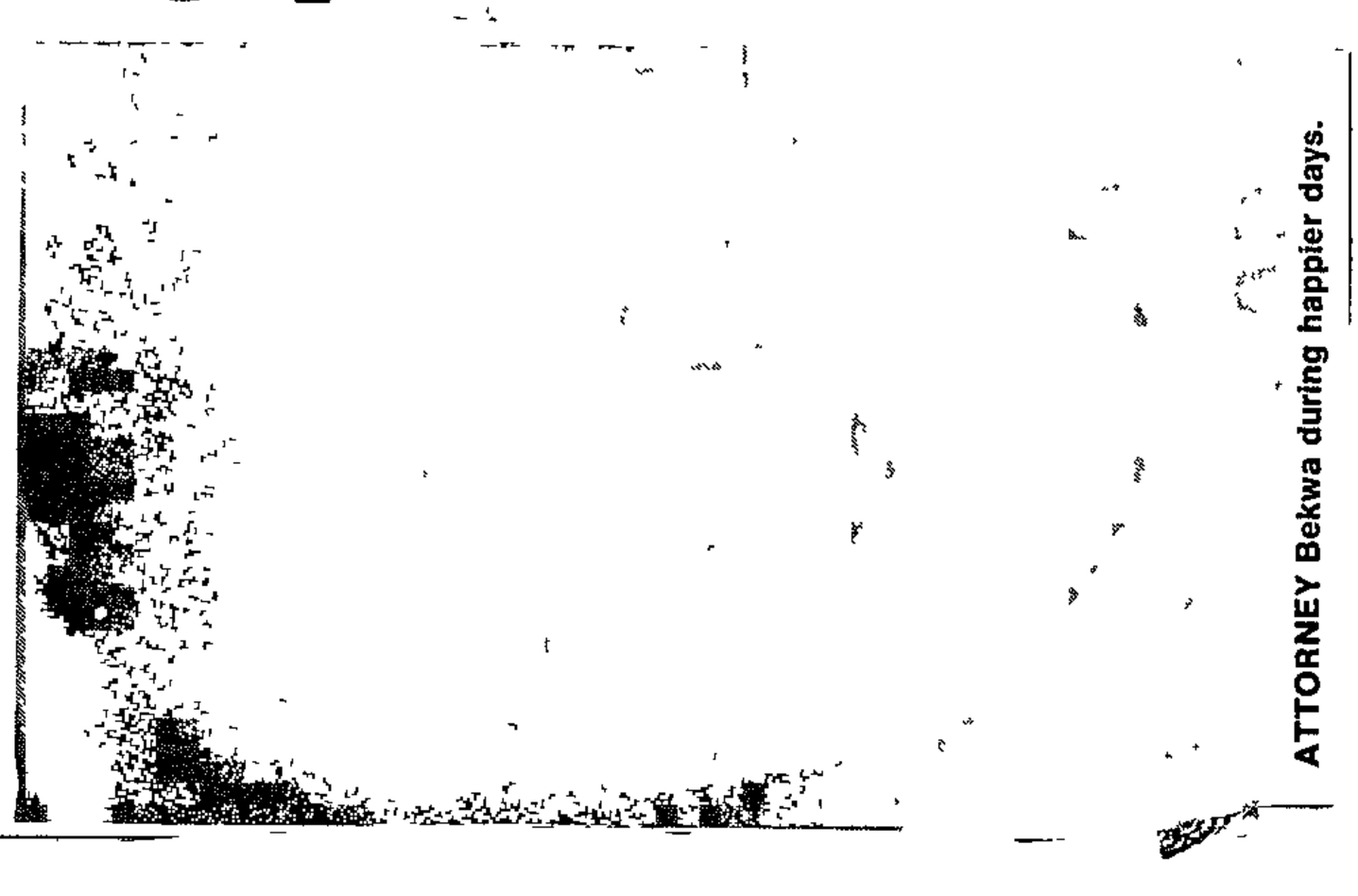
One of the complaints came from the Society of Advocates of South Africa who informed them that Mr Bekwa's name had been placed on the society's list of defaulting attorneys because he had failed to pay the fees of an advocate instructed by him

Mr Bekwa, in his replying affidavit submitted that he was presently "in an extremely poor state of health" and unable to properly attend to the allegations He also submitted that he was due to be readmitted to the Baragwanath Hospital towards the end of this month pending certain tests which have been carried out on him

He referred the court to a medical certificate issued by his doctor on July 31 this year Dr T Schneider, a pshycian, wrote "Mr A Bekwa is suffering from cronic alcoholism which has caused marked liver disfunction, impairment of memory, diabetes and anaemia"

The Law Society submitted that they had also received a complaint from Mr Michael Mashiyane who allegedly deposited R10 000 with Mr Bekwa for the purchase of property in Soweto which he never got He asked for a refund Mr Bekwa gave the client a cheque for R10 000 but it bounced, according to the Law Society

They said that there was evidence that Mr Bekwa "stole and/or misappropriated trust monies" "He had made himself guilty of unprofessional, unworthy and dishonourable conduct"



ATTORNEY Bekwa during happier days.

Legal academic calls on judges to resign

STRONG criticism has been levelled at three South African judges by a senior legal academic, who asks whether they should not resign so that judicial impartiality can be maintained.

Advocate Edwin Cameron, senior research officer at the Centre for Applied Legal Studies at the University of the Witwatersrand, was speaking at the University of Natal in Pietermaritzburg this week.

Cameron said the public had to be confident that the "judicial garb of impartiality and dispassion exists

"This requires that judges must not expose themselves as naked supporters of the present regime nor as collaborators in questionable intrigues"

Listing three examples which could give rise to public disquiet, he first criticised Mr Justice Marthinus Steyn, former Administer-General of Namibia, for remarks he made in a recent judgement.

In his remarks at the close of the *Bloem* case soon after the Emergency was proclaimed on June 12, 1986, Judge Steyn said, among other things, that the crisis was caused by resistance to governmental policies of change from people seeking faster

By CARMEL RICKARD, Durban

change Their resistance was directed not merely at the authorities of government and administration, but "also at certain sections of the private sector, at members of the security forces and other individuals and also indiscriminately at the general public"

According to Cameron, the 'emotive language employed by (the judge) included reference to 'necklacing', to 'mob violence' which, (the judge) claims, 'is usually instigated by agitators and accompanied by widespread intimidation', to 'acts of organized terror', to school and other educational boycotts, and to the 'mounting political, psychological, socio-economic and terror onslaught upon the RSA from beyond its borders' Finally there is reference to the 'weakening of (the country's) unit of currency' caused in (the judge's) view by the unjustified and sinister 'onslaught'

Cameron claimed the remarks were "a politically partisan, emotive and one-sided exposition of the government's view of the causes of and necessity for the State of Emergency"

The pronouncements, says Cameron, are "a startling venture by a Supreme Court bench out of the realm of dispassion into the world of thoroughly partisan political rhetoric The statement of political dogma preceding the judgement shows all the detachment of a defensive broadsheet put out to justify the apartheid regime and all the political sophistication of the sort of propaganda which is daily produced by the SABC

Cameron then examines the questions surrounding Judge George Munnik's inquiry into the ANC advertisement.

He asks, with PFP MP Brian Bamford SC, whether the judge was lending an air of respectability to what was simply a political exercise

Cameron says that even more serious are "momentous allegations" raised in parliament, which "go to the heart of (the judge's) integrity as a judicial officer"

"The public of South Africa is surely entitled to hear from Mr Justice Munnik himself whether he is a close friend of the state president, whether he is a strong supporter of the National Party, whether his banking account was closed by Barclays because he defaulted in his debts, and whether, in his view, honesty required him to recuse himself from sitting on the commission

"The technicalities of the rules of parliamentary privilege have nothing to do with the public's right to know whether a senior judicial officer has made himself party to unworthy and discreditable conduct."

Finally, Cameron questions the decision of former Chief Justice Pierre Rabie to accept a post as acting chief justice

He examines several reasons which might be behind the government's decision to offer him the post and his decision to accept it and comments that "it does not appear to be explainable, except on hypotheses which cast grave discredit on the judicial capacities of senior judges of appeal, or, yet worse, cast discredit on Mr Acting Justice Rabie for participating in an unjustifiable and possibly discreditable governmental manoeuvre.

"In the absence of convincing reasons, publicly advanced, for the creation (of the concept of an acting chief justice), it must be considered an innovation deeply damaging to the institution of law in this country"

Cameron says of Judge Steyn that when a judge puts aside his "judicial garb of dispassion and enters the arena of pro-government propaganda, his fitness for continued occupation of judicial office must become a legitimate subject of public debate"

Of Judge Munnik and Acting Judge Rabie, he suggests that "the same sombre questions arise

"Can they stay on in office without inflicting irreparable injury upon the high traditions the South African judiciary is frequently said to respect?

"These troubled times urgently demand an utterly unblemished judiciary Does the presence of Mr Justice MT Steyn, Mr Justice Munnik and Mr Acting Justice Rabie on the Supreme Court bench contribute to or obstruct the fulfilment of that demand?"

We won't serve in the SADF, say 23 youths

DURING his basic training in the South African Defence Force five years ago, Mark Behr joined the troops' chorus: "I'm gonna go into Angola, I'm gonna kill old Sam Nujoma". But this week, the Stellenbosch University student was part of a group of 23 men who, seated in a Cape Town church under a large banner proclaiming "No Apartheid War", collectively announced their refusal to serve in the SA Defence Force

Their public declaration came the day before the start of the SADF's second annual intake of thousands of conscripts when two of the group delivered a copy of the declaration to officers at Cape Town's Castle, headquarters of Western Province Command

For Behr, a commissioned officer of the SADF who saw action in Namibia and Angola in 1982 while a candidate officer, the turning point came on meeting a Namibian student at a national student conference in June this year

When he asked her where she lived in Namibia, "she started saying she and her family were from Ovamboland but then stopped mid-sentence and said 'But surely you know where that is — you did national service Who knows, possibly you shot at me or one of my sisters'"

Faced with having to justify his presence in Namibia, Behr said all he could say was that he was 18 years old at the time and that in high school, where he was the prefect in charge of training cadets, he was taught all Swapo members were communists who enjoyed no local support in Namibia

"One day you realise you have to go and fight in a neighbouring state or in a black township bordering your own suburb You realise you have to go and shoot simply to ensure South Africa's illegitimate government can further the aims of its own warped ideology

"You realise you are being commanded by the SADF to contribute to the political destabilisation of the frontline states You realise you are being commanded to sell your soul by taking part in an unjust, full-scale war in Namibia You realise that at any time you may be commanded, without any choice, to kill the black person who sits beside you in class

By GAYE DAVIS, Cape Town

simply because she refuses to acknowledge the oppressive and exploitative status quo — in which she had no say whatsoever

"These are the insights which touch the core of the person who has to live with them, insights which move one to the point where you have to say 'I refuse to be a part of that ever, ever again'," Behr said

Members of the group — ranging in age from 20 to 35 — acted in concert but independently of any organisation About 13 have never completed their compulsory two years' basic training, others have to face compulsory military camps

One of the objectors, former University of Cape Town student representative council president Glenn Goosen, said each individual would choose from the limited options available to them try for exemption on religious grounds (there is no category for those who object on moral, rather than religious grounds) and perform community service, go into exile, or face prison sentences calculated at one and a half times their service owing For someone yet to do his basic training this could be six years

In their statement, the group said they believed there was a future in which all South Africans could live in peace and harmony with each other and pledged themselves to help build and be part of that future. Serving in the SADF would be a contradiction of that pledge

The SADF defended the privileges of a minority, contravened international law by its occupation of Namibia, committed acts of aggression against neighbouring states and consumed resources desperately needed for health, housing and education

It was deployed against township youth and members of the liberation movement "These people are not our enemies They are fellow South Africans and we will not take up arms against them," the statement said

"We believe our country is best served if we refuse to fight in the SADF The laws of our country make this a serious step to take Yet we fell there comes a time when moral choices, no matter how difficult, cannot be avoided"



Bernard le Roux, left, tells why he won't go to the army Fellow protestors March Behr and Glen Goosen look on

Picture ADIL BRADLOW, Afrapix

The Civil Rights League said it hoped the government would respond creatively to recommendations by the United Nations Commission on Human Rights, which recently called on states practising compulsory conscription not to jail conscientious objectors but to recognise their stance as a legitimate exercise of freedom of thought, conscience and religion and introduce alternative forms of service

● In a document, presented this week to the United Nations Commission for Human Rights, the End Conscription Campaign said its campaign was 'based on the fundamental belief that individuals should be free to choose whether to participate in military service ECC therefore regards it as essential that individuals be given the right to object to serve in the armed forces of any country on religious, political and moral grounds"

Since June 12 last there have been 98 ECC-related detentions under the regulations, 25 members were issued with restriction orders, publications and meetings have been banned and ECC offices, meetings and homes of members were raided by the security police

ARCHITECTS

Showing the line

The architectural profession, long becalmed by the sluggish economy, can look forward to better pickings in the months ahead Leading architectural firms have noted a distinct improvement in the work flow — a good barometer of an improving economy

The deregulation of the architects' fee structure by the Competition Board last year, has not — contrary to opinions expressed at the time — put architects in the poorhouse either

Most have readily adopted the SA Institute of Architects recommended scale of fees which works on a sliding scale for larger contracts and takes account of repetitiveness or complexity of the building design

However, architects concede that since the minimum scale of fees was done away with, there is much more competitiveness within the profession and a lot more hard bargaining with clients over fees

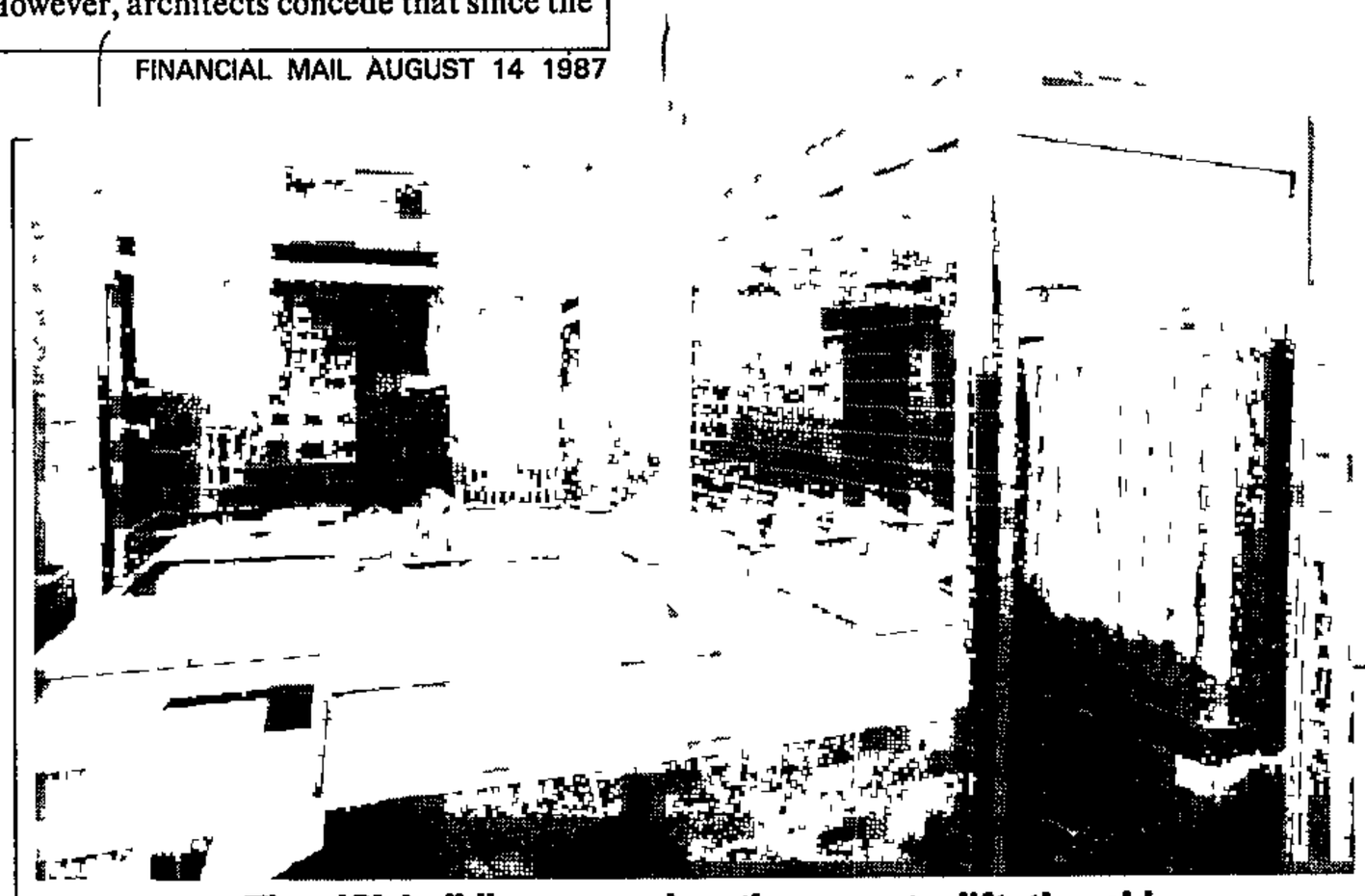
"It's tended to sharpen us all up a bit," says Owen Powell of Neill Powell Neill, "We now look much harder at our income and expenditure so that we can pitch our fees at a realistic level"

On the downside, some architects have been forced to quit the country by the tight economic circumstances which have prevailed since the early Eighties, and in some areas traditional relationships with their clients have fundamentally changed

Powell notes that at one time the market was characterised by the high profile shown by small developers and property owners "Now 50% of work comes from government, 35% from big institutions and the remaining 15% from the small man or old-fashioned property speculator"

Inevitably, says Powell, they are dealing with more sophisticated clients who often have engineers and architects in their employ

FINANCIAL MAIL AUGUST 14 1987



The JCI building ... using the new to lift the old

"Although the skills shortage is not yet apparent," says Fee, "when the upturn comes we'll soon find there's too much work for too few people"

As for the concerns of customers, Powell says energy conservation has become vitally important SA and Israel were among the first countries to look seriously at this aspect, but the US has followed and now leads the world

Fee notes that "the US gives tax concessions to property owners in relation to the proven energy efficiency of their development projects — something we ought to consider here"

However, he admits architects "still find it difficult to combine elegant architecture with energy conservation The most efficient buildings tend to be ponderous"

Powell sees the housing shortage — particularly in the black market — as a major challenge and says he's sorry there's currently so little input by architects into the low-cost housing area He points out, however, that "if high quality urban environments are going to be created, then architects should become more involved"

Will the move towards building economies eventually dictate that the role of the architect will be incorporated into a multi-disciplinary firm?

Powell very much doubts it He says clients prefer to be able to pick their consultant, adding that architects often benefit from the stimulus of working with different firms

Fee contends the market isn't big enough for more multi-disciplinary practices "But what we are seeing," he says, "is the growth of principal agency in which an architectural firm will negotiate the whole deal and then subcontract parts of it to its own chosen consultant partners"

What of trends in architectural design? The consensus seems to be that there is a strong move to humanise city centre buildings and to reintroduce a friendly scale

"There is also a strong and articulated response to conservation," notes Fee "Johannesburg was always a build-today-knock-down-tomorrow city In truth most of the old buildings aren't missed But some shouldn't have gone, and probably wouldn't go today A good example of the new approach is the JCI building, which attempts to combine the best of the old and new" ■

"Architects have to be able to solve a whole range of problems, and it's now imperative that they know something about things like finance and tax If they know the client's tax position it might change how the building is constructed — some might even want planned obsolescence"

Another problem which Robin Fee, a partner of RFB consulting architects, has identified is that more decisions are being made in fewer boardrooms Often the institutions who are making them are more conservative than the individual property entrepreneur and demonstrate less of a commitment to property as an investment.

"If returns on property look bad but equities and the gold market look good, they are quite prepared to move out of property, leaving us in the cold"

Most readily acknowledge the recession of the Eighties, unlike the comparable recessions after Sharpeville and the Soweto riots, has been longer and sharper, forcing some architects out of the profession and others overseas

SOWETAN, Thursday, August 20, 1987

LAWYERS IN INQUEST CLASH

HEARING

By MATHATHA TSEDU

A LAWYER told an inquest into the death of a Mahwelereng resident yesterday that an advocate representing the police had acted improperly.

Mr Lekgolo Richard Ramodipa, representing the family of Mr Moss Magae (30), who was allegedly shot by Lebowa police on March 17, last year, alleged before magistrate, Mr Knight Magula, that Advocate J Wessels, for the police, and a senior Lebowa government official had "interrogated" a witness the day before the hearing.

"The witness was made to strip and had photos of his scars taken The witness was shot at when the deceased died and he feels that is unfair that counsel for the police should be party to police investigations without informing counsel for the family," Mr Ramodipa said

He said the witness, Mr Joel Teffo, has not been forced to go to Mahwelereng police station where the alleged interrogation took place

But Mr Teffo replied "I did not want to go to the police station because I don't trust the police. I don't want police near me when I am at work because I'm not guilty of anything"

Mr Teffo (28), testified that Mr Magae was killed by bullets fired from a parked Lebowa police van He had also been struck by 17 pellets, some of which he said were still embedded in his body.

The hearing was marked by several confrontations between both counsel At one stage Mr Wessels demanded an apology from Mr Ramodipa, saying his integrity was being doubted. Mr Ramodipa refused to apologise The magistrate said counsel were being "over sensitive."

(Proceeding)

LEGAL PROFESSION

Togetherness at the bar

(248)

Rising costs are making urgent a reconsideration of the structure of SA's divided legal fraternity In the past few months alone the Association of Law Societies of SA, now adopting a much higher profile than in the past, has been consistently calling for a fusion of the bar and the side bar — or at the very least for the right of attorneys to appear in the Supreme Court

Various methods of containing legal costs without adversely affecting lawyers' income and standards are coming into the spotlight. One major suggestion is that the distinction between advocates and attorneys has become unnecessary.

The division of the legal profession in SA between attorneys and advocates is a reflection of the English model — a practice adopted for reasons now firmly historical America and certain other parts of the English-speaking world operate a fused legal system

This year's president of the association, "Billy" Schalk van der Merwe, has been

vocal in calling for the powers of attorneys to be extended and for an end to the dual bar In this he has the backing of the majority of the attorneys, and his views have recently been given added impetus by an impassioned plea by Graham Cox, immediate past president of the Natal Law Society

From the viewpoint of public benefit, it is argued that conferring the right of audience on attorneys would frequently bring about a reduction in the current high costs of litigation In a recent speech, Professor D J McQuid-Mason, dean of the faculty of Law at the University of Natal (Durban), said "If fusion would lead to a saving of costs for litigants without a fall in the standards of service, there could be no good reason for continuing a divided profession the nature of the work handled by the profession should stand on its own merits rather than be based on monopolistic practices"

Cox argues that another factor to be borne in mind is that an advocate is very rarely a specialist in anything other than presenting cases in the Supreme Court, while an attorney may be a specialist in a particular branch of the law Cox also points out that while there are about 8 000 practising lawyers in SA, only 10% are advocates "By denying 90% of the profession the right of appearance in the Supreme Court, one is limiting the sector of the profession from whom we can draw judges to only 10% of the available lawyers This must, and does result in a weaker bench than would be the case if more sensible practices prevailed"

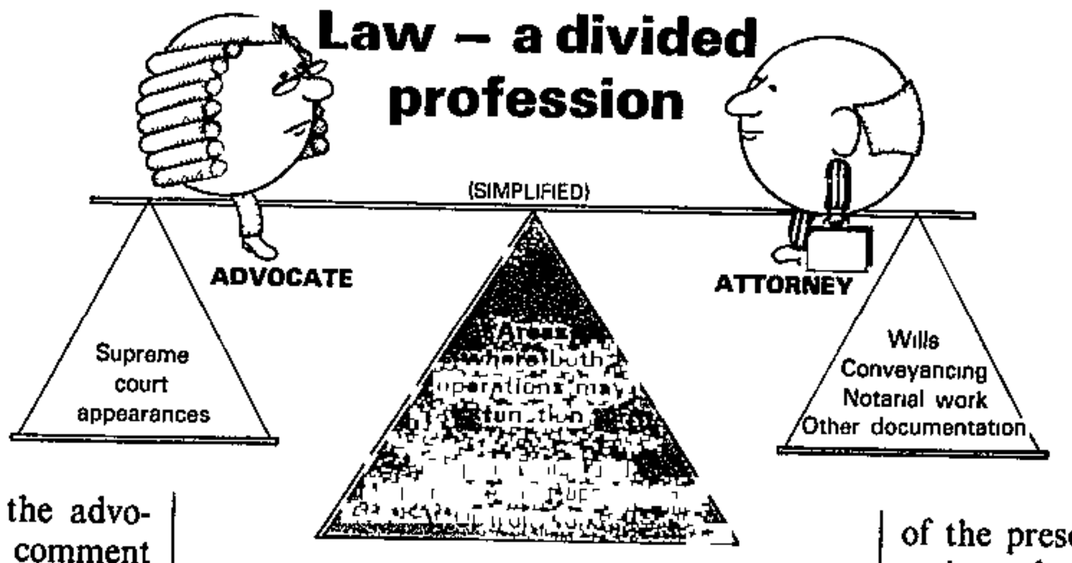
Perhaps surprisingly, some of the advocates approached by the *FM* for comment did not automatically oppose the principle of attorneys appearing in the Supreme Court Said one "I am opposed to the principle of fusion *per se*, but if there is to be fusion I would say that only attorneys with an LLB should be allowed to appear in the Supreme Court — as it is there that the more complicated legal matters are usually heard As I understand it, a little under half of the attorneys' profession in fact have this qualification, the others having a B Proc or B Juris"

Another advocate said he believed that attorneys should be allowed to appear in the Supreme Court where unopposed divorce actions and motion roll applications were concerned Another commented that most of the cases he handles are in the regional courts, where attorneys do have right of audience But many are so busy with office work that they brief advocates regardless

In the US, where there is a fused bar, lawyers tend to specialise either in chamber work or trial work A large firm will have a complement of "litigators" — indistinguishable in function from a Commonwealth advocate or barrister American experience is also relevant to another contention — that advocates under a fused system would no longer be able to practice solo and accept work from different sources Many US lawyers practice — regardless of fusion — as "counsel," accepting instructions only from other law firms and not from the public Functionally they are indistinguishable from counsel under the Commonwealth system

Taking a broad line through these controversial issues, it is clear that reform of the legal profession is not to be undertaken lightly Certainly, in the South African political context, the intellectual (and financial) independence of the bar is an asset which should not be casually tampered with On the other hand, the cost of litigation — and legal services generally — is alarmingly high both for the middle class individual and for small business (The indigent can theoretically avail themselves of legal aid) Rather than debate further the issue of fusion as such, perhaps what really needs to be addressed (and urgently) is the broader, if overlapping issue of *legal cost-effectiveness*

The present division of the profession may, to a greater or lesser extent, be relevant to this issue But it would be wrong to blame advocates alone for the high cost of legal services There are areas entirely within the



province of attorneys — conveyancing, for example — which also need to be addressed There may well be a more cost-effective way of transferring ownership of fixed property without any reduction in the present high standard of efficiency and security of title This might, arguably, be achievable through legislative reform of the technical procedures currently required to transfer title to fixed property

The hotly debated question of whether "contingency fees" should be permitted is another point bearing on costs and accessibility of legal relief which is not related to the dual bar system as such (It should be explained that South African lawyers are not — under current ethical rules — entitled to take a case speculatively, that is to say, on the understanding that they are entitled to a fee only if they win Such contingency fees are, however, permitted in the US)

Problems like the high cost of litigation unfortunately help to bring the system of free enterprise into disrepute in SA This political linkage implies that the legal profession cannot, in the long term, afford the self-indulgence of lofty detachment from social issues Perhaps in these circumstances the legal profession itself should be the first to respond Instead of proposing yet another official enquiry (with all the attendant risks and delays), could not the profession itself appoint a joint committee representing advocates and attorneys (including specialists like patent agents) to enquire into legal cost-effectiveness?

The committee could also take account of the availability (or otherwise) of effective legal aid arrangements To be effective, it should appoint an economist (or a small panel of economists) as consultant — the skills of this discipline can no longer be scorned when it comes to issues of professional organisation, either in law or medicine

The terms of reference of the joint committee would require it to make positive recommendations for greater cost-effectiveness in all areas It should not, however, lose sight of the need to maintain high legal standards at all times, or of the reasonable claims of practitioners to safeguard their economic interest in their chosen profession, and the importance of a strong and politically independent bar

The establishment of the Small Claims Courts is a sound working example of how access to justice in civil matters can be improved without detriment to the economic interests of practitioners

The terms of reference of the proposed joint legal committee should certainly include scope for urging government to undertake a vastly increased commitment to legal aid This, even on a superficial view, seems to be one of the major deficiencies of the present arrangements

According to André van Vuuren, director of development of the Association of Law Societies of SA, the last published report of the South African Legal Aid Board notes that the State contributed around R4m during 1985 to legal aid services, R5m was allocated for the following year Britain, during 1985, spent £400m, or around R1 500m Even allowing for differences in population and national income per capita, local expenditure is derisory

A further relatively simple issue is the effect of inflation on jurisdictional limits, bearing in mind that magistrates' courts are entitled to hear civil claims only up to certain money limits, which are revised from time to time on an ad hoc basis Claims for larger amounts have to go to the Supreme Court These limits should surely be indexed through periodic revision as a matter of course, to prevent erosion of the real monetary ceiling of jurisdiction of the inferior courts

Such matters — which the proposed committee would weigh up — should help ease the transition to fused legal representation, if that is indeed the recommendation after careful deliberation Whatever the case, with double-digit inflation, a targeting on costs has become a matter of urgency ■

30/8/87 CPTimes (248)

, August 30, 1987

Bringing the law to the peopl

● By Professor DJ McQUOID-MASON, of the University of Natal, Durban, writing in the August issue of *De Rebus*, the South African attorneys' journal.

HE Association of Law Societies of the epublic of South Africa has initiated a treet-law program to make people in the treet more aware of their legal rights.

At present the program is based in the entre for Socio-Legal Studies at the niversity of Natal and is aimed primarily t schools, including those in the black ownships.

Street law tells people about the laws hat affect them in their every day lives on he street.

It helps people understand how the law orks and how it can protect them. It also xplains what the law expects people to do n certain situations.

It tells them about the kind of legal roblems they should watch out for and ow they can solve them.

Most people think that the law works gainst the poor.

Many people do not believe that poor eople renting broken-down houses can et a court order for the owner to fix it for hem.

Apart from telling people generally bout problems in consumer, employment, welfare, housing, family and criminal law, the street-law handbooks also give advice which can be used in practical situations.

Street law also encourages people to think about the law from all sides so that they can understand how it works.

For example, schoolchildren would be expected to give their reasons when discussing questions like "What is the meaning of the law? Why was a particular law made?"

The purpose of the street-law program is to show children why it is necessary for any society to have a legal system and how a legal system is administered.

The program originated in the black ghetto areas of Washington in the United States where many young people saw themselves as being oppressed by the legal system.

The program has now run there for 15 years and the juvenile delinquency rate in areas where there are street-law classes has fallen by 80 percent.

In 1986, the University of Natal, under the auspicies of the Association of Law Societies, ran a six-month pilot project in five Natal schools for pupils of all races.

At the end of the year, it is estimated that about 20 000 schoolchildren in the greater Durban area will have been exposed to street law.

The schoolchildren are provided with student text and school guidance teachers, and are trained to use a teacher's manual which explains how to run the lessons.

Teachers attend a training seminar once a month and each school is provided with a senior law student to act as a resource person to assist the teacher.

In the Transvaal the following street-law workshops have been held this year:

● In Soweto through the Soweto Careers Centre, attended by some 60 guidance teachers and Johannesburg Nicro branch members.

● At the University of Pretoria through the department of school guidance. Invitations were sent to all the schools in and around Pretoria as well as the individual departments of education. About 120 people attended.

● At the University of the Witwatersrand through the Law Clinic. About 40 people attended.

● In Mamelodi through a guidance teacher who had attended the workshop at the University of Pretoria. About 30 people – guidance teachers and people involved with youth groups – attended.

● At the Department of Prisons in Pretoria through its educationalists and psychologists.

There is an urgent need for two people to be appointed at two universities in the Transvaal (one Afrikaans and one English university) as street-law lecturers or liaison officers.

Their duties will include arranging the instruction of street-law teachers at least once a month, involving law students on a voluntary basis and ensuring that the project gets off the ground in the Transvaal as it has done in Natal.

The student text is due to be published in six parts, of which the *Introduction to South African Law and the Legal System* has already been published.

Each school will get 50 free copies of the student text for use by students and one or two copies of the teacher's manual depending on how many teachers are involved in the program.

The ultimate goal of the street-law project is to involve 250 000 Std 8, 9 and 10 schoolchildren in the program each year.

It is also planned to hold inter-school mock trial competitions and the Association of Law Societies has made some university bursaries available for students in the program.

The cost of this project will be about R424 000, enabling some 100 schools of each language group to receive 50 free copies of the student text and five free copies of the teacher's manual.

It is hoped that street law will become part of the formal curriculum, as it is in the United States.

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The more flexible judiciary: A retiring judge looks back

The Natal bench this week lost one of its civil rights-champions when judge Ray Leon retired He spoke to CARMEL RICKARD about the new 'flexibility' in the judiciary

IT was no accident of fate that former Natal Judge Ray Leon joined the legal profession

As a 14-year-old schoolboy with a flair for debating, and excited by the "idea of advocacy", he was already quite determined he would become a lawyer

Leon, whose former colleagues have described him a strong upholder of civil rights, retired this week because of ill health, prompting a senior advocate to remark that the people of Natal, irrespective of their political persuasions, had lost a champion of their liberty

Looking back over his more than 20 years as a judge, he highlights two developments which have gratified him

"In the last few years, judges have become more innovative, perhaps more flexible and imaginative, less hide-bound and more activist"

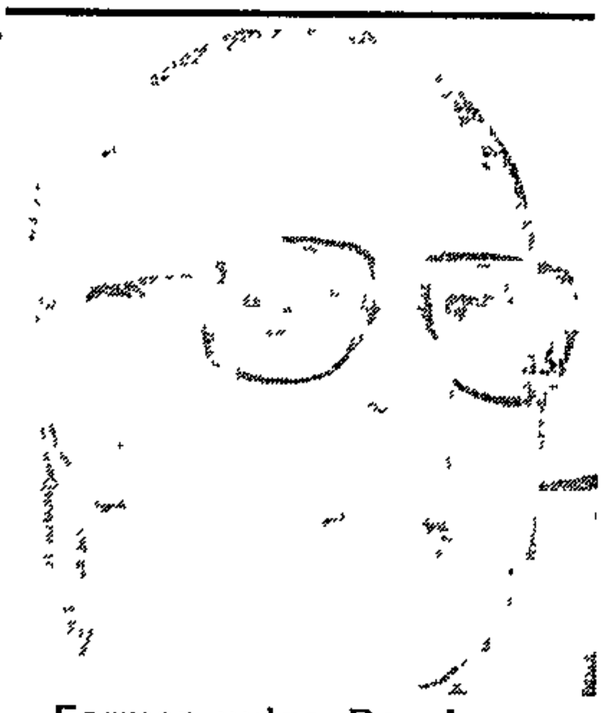
He says he can't put his finger on the causes of the shift but adds, "Until a few years ago judges had generally been very conservative in their interpretation of statutes, for example And although if parliament says something is black you can't say it is white, there is a greater room for flexibility than I myself for example thought, even 10 or 15 years ago

"The other interesting legal development is that attorneys have become very much more sophisticated and expert, particularly in the field of commercial law and matters of business, than they were when I started practice.

"This is quite important because I think there are some attorneys who would grace the supreme court bench as judges."

Leon said that as the load of supreme court work increased, so did the need to widen the "pool" of potential judges.

"Traditionally judges have come from the ranks of senior advocates, but if you remove from these ranks those members who will not accept judicial appointment for whatever reason, and those whom the government may not wish to appoint, then what is left is insufficient to staff the supreme court bench with able judges



Former judge Ray Leon

"I am not at all in favour of civil servants coming on to the bench I think it is a thoroughly bad idea, but I am in favour of suitable members of the attorneys' branch of the profession being appointed judges"

Spelling out some of his feelings on civil rights issues, Leon says as a lawyer he cannot approve the idea of detaining someone without due process The system of detention without trial means an inevitable danger that an innocent person could be incarcerated

Of the death sentence, he says it has always caused him a great deal of distress to impose it and it would take him some days to recover afterwards It was one facet of a judge's duty he was relieved to have left behind "One is in a very real sense causing someone to be killed"

He says he is opposed to the death penalty as he believes it has a brutalising effect on society, that there is no satisfactory evidence it is effective as a deterrent and that there is always the possibility, however small, of judicial error, which in the case of the death sentence would be irreversible

On the question of judicial appointments, Leon believes the great majority of judges are appointed on merit, contrary to the criticism expressed in some quarters, and adds this was a trend greatly strengthened during the time of John Vorster as minister of justice

"He made a considerable effort to improve the quality of judges, by, whenever he could, appointing on merit His successors have, largely, done the same

"I think he was very concerned about the image of the judiciary He was an efficient, strong and able minister of justice and a good administrator who did his very best to make appointments on merit"

But while the quality of judges may have improved, Leon believes their status has declined This is indicated by the frequency with which "judicial protocol" is not observed — and by the salaries paid to judges

"At the time of union, judges earned at least the same as cabinet ministers Now they earn substantially less than a minister and even less than a director general, a development which is really regrettable

'This has never happened before and I regard it as appalling, particularly since we live in a society where in the eyes of many people, status is judged by financial considerations Inevitably then the status (of judges) must to some extent suffer

"It's not just the financial question but the office of judge is without a doubt much more important than that of director general"

Leon has been closely associated with Natal University since his days as a student in Pietermaritzburg where he was SRC president in 1947 He will stay on as university chancellor and has plans to write a book, probably reminiscences of his time on the bench

Although he is not yet sure of what else he will do in his retirement, he is certain that, after all his years as a lawyer, he will enjoy his new-found time to read and indulge his great love of history and English literature

FOR THE RECORD

Security Act on M[illegible]

LAW JOURNAL

Legal beagles

The Department of Justice has been unhappy with some articles and editorial comment in the *SA Journal of Criminal Law and Criminology* In certain legal circles it was even feared that the department might cancel its subscription to the journal, which is distributed to all magistrates' courts

This would be a deathblow to the journal Without these roughly 1 200 copies, publisher Juta would have to cease production

To clarify matters, a meeting was held between two of the co-editors, professors Jannie van Rooyen (Unisa) and Roland Graser (Durban-Westville), and Justice Director General Faan van der Merwe, who is also a patron of the editorial board, plus senior officials from his department and Richard Cooke of Juta Professor David McQuoid-Mason from the University of Natal (UN), another co-editor, was abroad

Sources who attended the meeting tell the *FM* that there was no direct threat from the department to the editors to soften comment and editorials This is also reflected in the minutes of the meeting, the *FM* is told

However, it became clear that the department was unhappy with some of the journal's contents The department's representatives pointed to what they described as certain inaccurate information and unfounded criticism of it

Though there was no direct or implied threat, the discussions are seen by some legal minds as unofficial interference in the open editorial policy of the journal

But Juta's Cooke says there is no question of being threatened by the department "We had a discussion and it was felt that certain changes should be made And being one of the biggest subscribers, the interests of the department were taken into account"

Cooke says it is true that the department was unhappy about certain aspects of the journal, "but it was nothing political" He says the journal enjoys a good working relationship with the department

Dave Swanepoel of the Department of Justice says the meeting was held at the invitation of the publishers "We attended the meeting under the impression that the discussions were being held in the interests of the publication and to establish inter alia the various needs such a publication should provide, and that was the spirit in which we perceived the discussions to have taken place"

The journal in its present form will cease to exist at the end of the year A new journal, *SA Journal of Criminal Justice*, will be published in its place

Only Van Rooyen will continue as a co-editor Graser and McQuid-Mason have asked to be relieved of their duties

In legal circles it is felt that the emphasis of the contents will change The new journal will probably deal more with cases and judgments, whereas up to now the editors were keen to take a hard look at what the department was doing and often commented critically in an effort to improve the administration of justice

Graser and McQuoid-Mason have indicated that there is nothing sinister about their resignations and that they wanted to resign long ago But colleagues say that they were not prepared to continue work in the present conditions

The department's influence cannot be underrated When Unisa conferred a legal doctorate at the end of last year on a senior lecturer at the University of Bophuthatswana (*Current Affairs* August 28) whose thesis dealt with prison conditions, the department instructed a panel of experts to investigate the thesis As a result Unisa decided not to keep a copy in its library ■

(248) Friday 24/9/87

Law must offer more protection against power

A future SA settlement should include an independent judiciary and an independent legal profession. The legal profession itself can do much to involve SA's black majority in the workings of these institutions. This is an extract from a speech by SIDNEY KENTRIDGE SC when he delivered the first Ernie Wentzel memorial lecture in Johannesburg this week.

In 1955 the government increased the number of Appellate Division judges to 11, appointing five new judges whose qualifications for promotion could not be detected by the legal profession.

The Appellate Division has never quite recovered

Looking back, one can see that by the early 1960s there was a general spirit of submission to authority The government was all-powerful Resistance seemed hopeless Protest became a minority activity among blacks as well as whites.

Certainly, among the majority of the white population, there was an assumption that the government and the police knew best

The courts seemed to share this view Apartheid crept into the courts themselves

In courtrooms throughout the country a wooden bar was placed in the middle of each witness box to ensure that any white witness would stand on one side of this bar and any non-white witness on the other side

Even worse, in some magistrate's courts, apartheid was applied to black legal practitioners

One such case in 1958 concerned a young black lawyer who came into a magistrate's court to defend his client on a criminal charge

He went to the normal place where attorneys sat He was directed by the magistrate to sit at a separate table for black practitioners He refused to do so He was there and then convicted of contempt of court.

He took an appeal right up to the Appellate Division By then, Watermeyer, C J, and Centlivres, C J, had gone The Chief Justice was Mr Justice L C Steyn He dismissed the appeal He held that the magistrate was fully entitled to apply segregation in his court.

One will find in his judgment not one word of criticism of the concept of segregation in a courtroom nor any questioning of why a black attorney should be required to sit at a separate table; still less any appreciation of the fact that the black attorney and his black client might feel humiliated and discriminated against.

What Steyn, C J, said was simply this — that a defence could be conducted as well from one table as from another Four other Judges of Appeal concurred

But what is most shameful is that this case drew no protest, either from other members of the Bench or from the Bar or the attorneys' profession We all lamely accepted it

There had, incidentally, been a month-long boycott by the Johannesburg Bar of Mr Justice Steyn when he was first appointed to the Transvaal Bench But this was not because of his degraded view of law and society — that had not yet been revealed — but because he had been appointed not from the Bar, but from the Civil Service

I hope I am not over-optimistic when I say that we have passed through and out of that period The partitions in the witness boxes have gone I do not believe that any magistrate would today order a black practitioner to sit at a separate table And if he did, his ruling would not be upheld by the present Chief Justice

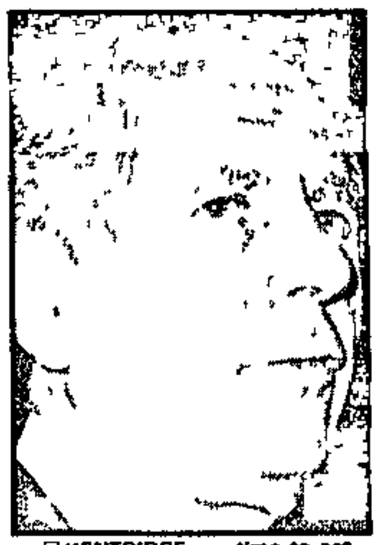
The Immorality Act has gone The Population Registration Act and the Group Areas Act are still very much with us, but cases under them are few, and the humiliating processes which I have described seem to have disappeared

And in recent years many of our courts seem to have shown a new willingness to give protection and relief to individuals affected by State action

One can think of cases on the rights of blacks and their families to live in urban areas, even before the repeal of influx control — cases such as the *Komani* case and the *Rikoto* case

And there are the well-known cases where the courts have placed an onus on the State to justify detention orders under the Internal Security Act, and have often set aside orders under the Emergency Regulations. I need mention only the *Hurley* case and the *Nkwinti* case. Such judgments would not have been given during the 1960 Emergency

Apartheid is bound to go sooner or later If you believe that it will be so much later that nothing we do now can be relevant, it would be rational to leave everything to history If you believe that a successful revolution will take place in the near future, you may think that the new revolutionary government will decide what legal system it wants In that case, there would not be much point in tinkering with the present system



□ KENTRIDGE time to act

Certainly to those who hope and believe a revolution is imminent, anything other than the revolution itself may be regarded as irrelevant — the National Association of Democratic Lawyers equally with the Law Society and the General Council of the Bar Indeed, if this is one's view, there would be no point in the meantime in attending a law school — you might be learning the wrong law

However, I do not think that many people, whatever their political beliefs, really apply that logic The first objection to it that I would raise is a general and practical one

Nobody can say how much time will pass before the present legal and constitutional system comes to an end (After Sharpeville, in 1960, some well-informed analysts gave it five years)

In the meantime many people will live and die under the present system Ordinary people are involved in litigation, they need and want lawyers to help them Whatever the future, therefore, there seems to me to be an immediate moral and practical case for expanding the existing benefits of our legal system and for reducing its inequities as far as we can

I believe that the conflict between black liberation movements and the SA government is one which both sides must ultimately realise cannot be won outright

A military victory against the formidable SA armed forces by black insurgents and black revolutionaries in the foreseeable future is hardly a real possibility But the government's policy of pacification by a mixture of force and peripheral reforms is just as unlikely to succeed

Reason, therefore, suggests that both sides will eventually see that a negotiated settlement is a necessity A negotiated settlement would rationally include an agreed constitutional structure

One hopes that such a structure would include an independent judiciary and an independent legal profession If that is not an entirely irrational hope, then it is surely worth using such time as is left to us to prove to the majority of the people of SA the value of those institutions, and to involve them actively in their workings

There is much that the legal profession can still do to this end

In the first place, we must do all in our power to develop the concept of law as a protection against power, even under the present system. This means developing and expanding the work already done by the Legal Resources Centre and the Centre for Applied Legal Studies and, more recently, by the Black Lawyers Association Legal services must be provided not only in political cases, but as widely as possible for blacks caught up in the mess of regulations which still exists, notwithstanding the abolition of influx control

Nor is it government alone against which the protection of the law is needed Unscrupulous hire purchase dealers and bogus insurance companies are only two examples of that part of the private sector whose business is to exploit the less sophisticated members of the black population

Every time one of these enterprising businessmen is forced to disgorge by means of legal process (even if it be only a lawyer's letter), the image of the law as a protector is enhanced The same thing happens when a lawyer assists a wrongfully dismissed domestic servant to claim a month's wages.

But the need for legal services of the type which I have mentioned calls for new and flexible forms of legal practice A major development has been the establishment of the community advice office staffed not by lawyers but by members of the community who have received some basic instruction in such matters as rights to pensions or to unemployment insurance and rights under township regulations

Another source of legal services of a similar kind are the university law clinics, run by law students under the supervision of a member of the faculty They, too, provide elementary legal advice

If the practice of public interest law and consumer protection law is to be developed, it is necessary for the law schools to train their students to practise in these fields

If these developments are to be successful, the overriding necessity is for a substantial increase in the number of black advocates and attorneys This is urgent, but not easy to achieve in short order The number of black advocates has grown slowly For example, the Johannesburg Bar has about 350 members As far as I know, only about a dozen of them are black. I believe Bar Councils should actively recruit well-qualified young black lawyers to their branch of the profession

I can think of nothing which would more thoroughly and beneficially change the substance as well as the appearance of the administration of justice in our courts than to see large numbers of competent black practitioners regularly appearing in all our courts on behalf of black clients.

The courts would lose their alien appearance to the black litigant or accused. It would influence and educate the white prosecutors, magistrates and judges who will for the most part continue to fill those positions I am sanguine enough to believe that even the discrepancies in sentencing would become markedly less frequent if judicial officers had the daily experience of meeting black professional men and women in their courts

More black lawyers needed in our courts

The inaugural Ernie Wentzel Memorial Lecture was delivered at the University of the Witwatersrand this week by Mr Sydney Kentridge QC. His theme was "Law and lawyers in a changing society". Don Holliday reports.

Mr Kentridge, addressing a group of leading legal figures, said that with few exceptions, South African law did not give the average black urban dweller protection against a host of insolent civil servants who controlled his life

The prosecutor and the magistrate were likely to be seen as simply another extension of the system of township managers, location superintendents and local authority officialdom

One would have to be insensitive not to grasp the widespread feeling among blacks that they did not get a fair deal in the courts

It required no original insight to see that to the majority of those subject to it, the law was not seen as a protection against injustice but as an oppressive force

The courts themselves were perceived by many as an integral part of an oppressive system and as an alien institution

Tracing the history of the Supreme Court since 1948, Mr Kentridge said he felt it could not be disputed that until the early 1950s the courts provided a "real protection to the individual against executive excess"

It could be disputed that after this period, there was a falling off — not merely in the willingness of the courts to protect the individual against the executive, but in the status of the courts

"There have at all times been some excellent judges at all levels of the Supreme Court, and throughout the period I am speaking of, one can find striking cases where judges of the Supreme Court upheld the rights of the individual against the State But that there was a general decline, I have no doubt

"The first cause was the legislative policy of the government which came into power in 1948 It showed a scant regard for the courts The common law concept of equality before the law was replaced by statutory and compulsory discrimination with which the courts were powerless to interfere, even had they wished to do so"

The composition of the Supreme Court changed An increase in "political appointments" was so marked it became clear that it was a deliberate policy of the government

By the early 1960s, there was a general public spirit of submission to authority Among the majority of the white population there was an assumption that the government and the police knew best The courts seemed to share this view

In recent years, particularly since the events in Soweto in June 1976, many courts seemed to have shown a new willingness to give protection and relief to individuals affected by State action

Since that date there had been a general acceptance of the fact that Verwoerdian apartheid had failed, even within the part which had created it Even those who maintained the basic structures of apartheid had lost confidence in it

A result had been a diminishing readiness to accept the government automatically knew best "Even in white society there is now a spirit of scepticism rather than subservience"

This scepticism was reflected in some recent judgments

The period since 1976 had also seen great changes in the practice of the law

There were now new forms of legal practice not previously known in South Africa, the most important of which was labour law Its growth was associated with the recognition of black trade unions in 1981

Public interest law, characterised by the establishment of the Centre for Applied Legal Studies and the Legal Resources Centre in 1979, was another new form of legal practice

Civil rights litigation today was "a far cry from the early 1960s when only a handful of embattled attorneys were prepared to take on political cases and, in particular, political criminal trials"

One of the greatest changes in the practice of law had been the emergence of a body of black practitioners with the ability and confidence to act in civil rights cases and political trials

Disadvantages to be overcome by black students included bantu education and tribal college law schools

Mr Kentridge recalled, among other incidents, that in the 1950s the then Minister of Bantu Affairs, Dr Hendrik Verwoerd, refused the first black member of the Johannesburg Bar, Mr Dumah Nokwe, a permit to enable him to take chambers in the building which housed the Johannesburg Bar.

All that was now history

"Even the Pretoria Bar, that home of what I hope are lost causes, has, admittedly with much agony and recrimination, removed the colour bar from its constitution"

Mr Kentridge said he could think of nothing which would more thoroughly and beneficially change the substance as well as the appearance of the administration of justice than for large numbers of competent black practitioners to be seen regularly appearing in all courts on behalf of black clients

"The courts would lose their alien appearance to the black litigant or accused It would influence and educate the white prosecutors, magistrates and judges who for the most part continue to fill those positions"

He believed that even discrepancies in sentencing would become less frequent if judicial officials had the daily experience of meeting black professional men and women in their courts

Under the present dispensation, however, it could hardly be expected that many black lawyers would want to serve in a government department as prosecutors or magistrates

FOR SUBSCRIPTION INQUIRIES — TELEPHONE EAST LONDON 26141

Conference ends with call for SA judges to resign

28/9/87.

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Daily Dispatch Correspondent

HARARE — Western embassies and Commonwealth High Commissions which had observer status at the first international conference on the abuse of children under apartheid yesterday pledged to send diplomats to Jan Smuts Airport to dissuade the authorities from victimising the 200 homegoing South African delegates.

This was announced at the closing session by one of the organisers, Professor Reg Austin, of the University of Zimbabwe's law department He did not detail the countries

The conference, entitled Children, Repression and the Law in Apartheid South Africa, ended with a call for South African judges to resign

Legal precedents established at the 1946 Nuremburg trials were referred to repeatedly during the four-day conference, where delegations heard allegations, first hand from teenage black activists, of torture in police custody or prison cells

The mother of a 12-year-old boy, who was unable to speak, said her son was shown corpses in a police morgue before interrogation during his two months in detention

He had teeth knocked out during beatings and suffered electric shock torture, but was never charged with any offence, she claimed

The boy said earlier that the police had wanted to question him about arson attacks

He and three young cellmates kept up their spirits chanting slogans, he said

A 13-year-old girl from a family of South African exiles appeared before the delegates in a wheelchair

Now receiving therapy in Harare, she has been paralysed from the waist downwards, since being shot twice during a SADF raid on Gaborone in 1986

One bullet hit her while she was lying prostrate with a stomach wound

A British human rights lawyer, Mr Geoffrey Bindman, said one of the results of the conference, organised by the Bishop Ambrose Reeves' Trust, was a seven point programme to mobilise lawyers throughout the world

Business sources here say moves to get lawyers to "refuse to use their skills in any manner which assist the apartheid regime" could make the business of South African firms difficult over drawing up routine, legally binding, trade documents, and hiring representation

Coupled with the pressure for sanctions, trade boycotts and disinvestment, the international lawyers' campaign could serve to drive South African trade into the international black market, they claim

The conference will be followed by similar moves against medical practitioners who remain silent after finding evidence of torture

Speculation about secret contacts between the South African Government and the African National Congress became rife during the conference

This was a result of remarks made by the ANC's president, Mr Oliver Tambo, which some correspondents construed as suggesting talks had taken place

Later, he rejected the possibility of talks

During the final session, the former chairman of the South African council of churches, Dr Beyers Naude, stressed the importance of international media attention on South Africa

The Minister of Law and Order, Mr Adriaan Vlok, said on September 23 that "no children under the age of 15 were being detained in terms of the Emergency Regulations, but 115 children under 17 were being held on serious charges"

Mr Vlok said three 15-year-olds, 18 16-year-olds and 84 17-year-olds were being detained

He said the young detainees received excellent medical attention and were visited regularly by judges, district surgeons and their parents

They also had legal access and their complaints received attention, he said

Two recent cases had been put before the world by the Detainees' Parents'support Committee concerning a 15-year-old girl and a 12-year-old boy whom, it was alleged, had been the victims of horrendous forms of torture

Both cases had been thoroughly investigated and evidence obtained under oath had shown the allegations to be false, Mr Vlok said

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ID 1/10/87 (248)

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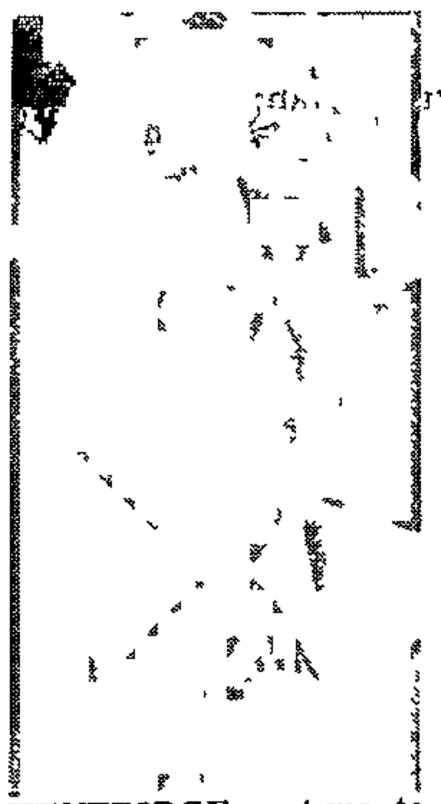

KENTRIDGE . time to act

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Moves to make legal representation more readily available to all

New fee system mooted

By Bruce Anderson

Three major changes to the South African legal system which could reduce costs and make legal representation more accessible to the man in the street are being considered by the legal profession

These are a new "speculative fee" system for attorneys, the possibility of fusing the bar and side-bar and an increase in the monetary limit for litigation in the magistrates' courts.

The "speculative fee" system is presently being investigated by a joint committee of the Association of Law Societies (ALS) and the General Council of the Bar and could be introduced early next year, according to a spokesman for the committee

Mr Edward Southey says that if the system is introduced attorneys will be able to decide to represent clients on the strength of their cases for damages If the client loses the case, the attorney does not receive a fee If the case is won, the attorney is paid according to a special tariff Use of this system would be open to those who do not qualify for legal aid but earn less than R2 000 a month.

The "speculative fee" has previously only been used in Scotland and was different to the contingency fee system used in the United States, Mr Southey says This system, where a lawyer may take a high percentage of a client's damages upon the successful outcome of a case, was rejected by the ALS on ethical grounds

He says the committee is working on the finer details of the new fee system, which should be introduced in 1988 "We should implement it on a trial basis, with the cases restricted to certain matters, effectively personal injury cases"

Another possible change, the fusing of the Bar and Side-Bar, is a more controversial issue

A STEP TOWARDS REDUCING FEES

The Minister of Justice, Mr Kobie Coetsee, announced in Parliament earlier this year that the Government had asked the Rules Board of the Law Courts to look at the role of advocates and attorneys, and the possibility of attorneys appearing in the Supreme Court as a way of reducing legal costs

The ALS supports fusion and sees it as a major step towards reducing legal fees, but the Bar, which represents advocates, is strongly opposed to it.

The practice of using a split Bar was adopted by the South African legal system from Britain

ALS president Mr Billy van der Merwe says South Africa cannot afford the split Bar system because it increases the number of lawyers that are required to argue a case in the Supreme Court "The Bar would like us to believe that it would be not be cheaper to have a fused Bar," says Mr van der Merwe, "but the ALS is more concerned with the interests of John Public than with personal interests."

The vice-chairman of the Johannesburg Bar, Mr Ralph Zulman SC, says the idea that the fusion of the Bar was the panacea which would reduce litigation costs was a fallacy.

"There is this theory that there is a duplication of work But advocates and attorneys do different work.

"Legal costs in the United States — which has a fused Bar — were higher than anywhere else in the world," he said

"It costs more to litigate in Western Australia — where there is a fused Bar — than in New South Wales with a split Bar system," said Mr Zulman

The Minister of Justice, Mr Kobie Coetsee, has also indicated that a rise in the monetary limit for litigation in the magistrate's courts was under consideration The envisaged rise is from R5 000 to R20 000

(248)

THE Association of Law Societies of the Republic of South Africa answers a few questions that laymen have about the law In this first article in the series, the association explains the rights of people who are arrested

What to do if you are arrested

FOCUS

EVERY person who is arrested has certain legal rights Attorneys in South Africa are concerned that many people don't know these rights

If you are arrested, it does not mean that you are automatically guilty of the offence for which you have been arrested This will be decided in a court of law Until that time, however, you have certain rights and obligations as a citizen

The Association of Law Societies advises that all people who have been arrested should ask to see an attorney as soon as possible It is your right

The Law Society feels strongly that every citizen in this country should have access to the law when they need it most

They offer the reader the following guidelines on what to do if arrested

Police

• If you are under 18, ask the police to inform your parents, legal guardian, relatives or legal representative of your arrest and tell them where you are being held

• Remember that the police do not always require a warrant to arrest you, but if they have a warrant, you have a right to ask to see it

• Arrest means being held in lawful custody until you are allowed to go or are discharged This means that you may be held in custody until the police release you on bail, on warning, or into the custody of your parents or legal guardian

You will also be discharged if no charges are brought against you, if the State doesn't prosecute you and if a court finds you not guilty

Silent

• No one can be forced to answer questions put to them by the police In certain circumstances, however, you are obliged to supply a name and address

In some cases, it could be a good idea to give an explanation to the police This could clear up the matter and result in your release without being charged

Know your legal rights

• Under South African law, even if you are arrested, you are considered innocent until the court finds you guilty This is not the case in many other countries

Assistance

• The right to legal assistance cannot be taken from you by anyone At any time, you can ask the police to contact your lawyer You can decide to remain silent until you have spoken to him

• A list of lawyers should be available at all police stations and magistrates' offices Ask for this list if you need it

• If you are taken before a magistrate in court you can ask him to arrange legal aid for you

• If you already have a legal representative, tell the police and the magistrate as soon as possible

• People under 18 may be assisted by parents or guardians at criminal proceedings

Bail

• After being arrested you may apply to the police at the charge office to which you have been taken to be released on bail or on warning If you are released on bail, make sure to keep the bail receipt safely

• If you are a minor you can ask the police or the court to release you into custody of your parents or legal guardian

• If the police grant you bail, the bail money must be paid in cash to the police station where you are being held

• If you are a minor you can ask the police or the court to release you into custody of your parents or legal guardian

• If the police grant you bail, the bail money must be paid in cash to the police station where you are being held

• If bail is allowed by a court, the money is payable to the Clerk of the Court during office hours If you are held in the custody of the Department of Prisons bail must be paid either at the prison or at the police station

• Once the magistrate has ruled either for or against you the person who first paid your bail money can apply for a refund If you have to pay a fine, your bail money can be kept to contribute towards or pay the fine

• If you fail to comply with your bail conditions the bail money may be forfeited to the State and a warrant for your arrest issued

Court

• The law requires you to be brought before a magistrate within 48 hours of your arrest

• If you are arrested either on a Friday afternoon, a Saturday or a Sunday you generally appear in court on Monday, though you have the right to ask for a sitting of a bail court once arrested This court can decide whether or not you can be released on bail

• You are entitled to legal representation at a criminal trial Tell the court before you plead that you have a legal adviser

• If you don't understand the court proceedings, you are entitled to an interpreter

• If you are not sure that the witness for your defence will come to court, the court will subpoena them (summons them to attend) If they refuse they can be arrested

• If you conduct your own defence you have the right to cross examine all witnesses, testifying against you You may also put your side of the case to them

• If you are in need of medical attention at any time during the court proceedings tell the court officer at once

Fees

• If you have an attorney he will tell you how much you must pay him

• If you do not have the money to pay an attorney, you can apply to the Legal Aid Board for assistance This is granted you if you qualify for aid

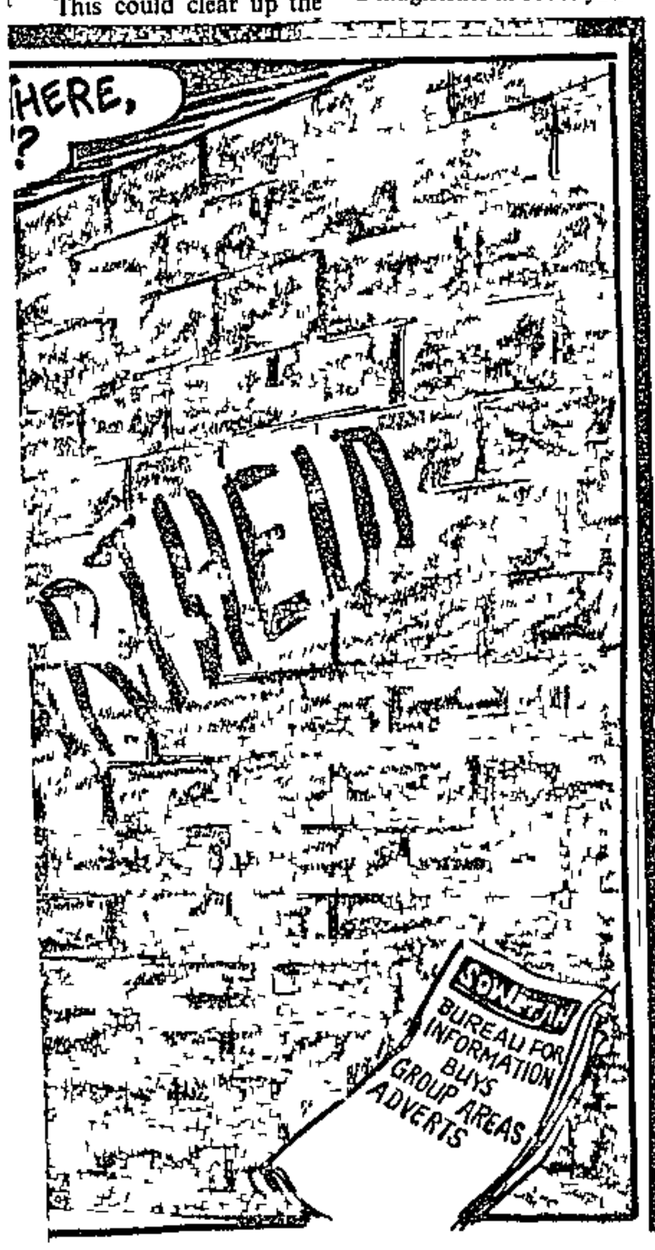
• A single person qualifies for aid if they don't earn more than R400 a month Married people must not earn more than R800 a month but R100 is added to this minimum for each dependent child

• You can apply for legal aid at any of the board's offices in Pretoria Johannesburg, Germiston, Cape Town, Athlone, Port Elizabeth, Durban, Bloemfontein and Mitchell's Plain in the Cape

If you do not live near any of these centres, you can go to the legal aid officer at your nearest magistrate's court

Once you have been granted legal aid, the board will pay your attorney

• Legal advice and limited legal aid is given by legal aid clinics at universities and other organisations



Political comment in this issue by J Latakgomo and A Klaaste Sub-editing, headlines and posters by S Matlhaku All of 61 Commando Road, Industria West Johannesburg

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THE *Sowetan* today remembers journalists around the country who are in detention

• Zwelakhe Sisulu Editor of the *New Nation* who has been in detention under the emergency regulations for 287 days.

• Mxolisi Jackson Luzile *Veritas News Agency* who has been detained under the emergency regulations for 477 days.

• Phila Ngqumba *Veritas News Agency* 465 days.

• Brian Sokutu Eastern Cape free lance journalist, 468 days

• Vincent Mfundisi, of SABC-TV, has been detained under section 29 of the Internal Security Act for 13 days

Judicial system could be undermined

Legal aid budget in SA inadequate to meet needs of most

South Africa's legal aid budget was "hopelessly inadequate" to meet the needs of the majority of the country's population, the president of the Law Society of the Cape of Good Hope, Mr Mervyn Smith, said yesterday.

Addressing the annual meeting of the society in Transkei, Mr Smith said a huge increase in legal aid was necessary if the majority were to gain access to the legal system

This was a right and not a privilege, he added.

Comparing the South African legal aid budget with that of the United Kingdom, he said the figure budgeted by the Government for the year ended March 31 1987 was R9 577 million as opposed to the UK's R1400 000 million

"With a population of about 30 million the amount budgeted per person per year for legal aid is 32c By contrast, the UK, with a population of 48 million allocates R28 per person per year.

"To stay within its budget, the Legal Aid Board has had to exclude from its programme all divorce cases and now assistance in the crucial area of disputes in the industrial courts

"The Hoexter Commission drew attention to the shortcomings in the legal aid system to no avail.

"If legal aid is not increased we may find the system of justice being undermined because there is no money to help the needy gain rightful access to the legal system" — Sapa

Law society man calls for better legal defence system

The Cape of Good Hope Law Society is considering pressing for an office of the public defender staffed by young attorneys and articled clerks as part of their National Service to help the needy gain access to the law

The society's president, Mr Mervyn Smith, said in Transkei yesterday "About 80 percent of all accused in criminal courts are unrepresented

"The office we plan to set up to help indigent people should be totally divorced from the State and will provide legal representation for those who cannot afford it

"It will also provide defence facilities in magistrates' and regional courts for needy people who lack any form of legal representation and who, worse still, do not know that such representation is available and a right, not a privilege

"The staggering number of people who appear in court undefended clearly proves that the work of the Legal Aid Board, University legal aid bureaux and of our profession to improve access to the law are totally inadequate and not meeting the needs of South Africa's 30 million-odd people.

"The overall responsibility for the provision of legal aid — the tried and tested way in the Western world to ensure access to the law by indigent people — rests with the Government.

"There appears to be a total lack of appreciation of the role that improved, adequate legal aid can play in bringing stability to the country and create respect and credibility for our legal system, which is acknowledged as being among the best in the world. — Sapa

Law society to press for legal aid office?

Daily Dispatch Correspondent

JOHANNESBURG — The Cape of Good Hope Law Society is considering pressing for an office of the public defender staffed by young attorneys and articled clerks as part of their national service to help the needy gain access to the law

This was disclosed in Transkei yesterday by the society's president, Mr Mervyn Smith, who said "the legal aid system has failed us"

About 80 per cent of all accused in criminal courts are unrepresented "This is the biggest single failure and an indictment of the South African legal system

"The office we plan to set up to help people should be totally divorced from the state and will provide legal representation for those who cannot afford it

"It will also provide defence facilities in magistrates' and regional courts for needy people who lack any form of legal representation and who, worse still, do not know that such representation is available and a 'right, not a privilege

"The staggering number of people who appear in court undefended clearly proves that the work of the legal aid board, university legal aid bureau and our profession to improve access to the law is totally inadequate and not meeting the needs of the country's 30-million-odd people"

He said the Legal Aid Board had excluded divorce cases from its programme to stay within its budget

"The overall responsibility for the provision of legal aid the tried and tested way in the western world to ensure access to the law by indigent people rests with the government

"There appears to be a total lack of appreciation of the role that improved adequate legal aid can play in bringing stability to the country and create respect and credibility for our legal system, which is acknowledged as being among the best in the world

"I would urge a drastic and urgent reappraisal of the legal aid system before it is too late," Mr Smith said

The Cape Law Society had a duty to make its voice heard and take appropriate action where it believed that the country's priceless heritage of civil liberty freedom of speech was being encroached on

"We have not hesitated to act in the past and will certainly not hesitate to do so again in future," Mr Smith said

"If legal aid is not increased drastically we may find the very system of justice itself being undermined simply because there is no money available to help the needy gain their rightful access to the legal system"

All have the right to legal representation

Daily Dispatch Reporter

EAST LONDON —Stupidity, or a lack of eloquence and literacy, should not prevent a party in a legal dispute from getting what is justly his, according to an article in Employment Law, a magazine that analyses industrial disputes in the country

The report, entitled Speak For Yourself — Laywers In The Industrial Court, said many people saw the law as treacherous terrain albeit the proper preserve of the rich, the foolhardy or (thanks to legal aid) the very poor

Part of the reason why the legal process was "a gamble" was that the parties were not always evenly matched, and it was in an attempt to remedy this imbalance that the law stressed a litigant's right to legal representation, it said

With laywers came formalism, delay, expense and the ultimate frustration of justice

"On the other hand, they are trained to present cases They know how to analyse the issues, what evidence to lead, how to cross-examine effectively and how to present an argument

"In the proper hands this expertise should actually shorten a trial"

According to the article these considerations were important enough to persuade those who study law that justice is much more likely to be done if the parties are given the right to legal representation, and that it is more likely to be speedy and efficient

Yet the industrial court had increasingly been excluding lawyers from its proceedings

"This unhappy attitude is owed to a section of the Labour Relations Act which provides that a litigant "shall be entitled" to be represented by a lawyer if the other parties consent

The consent is deemed to be given when the other parties are themselves using laywers

"The first mistake the court made was in reading the section as though it were couched in the negative, as though it read "a party shall not be entitled to legal representation unless everybody else consents".

The section should rather have been read as conferring an absolute right of legal representation, the report stated

Call for release

THE National Association of Democratic Lawyers and the Prisoners' Welfare Programme have supported a call by the international community for the release of political prisoners in South Africa.

The National Association of Democratic Lawyers (Nadel), is a national body of lawyers formed early this year by major black organisations in the country The Prisoners Welfare Programme (Priwelpro) is a community-based organisation in Umtata

Mr Dumisa Ntsebenza, president of Nadel and also chairman of the board of directors of Priwelpro, said the two organisations expressed solidarity with the call for the release of political prisoners in the country, including the homelands

He said for them in Nadel, the call is

SOWETAN Reporter

apposite since it coincides with the two-pronged campaigns by the organisation. The first campaign is for the abolishment of death sentence, especially in offences related to matters of social concern

The second campaign is that of recognition of freedom fighters as prisoners of war in terms of the Geneva Convention. More details on this aspect will be available after Nadel's general council in Port Elizabeth next month

He said Priwelpro also support the call for the release of Zephania Mothopeng, Nelson Mandela and other prisoners jailed for engaging themselves actively in the liberation struggle of the oppressed.

Advocates condemn varsity curbs

THE Johannesburg Bar Council, the largest body of advocates in the country, has condemned regulations imposed on the universities by Education and Culture Minister F W de Klerk.

The council, which represents 350 Johannesburg advocates, said it deplored "the infringement of that freedom and autonomy which is manifest in the recent regulations"

In a statement released at the weekend, the council said it "believes universities are best able to serve their purposes, *inter alia*, of seeking after truth and training students for the professions, including lawyers, in an atmosphere of academic freedom and freedom of speech and autonomy".

Own Correspondent

"The Bar Council believes that as an aspect of university autonomy the university authorities have the function to take all steps within their legal powers to ensure that academic freedom and freedom of speech prevail."

(248) 8/day 3/11/87

PROMOTION OF RACISM IN SCHOOLS 'FRIGHTENING' — HUMAN RIGHTS LAWYER

PRETORIA — It was "frightening" that State employees were promoting racism, and government should take immediate action to declare such actions a "treasonable offence", Lawyers for Human Rights national director Brian Currin said yesterday.

He was reacting in Pretoria to reports of allegations of right-wing politicking among schoolchildren by principals and teachers at a number of schools in the area

A prominent local National Party MP, Albert Nothnagel, reacted to the allegations by drawing up a comprehensive memorandum which he submitted to white own affairs Minister of Education and Culture Piet Clase.

Right-wing politicians, including official Opposition leader Andries Treurnicht (Conservative Party), cultural organisations, and two major teacher bodies, the Federal Teacher's Council and the Transvaal Onderwysersvereniging, condemned Nothnagel for his "unqualified allegations" and for "casting a cloud of suspicion" over the teaching profession.

Clase entered the public debate by saying it was against policy for teachers to engage in politics among schoolchildren and giving the assurance allegations were being investigated at departmental level.

● See Page 8

'SA judges in frontline to guard human rights'

A leading British advocate and the former chairman of the England and Wales Bar, Mr Robert Alexander QC, visited South Africa recently as a guest of the Johannesburg Bar. Mr Alexander, who defended Jeffrey Archer in a successful libel action, has strong views on the necessity for an independent judiciary and a separate Bar. LESLEY COWLING reports.



Mr Robert Alexander QC.

Emergency powers, particularly detention without trial, could lead to the extinction of human rights and the fabric of the law, according to leading English advocate Mr Robert Alexander QC

"We are disturbed that draconian powers adopted by one regime can be embraced and perpetuated by some future successor," he says "The erosion of human rights and of the fabric of the law can lead in the end to their extinction."

But the independence of the judiciary must offer one of the strongest glimmers of hope for South Africa, he says "After all, a totalitarian regime does not tolerate the independence of the lawyer, let alone of the judge"

As long as the instincts to preserve an advanced legal system survive, and are respected by the Government, South Africa cannot have lost the prospect of orderly progress which preserves the rule of law, he says.

Despite the "grave disfigurements" of apartheid laws, detention without trial and the recent emergency provisions, the staunchness of many South African judges was widely admired in England

'APARTHEID LAWS ARE ALIEN TO LEGAL PRINCIPLES'

"It is quite inevitable that overseas lawyers must regard the laws which sustain apartheid with total repugnance, such discrimination, oppression and cruelty are bound to be alien to those imbued with the spirit of fairness and decency which underlies the law," Mr Alexander says

The independence shown by South African advocates and judges stands as an example to English lawyers, he adds. "We recognise that the Bench and Bar in South Africa are very much in the frontline"

He says English advocates are not in favour of the political appointment of judges by government.

"There is an inevitable temptation that a government of powerful political commitment, whether that commitment is to changing or upholding the existing order, may seek judges who they believe are broadly in sympathy with their objective."

He says the advancement of judges through government service, especially through prosecution departments, is undesirable.

Mr Alexander adds that the *pro deo* system, where advocates appear for people accused of serious crimes for a limited fee from the State, had not been considered adequate in Britain There should be reasonable remuneration for those who carry out aid work to keep standards of defence high.

Mr Alexander is opposed to fusion of the Bar and the Side-bar currently being considered in the legal world

One of the vital strengths of a separate Bar is the willingness of members to argue any cause, however unpopular, for any client, however unattractive

"The principle is a cornerstone of the code of conduct at the Bar It is especially important in times of great tension or turmoil in society," he says.

A Royal Commission on Legal Services, set up in England in 1978 to study fusion, concluded that there could be a decline in standards of advocacy, presentation and argument in courts and this would in time be reflected in the judiciary.

School incident the tip of iceberg

STAR (248) 3/11/87

'Laws needed to fight racism'

Pretoria Correspondent

Lawyers for Human Rights called on the Government to formulate legislation which would prohibit racial discrimination and incitement as treasonable offences because they posed a threat to State security

In a statement released in Pretoria yesterday, the organisation urged the Government to establish a commission to investigate the social, legal, economic and cultural consequences of discriminatory legislation — with a view to abolition and law reform

The statement was released in the wake of the racial row at the Hendrik Verwoerd Hoërskool revolving around racist lectures delivered to pupils by a retired dominee

Mr Brian Currin, National Director of Lawyers for Human Rights, said a warning by a Cabinet Minister against politics in schools and an undertaking to investigate such incidents was totally inadequate

He said racism derogated people's dignity and pride and violated inalienable human rights

"It is frightening that in South Africa state employees are promoting racism.

"This is especially insidious in the school context where teachers enjoy respectability and exercise great influence," he said.

Mr Currin said the incident at the Hendrik Verwoerd Hoerskool was only the tip of the iceberg of racism that has been growing steadily over the past 40 years — nourished by the governing party's philosophy and maintained by legislation.

"We are convinced that unless steps are taken to eradicate that evil against humanity, the magnitude of racial conflict in this country will result in unparalled human rights violations," he said

The law must be seen to be just

The protection of human rights has become recognised world-wide as essential to the democratic process. Yet lawyers and others seeking to entrench the human rights ethic in SA are often regarded as politically suspect — frequently by their own colleagues. In an interview with SUSAN RUSSELL, newly-appointed national director of Lawyers for Human Rights Brian Currin outlines the role his organisation hopes to play in fostering human rights in SA

A COMMON human rights ethic amongst all members of the legal profession in SA — irrespective of political ideology — would force government to make an effort to legislate just laws.

This is the belief of Brian Currin, newly appointed head of the National Directorate of Lawyers for Human Rights

Currin, who took up his post on October 1, defines lawyers as anyone qualified in the profession, be they magistrates, prosecutors, judges, academics, attorneys or advocates.

He believes it is the task of his organisation to promote the concept of human rights, to advertise it and get lawyers to agree on what is civilised and just

"I think there is an enormous responsibility on lawyers to think very carefully about the role they should be playing," Currin said

"Although in this country judges and magistrates are forced to apply the law as it stands, they can still comment

"If judges commented daily on the justice or otherwise of the laws they were applying this would give government something to think about," he said.

"At the moment one has very little chance of really making significant inroads and promoting human rights until we, as lawyers, start talking about the same thing.

"A magistrate must know what I mean when I come to court and say I am representing a client because his rights have been violated.

"He must be big enough to accept we may be different politically but we are fighting about a principle, a right which is the norm in any civilised society.

"We as lawyers must try to work through the ideology and establish a common human rights ethic We must agree that the State can go so far and no further."

As an attorney, Currin has spent the past 10 years representing people affected by the apartheid laws in this country

He joined a Pretoria firm of attorneys in 1977 immediately after being admitted to the side bar By the time he resigned last year his practice consisted entirely of labour and civil rights cases.

He said he decided to resign and set up a civil rights institute on his own "right in the heart of nationalism" after realising that while he was representing detainees and people affected by the emergency regulations, the underlying social, economic and political consequences of the system were not being addressed.

Currin said at about the same time he was approached by Lawyers for Human Rights, who had decided to establish a national directorate.

He decided to work with them, and shortly after a four-month tour of nine countries speaking to human rights organisations he took up the post.

Currin said as an organisation the national directorate would have to create a much bigger network to provide legal services to people whose rights had been violated.

He said the reasoning behind the national directorate was to have someone on a full-time basis to coordinate the efforts of practising lawyers in the human rights field

"It was found that one might have 100 to 200 lawyers in the country involved in this field, and the right hand didn't know what the left was doing."

Currin said the definition of "human rights" was actually a misnomer "We are not talking about legal rights, which are enforceable in court and protected by law, but rather rights which people ought to have but which have not been extended or have been taken away.

"What we are really talking about, I think, are people's reasonable expectations, what an individual is entitled to as part of mankind to enable him to live a happy, fufilled life with dignity."

Currin praised the vast network of so-called non-government organisations (NGOs) with which he came into contact during his overseas tour. These NGOs have, through persisent lobbying, established an international human rights ethic

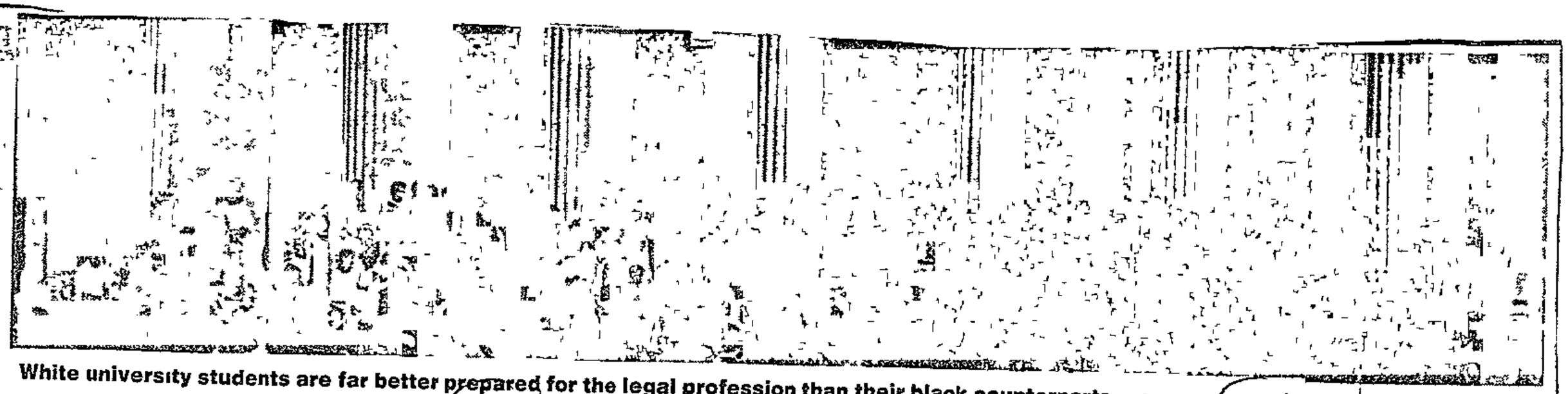
"There are set norms and standards," Currin said, "which countries at least pay lip service to."

He said these NGOs were staffed by qualified lawyers who constantly researched, investigated and published their findings on every facet of human rights.

Currin was impressed by the successes these NGOs have had, and sees the national directorate in SA following the same path

"The law must be seen to be just. All people in this country must look up to those who apply the law as fair, just and equitable," he said.

The black law graduate is trapped by apartheid bureaucracy



White university students are far better prepared for the legal profession than their black counterparts –

Well-known Pietersburg lawyer, Don Nkadimeng gives the perspective of black attorneys, looking specifically at the high school syllabi and the impediment at black universities.

ALL formal black education is in the hands of the government, a curious and unique situation where blacks in South Africa may be the only nation on earth where the education of the children of one nation is controlled by the adults of another nation

As a result, black education does not extend beyond what the whites conceive as adequate and affordable for blacks at any given time

The quality and content of black high school syllabi also do not prepare a student for legal studies

The second and third grade language courses that a black student does at Standard 10 leave him inadequate to read and understand legal writings and court decisions

A third impediment at black universities is the law teacher Most of the black law schools are staffed with Afrikaans law teachers, whose views largely coincide with the National Party

The establishment of separate tertiary institutions for blacks in 1959 introduced another dimension in the application of the apartheid policy of the government

In the "black" law schools there is an absolute absence, for an example, of studies relating to the law of aviation, maritime law and corporate law

Very little, if any practical work, is offered to law students

The newly graduated student from one of the ethnic law schools for blacks, therefore, knows as little about the practice of law as any person in the street

But what is most disturbing about the system in this country is that unless an established attorney is willing to train a black law graduate to qualify for the profession, admission of new attorneys to the field will come to a standstill

The unacceptable ratio of 10 white attorneys to every one black – including the so-called Coloureds and Indians – may be directly attributable to the system of admission to the profession

The police stations, prisons, courts and others are all established institutions which need not display patience with uninitiated persons, and are certainly not sympathetic to a black articled clerk

These institutions are also largely manned by Afrikaans speaking personnel with whom the new black articled clerk cannot effectively communicate due to his English-medium university background

More importantly, these institutions represent organs of oppression against which his daily work brings him in conflict

Except for his principal, all other established attorneys will only assist him if this will not conflict with the interests of their own clients

Except in large metropolitan cities, little office accomodation for black attorneys exists

Many attorneys have been prosecuted for opening their law firms in the so-called white towns

Generally, therefore, black legal practitioners operate small businesses from run-down buildings in dark corners of the so-called white towns

Banking and financial institutions are not keen to risk their money with a poor black attorney who cannot provide any security and whose accomodation in town is illegal

In taking disciplinary steps against black attorneys, the law societies apply the uniform procedures prescribed for all attorneys

The reason for the present unhealthy relations between the law society and black attorneys must be viewed in its correct perspective

- In the education of a black law student, the law society plays no financial part
- When a black attorney opens up practice, he gets no assistance from the law society in connection with overdraft requirements
- At times the law society objects to the admission of black attorneys, and move for the removal of their names from the roll of attorneys.
- The composition of the law society, dominated as it is by the white male conservatives, does not inspire confidence in the black attorney, especially when one considers that some of its members actively assist in the implementation of the apartheid system

There are many other instances of attitude that one can cite to try and explain the undesirable relationship existing between the law society and some of its members

The simplistic response that an attorney who has nothing to hide has nothing to fear from the society is cold comfort

Black lawyers to meet in PE

The National Association of Democratic Lawyers (Nadel) will hold a general council meeting at the Marine Holiday Inn in Port Elizabeth on November 28 and 29, the association's president, Mr Dumisa Ntsebenza, said.

He said he was concerned about reports circulating that the meeting had been called off.

Nadel was launched in Durban six months ago after a merger of several lawyers' groupings, including the Black Lawyers' Association

medical advice tells him he is unfit to continue Physically he looks fit, although his outbursts against photographers might invite some comment on the psychological state of an angry old man

Far worse is his inability to grasp with both hands the opportunity to lead given to him by the Transvaal congress Perhaps he has forgotten how to lead?

The NP finds itself in a serious predicament It must be asked has the rightwing shocked the party into paralysis, continually contending with the uncertainty of further fragmentation? Transvaal leader F W de Klerk, a serious contender for Botha's position (*Leaders* September 25) let in a little light when he tore into Andries Treurnicht and the Conservatives Unfortunately De Klerk — party man that he is — is displaying little more at the moment than an ability to walk the Nat tightrope — playing to the gallery and the State President alike, neglecting clear and forceful directions on specific issues

He was undoubtedly sincere when he spoke of poverty among blacks, their poor educational facilities and the absolute need to infuse them with hope for the future But a betting man will wager that De Klerk's elaboration of Nat policy will not appease black hopes for redress.



F W de Klerk (Pik Botha: rt) . . . grassroots concern ignored

The emphasis is still firmly on group security, and self-determination within an own political power base — old clichés On the other side, says De Klerk, there is everyone's right to share in opportunities, and the acceptance of each one's right to participation in the democratic decision-making process

Fair enough . but a trifle academic right now

Minorities will be protected and the NP is not prepared to submit its people to domination by others, De Klerk said

But take the argument a little further If it is accepted that the Zulus are the biggest minority group in the country, does that put Mangosuthu Buthelezi in line as a potential president? Not according to De Klerk's theory of equal power-sharing for all, it doesn't mean that at all

It was De Klerk, barely two years ago, who convinced P W Botha to repudiate colleague Pik Botha publicly when the Foreign Minister answered a hypothetical question to that effect in a positive way

De Klerk said he is tempted to believe that some newspapers (guess who?) will interpret his stance as a stumbling block to negotiation and real reform (his words) We have to believe the opposite — that is what he intends us to believe

Intelligent men will say. forget the newspapers, go straight to Buthelezi

The Transvaal congress shows the NP at its wearisome worst how much longer will things go on in this way? Until P W Botha retires? Certainly Beyond that? Let's hope not ■

ENGINEERING PROFESSION

Patching up the leaks

The shortage of professional engineers is reaching critical proportions. One answer would be to increase university funding for engineering students — possibly through a carefully thought-out levy. On the wider front, Taiwan could be looked at as a model economy which favoured engineering as a route to growth and prosperity.

A grave shortage of professional engineers is threatening SA's future industrial growth There is no dispute that the shortage, in almost all branches of the profession, is already a problem — and any acceleration in the rate of industrial expansion will exacerbate matters

The crisis is largely attributable to a bottleneck in university engineering departments, who are finding it increasingly difficult to recruit and hold staff within current salary parameters This brings the problem into the arena of university subsidies, with all the contingent political issues between government and the English-speaking campuses Any solution to the engineering shortage will have to tread its way through this political minefield

A further contributory factor is the high current rate of emigration — an engineer who emigrates does not have to run the gauntlet of requalification procedures overseas

Dr Philip Lloyd, president of the Associated Scientific and Technical Societies of SA, researched the problem in 1986 ("The Supply Of and Demand For Engineers") on behalf of the Federation of Societies of Professional Engineers His findings are unequivocal and eloquent

Despite the fall-off in demand for engineers caused by the economic depression, supply also fell (see chart), so that there still remained at least two jobs on average for each graduating engineer A developmental model predicted that this measure of shortfall would continue until 1990 But if the economy picked up, demand for engineers could easily rise to the point where there would be *more than four jobs for every engineer in several disciplines*

In the past decade, notes Lloyd, SA has been significantly dependent on imported engineers In the light of increased rates of emigration, and adverse overseas sentiment towards SA, it would be naive in the extreme for us to rely on this source in the future — except perhaps in narrow areas (and, of course, at exorbitant expatriate salaries) like military aeronautics or electronics

So we are thrown back upon our universities as the only plausible source of most professional engineering manpower for the foreseeable future All universities approached, regardless of other divergences, are unanimous in ringing an alarm bell over current deficiencies in engineering education

Salaries and conditions of service within professional departments generally, but engineering in particular, cannot compete with those offered by the private sector — and even, in the case of engineering, the public sector too

University faculties have responded to the salary crisis in various ways. The Afrikaans ones have tended, according to Professor David Glasser, dean of engineering at Wits, to promote enough consulting work to make up earnings to levels comparable with the private sector

Professor Christo Viljoen, dean of engineering at Stellenbosch, confirms that the universities of Pretoria and Stellenbosch have assertively followed the sponsored research route And it has brought in enough money from industry to give them an edge



Wits's Glasser . . . outside work hampers teaching

over other universities in attracting and holding "good teaching staff"

Pretoria, he says, has its LGI (Laboratory for Advanced Engineering), while Stellenbosch has seven research bureaus or institutes — including electronics, mechanical engineering, structural engineering, and systems engineering The Bureau for Systems Engineering at Stellenbosch is currently erecting its own building at a cost of R10m at the Stellenbosch Technopark

This is all very well, except for the inevitable result that both teaching and research, as Glasser notes, suffer when university staff spend an important proportion of their time on outside work

Professor John B Martin, dean of the faculty of engineering at UCT, concurs that "at a national level, there appears to be real cause for alarm as far as training for engineers is concerned There are a number of unfilled posts, particularly at a senior level"

At a recent deans' meeting of the South African Council for Professional Engineers, Professor Colin Fleming, dean of engineering at the University of Durban-Westville, asked "that the matter be regarded as one of crisis proportions"

Generally, salaries are seen as a major factor "University salaries in engineering are lagging well behind the private and even the public sector — perhaps by as much as a factor of two," says Martin He confirms that there has also been a "steady drift" of engineering academics out of the country, while recruitment from abroad in current circumstances "is problematic" Some universities have responded by emphasising industrial contract research on a large scale, giving staff members in some departments additional income of 50%-100% of their university salaries Some are paying "substantial augmentations"

But some "are appointing persons to senior posts before they really merit it" The result is that senior university posts "no longer carry very much prestige" in engineering circles Glasser confirms that relative juniors are holding posts which would, under ideal circumstances, have been reserved for more experienced academics

Martin says that such responses and so-called solutions oversimplify "the underlying very real problem" — the acute shortage of "real engineering academics" These are people "with a Ph D, some industrial experience, and a solid academic background including a recognised track record in research"

Increased salaries will not create such people — at least not in the short term On the contrary, under present constraints, universities "are likely to recruit people who are not making it in industry and who — in the long term — may inhibit the development of a corps of strong engineering academics in the country"

Glasser points out that government's subsidies are at present awarded as an aggregate amount It is up to the universities themselves to parcel out remuneration between academic staff in the different disciplines This is a system which presents university administrators with a task both invidious and divisive How does one establish relative salary levels between technical and vocational faculties on the one hand, and the humanities on the other?

This system, says Glasser, is a real obstacle to improving salaries for those faculties in direct competition with the private sector and government service, and bears particularly heavily on engineering (Professors of clinical medical subjects are in a better position because they may also hold professional positions at teaching hospitals)

Another frequently overlooked point, argues Glasser, is that university engineering faculties are of surprisingly variable cost-effectiveness Whereas the cost of producing an engineering graduate at Wits is some R60 000, at the University of Durban-Westville the cost is an incredible R1,3m He argues the case for a policy of rationalisation in university teaching of engineering

Glasser does acknowledge the merits of the recently formed Foundation of Research Development, established by government, which provides engineering departments with money And industry, he notes, is also providing subventions to salaries, up to 20% of salary levels

The obvious immediate need is more money for engineering lecturers and professors One way of getting it would be for industry to set up a levy related to the number of professional engineers employed, the proceeds destined for the hard-pressed engineering faculties

There is a major obstacle, however — the situation of the semi-government bodies and government departments themselves This factor is confirmed by both Glasser and Martin The private sector feels that the public sector — as, collectively, a major employer of engineers — should also pay the levy

To date, the response from the public sector and government has been that government has, in effect, already paid once through the university subsidies, and should not be required to pay twice

Another possibility is that government should relieve universities of the invidious task of deciding, in the case of teachers of engineering, to deviate from the general prescribed academic salary levels Something of the sort already operates with lecturers and professors in clinical medical subjects

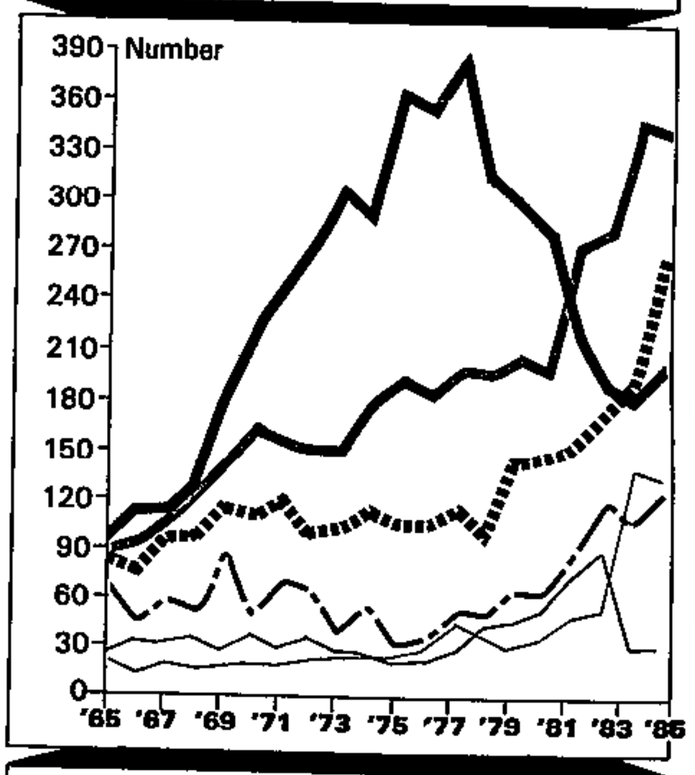
The situation is far too serious to be left as a playground for political and other sectional interests The *FM* would urge all parties — the universities themselves, government, the semi-government bodies, and the private sector — to put aside partisan viewpoints and set up some form of liaison, perhaps a joint committee, to achieve quick and effective action on the engineering crisis

A committee convened along these lines should consider both urgent financial first-aid (which Martin thinks should largely be directed to subsidise new, young Ph Ds considering a university career) and longer-term measures to enhance the remuneration, career status and prospects of university teachers of engineering

Failure to act effectively — and quickly — could eventually put South African industry in the straitjacket of a shortage of high-level technical manpower We should not overlook the Taiwanese model Part of that country's formula for breaking out of the vicious circle of national poverty was to train enough engineers to make it technically possible to achieve its almost unprecedented rates of industrial growth ■

More, but not enough

Number of engineering degrees awarded in SA (1965-1984)



(248) South Nov 26 – Dec 2.

Lawyers adopt Freedom Charter

THE Democratic Lawyers Organisation, the Cape Town affiliate of the National Association of Democratic Lawyers (Nadel), this week adopted the Freedom Charter.

"It was felt this important and widely-accepted document could very well form the basis of the constitution of a truely non-racial and democratic South Africa," lawyers said in a statement.

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ATTORNEY SUSPENDED FOR FRAUD

EVENING POST, MONDAY, DECEMBER 7, 1987

MARITZBURG — A prominent city lawyer has been suspended from practising as an attorney for six months, following a Supreme Court application by the Natal Law Society.

Mr John Lovell Greene, 68, who until his resignation on October 31, 1986, was a partner in the legal firm of Bale Greene and Morcom, was suspended by the Judge-President, Mr Justice Milne, sitting with Mr Justice Shearer

According to court papers, Mr Greene allegedly defrauded Mr Christian Zietsman, a retired magistrate, and his wife, Winnifred Marie, who were both clients of Bale Greene and Morcom

Mr Greene's allegedly fraudulent conduct arose when he attempted to mislead the Zietsmans about the applicable rate of interest payable on a mortgage bond lodged by Bale Greene and Morcom

Mr Alan Fairleigh, a member of the Law Society's council, said in a an affidavit before the court that Mr Greene had unlawfully altered a variation agreement "to show a higher rate of interest than had been agreed and that he (Greene) thereby committed a fraud upon the Zietsmans"

In granting the order of suspension, Mr Justice Milne said Mr Greene had already suffered greatly as a result of his conduct

"The more prominent the attorney, the greater the disgrace," Mr Justice Milne said

Mr Greene had been compelled by his partners to retire and, as a result, his practice, reputation and livelihood had suffered Mr Justice Milne took into account the fact that Mr Greene's wife and youngest son had to undergo psychiatric treatment because of the incident

He did not belive it was incumbent on the court to punish Mr Greene as he had already been punished sufficiently

Mr Justice Milne took into account the fact that Mr Greene had not derived any financial or other benefit — Sapa

Minister slates advocate

JUSTICE Minister Kobie Coetsee strongly attacked Advocate Edwin Cameron yesterday for his criticism of the conduct of three senior judges.

ROGER SMITH

In a lecture published in the SA Journal on Human Rights and in a recent speech, Cameron questioned whether the presence of Mr Justice Steyn, Mr Justice Munnik and Acting Chief Justice Rabie on the Supreme Court Bench contributed to the demand for an utterly unblemished judiciary.

He criticised Mr Justice Steyn for espousing government political dogma

He raised the question of allegations affecting the integrity of Mr Justice Munnik after the Munnik Commission and the fact that these had not been answered

He criticised government's failure to appoint a new Chief Justice after now-Acting-Chief-Justice Rabie reached the mandatory retirement age of 70

Coetsee said he found "the spurious reflections on the integrity of a respected lawyer and Chief Justice and his esteemed colleagues in the Appellate Division most disturbing, to say the least".

"I find them even more distasteful and improper coming from such a lesser known officer of the court"

Referring to an article of five years ago in which Cameron had criticised the record of a retired Chief Justice, Coetsee accused him of appearing to derive a "misguided pleasure in denigrating great chief justices"

Describing the personal attack as sadly evasive, Cameron said Coetsee had failed to address a single important issue he had raised

COURTS

This year's message to despondent

Just a year ago, what the state decreed, the courts dismissed. But the summer of civil liberties has ended. The wording of regulations has been tightened and the Appellate Division has stressed that the state president may enjoy almost unlimited power under an Emergency. By CARMEL RICKARD

THE year has ended with an announcement, apparently routine, but in fact full of significance for anyone concerned with the protection of civil rights by the courts.

It was announced a few weeks ago that Natal's Judge President John Milne will take up an appointment in the Appellate Division (AD) from the beginning of 1988.

This means that this year Natal, scene of most of the recent court battles against state encroachments on civil liberties, will have lost two judges with a reputation for commitment to human rights. Judge President Milne and his acting deputy, Judge Ray Leon, who retired earlier in the year.

One legal observer said it was "very sad" that both were now lost to the province and added that their replacements, Judge Alan Howard and Judge Auret van Heerden, had reputations as "tough-minded judges who are not as partial to civil liberties as some of their colleagues".

Van Heerden's comments during an application for the release of seven detainees in August sparked fears about attempts to have parliament restrict access to courts

Just before postponing the application, Judge Van Heerden remarked that detainee applications appeared to be "a cooked-up thing".

He went on to say he believed something should be done "by legislation to bring an end to this kind of thing".

These shifts in the Natal Supreme Court come two years into the national State of Emergency, when the courts — particularly the Appellate Division — are showing the effect of "Emergency law".

The most obvious indication of the toll it is taking is the reduced number of applications being made to test the regulations, as the room to manoeuvre has narrowed

Civil rights gains from the early part of the Emergency, which fought off a few of the worst excesses imposed by Emergency regulations, were overturned this year, either by re-worded regulations when the Emergency was re-imposed in June — or by the AD, where successive judgements have underscored the belief of the AD that the state has virtually unlimited power under Emergency provisions.

One set of AD judgements in particular stand out as an indicator of the "mind" of the Appellate Division.

This is the joint ruling on three applications, one of which was brought by Emergency detainee Abdullah Mohamed Omar and five other detainees held during the 1985 "regional" Emergency.

The judgements caused despondency among civil rights lawyers, who commented at the time that the message of the Omar ruling was "pack up your bags".

Briefly, the judgement dealt with two major issues: the right of Emergency detainees to be heard (the *audi alteram partem* rule) and their right to be visited by lawyers

On both issues, the four judges who signed the majority decision — Judge Hoexter dissented — refused to accept the argument that the Emergency regulations or rules they were asked to consider were "unreasonable" and could not have been intended by parliament.

The attitude expressed by the four was that there is a State of Emergen-

civil rights lawyers: Pack your bags

cy which demands extraordinary powers, and the state president has a virtually unchecked discretion to issue any orders, even orders which might normally be declared void on the grounds of unreasonableness

At several points in his judgement, Acting Chief Justice Rabie admitted that the powers of the state president under Emergency regulations were "drastic", but declared that the regulation was nevertheless not so unreasonable that the court could declare it void.

On his interpretation of one regulation, the Acting Chief Justice says, "I appreciate that this view of the matter does away completely with the *audi alteram partem* rule, and that this is not a view which one should lightly entertain I think, however, that this is what (the regulation) entails there is no doubt that if this is the effect (of the regulations) as I consider it to be, it is a very harsh provision, but it nevertheless seems to me that, when regard is had to the extremely wide powers which the Act confers on the state president to make such regulations as appear to him to be necessary or expedient for coping with the Emergency situation, it cannot be said that the regulation in issue is *ultra vires*"

The four judges acknowledged that the principle allowing a person to be heard and put their point of view "embodies a fundamental right", but they added they could not accept the argument that the state president was not empowered to make a regulation which removed that fundamental right

"It is an Emergency measure that was intended to apply in an Emergency situation"

They went even further in removing what had been regarded as a "fundamental right" and referred to an earlier ruling by the Natal Supreme Court in the Metal and Allied Workers case

In terms of this ruling, the Natal bench declared legal access a basic common law right which only laws, and not subordinate legislation such as Emergency regulations, could remove.

Following this judgement, lawyers had been allowed to visit detained clients under the normal conditions operating when legal advisers visit any client being held in prison

However, the AD judges expressed their disagreement with this Natal judgement and the effect of their remarks has been to make legal access no longer a right It may be refused should the authorities decide to do so

Reviewing the significant judgements of the year, security law expert and professor of law at Natal University, Tony Mathews, said the Omar ruling in effect gave the authorities *carte blanche*

"It must be seen with the AD judgement on the Castel case earlier this year Together they indicate the trend for the Appellate Division to halt initiatives taken by the lower courts (regional supreme courts) in defence of human rights"

In the Castel case, a Durban magistrate refused permission for an outdoor rally by the Federation of South African Trade Unions (The case had been initiated some years earlier, before Fosatu was absorbed into the Congress of South African Trade Unions)

The union successfully challenged his refusal to allow the rally, but the AD set aside the decision of the Natal judge, saying in effect that it did not matter about the reasons advanced by the magistrate or about his failure to give the union a hearing before deciding the matter

Mathews commented, "The AD attitude is that once the minister has banned all outdoor meetings there is no right to hold such meetings and therefore no right to be heard"

He went on The civil rights involvement of the lower courts over the last few years has shown much more initiative and was more promising than before It seemed there might be a movement which would place the courts clearly at the centre of the clash between the rights of the individual and the state

However from some signs of hope two or three years ago that the AD was seriously concerned about the erosion of human rights it has become obvious that the initiative of the lower courts in the last year has been halted by the AD

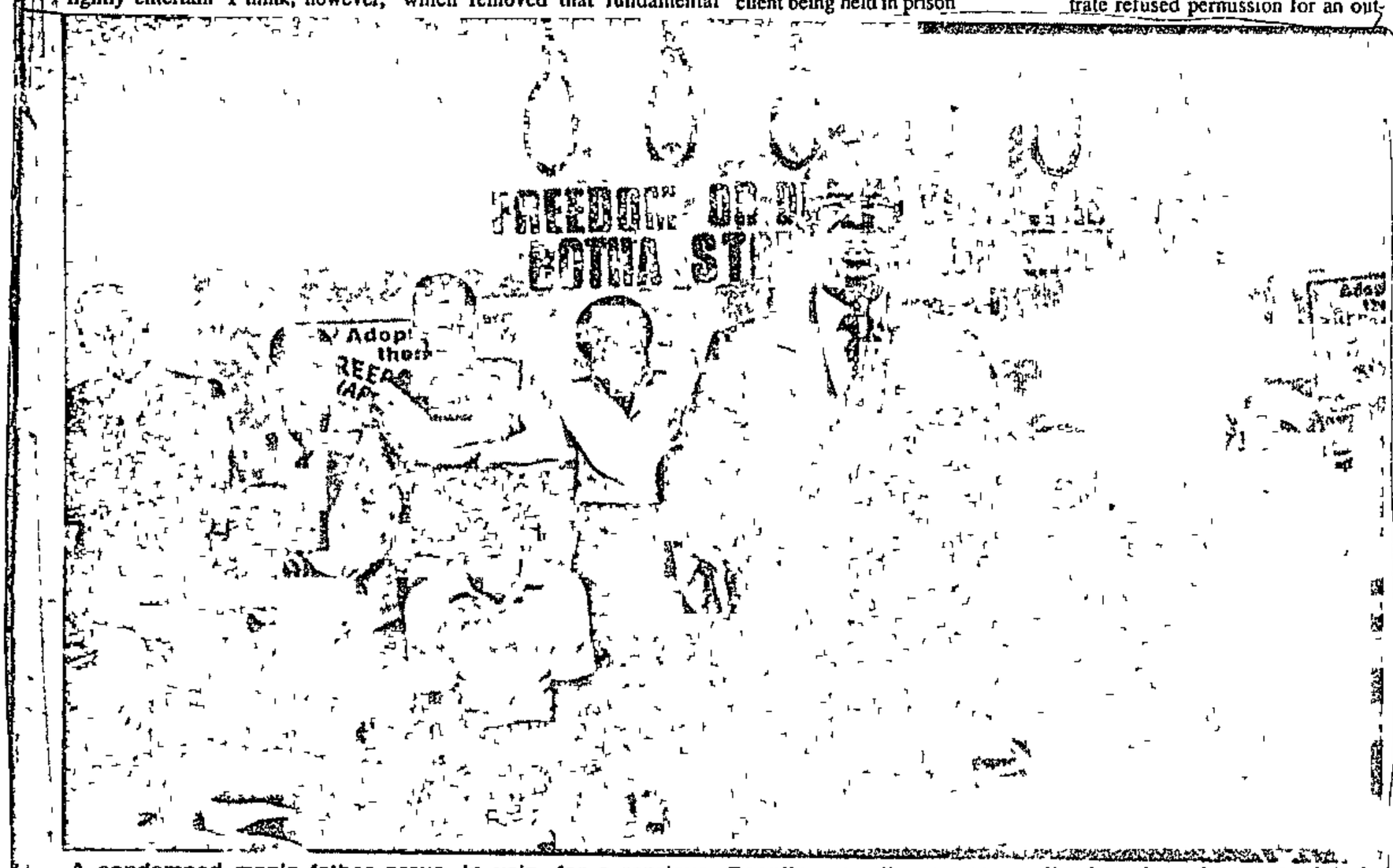
"I can only ascribe it to the Emergency climate which seems to have affected all institutions in South Africa including the courts

"There are still the occasional good judgements by the lower courts — and I don't believe civil rights lawyers should give up — but the groundswell in the security field has essentially been halted As far as Emergency laws are concerned, the mood of the AD seems to be to leave it all to the authorities"

Edwin Cameron of the Centre for Applied Legal Studies at Wits said he believed the Omar and Castel judgements, together with an AD judgement last year against the Natal UDF publicity secretary, Lechesa Tsenoli would be seen to form 'the infamous trio of the mid 1980s'

"They follow a similar controversial trio of the mid 1960s In the cases, the AD ruled they should not interpret repressive legislation in a way which favours individual liberty, but rather simply give effect to the presumed intention of the legislature no matter how oppressive to the individual

'In the latest trio, the AD has ignored the heavy criticism of the earlier judgements made by academics over more than 20 years"



A condemned man's father prays, in vain, for a reprieve Despite mounting pressure, the hangings have escalated

Picture GIDEON MENDEL

The two policemen, Matshwenyego Makgubudi, 29, of Attendgeville and Tshifhango Rabuli, 35, of Soshanguve near Pretoria received sen- as the year in South Africa's legal history when the interests of "state security" triumphed over individual nees were freed by the Transvaal Supreme Court Bongane Dlamini and Lawrence Ntlokoa of Kagiso, Kru that they had not been interrogated.

Section 29 allows for indefinite detention, but only for the purposes of

Advocate questions role of the Appellate Division

By Bruce Anderson

Some of South Africa's best known judges had started to indulge in the total onslaught rhetoric that stemmed from the Government and was produced daily by the SABC, Mr Edwin Cameron, an advocate and member of Wits University's Centre for Applied Legal Studies, said yesterday at a meeting to commemorate Human Rights Day

An example was Acting Chief Justice Rabie, who had recently given an interview to an American journalist in which he had said South Africa was fighting a war against strangers who crossed its borders carrying bombs

Mr Cameron said recent Appellate Division decisions "created the impression of a court that is fundamentally hostile to human rights"

He noted that the hearing of political and security cases seemed to be limited to a particular segment of the Appellate Division's judges, and suggested that Mr Justice Rabie owed the public an explanation on this issue.

There appeared to be "a doctrine of judicial ... acquiescence in Government power at work in the Appellate Division"

Mr Cameron added that although Mr Justice Munnik's integrity as a judicial officer had been called into question by an Opposition parliamentary spokesman over the Munnik Commission, Mr Justice Munnik had declined to answer — a situation that, under normal circumstances, would be unthinkable.

The task of the judiciary should be to "keep a vigil over such basic freedoms that remain, as the crisis deepens"

UNPRECEDENTED

"It is easy to forget that this emergency is in every sense unprecedented in our history"

Mr Cameron stipulated three conditions for the survival of the judiciary in an unfree society

Firstly, there should be genuine judicial impartiality on issues of partisan division.

Secondly, the appointment and promotion of judges, and their assignment to cases, should be honest.

Thirdly, there should be genuine judicial activism on matters affecting public freedom.



Mr Edwin Cameron "Recent Appellate Division decisions create the impression of a court fundamentally hostile to human rights"

1987 was 'an appalling year for human rights'

By Bruce Anderson

It had been another appalling year for human rights in South Africa, said Mr Raymond Tucker, chairman of the Witwatersrand branch of Lawyers for Human Rights (LHR), yesterday at a meeting commemorating International Human Rights Day

Mr Tucker said that LHR wished to record its demand for the release of all detainees and the removal of press restrictions.

"We direct to those in detention and to the editors of embattled publications a message of support, and wish them strength and courage," said Mr Tucker

GRIM SIGNIFICANCE

He said that many detainees had been incarcerated for more than a year, and some like Mr Raymond Suttner, a University of Witwatersrand law lecturer, had been in detention for 18 months.

"The Appellate Division has done little to assist the individual," said Mr Tucker "Instead it has given the State virtual carte blanche in the application of emergency laws and recent decisions of the AD relating to detainees represented a low water mark."

The commemoration of Human Rights Day in the present circumstances in the country took on "both a grim and important significance," said Mr Tucker

"Grim, because the conditions grow worse and are taking on the character of permanence, important, because without constant vigilance and reminder it becomes all to easy to accept the current conditions as normal — especially when so much of what happens cannot be reported."

Justice is celebrated — with a ban

The Star's Africa News Service

WINDHOEK — Namibia yesterday celebrated its first Human Rights Day — after the Cabinet had announced a ban on all public meetings.

The ban was announced by the chairman of Namibia's National Unity Cabinet, Mr Jan de Wet.

It was imposed in terms of the Riotous Assemblies Act and was in force from Wednesday until tomorrow

Human Rights Day marks the anniversary of December 10 1959 when several people died resisting removals from Windhoek's old location to the new township of Katutura.

Mr de Wet's conservative White National Party of South West Africa opposed the creation of the public holiday earlier this year and announced it would not take part in the commemorative service at Windhoek's "old location" cemetery

The killings led to the formation of Swapo and the day is regarded as a landmark in the Namibian struggle for independence

Commitment to rule of law affirmed

By Pat Devereaux

South African lawyers have to acknowledge that there are now situations in this country where lawyers cannot be effective, says Mr Charl Cilliers, chairman of the Legal Resources Trust, in the Legal Resources Centre's (LRC) annual report

But members of the LRC, which provides a legal service to people and communities who cannot afford it, will remain committed to the concept of the rule of law in a just society and to using their professional skills to achieve justice wherever possible, adds Mr Cilliers

Operating from a national and five regional offices, the LRC does not charge its clients fees and is dependent entirely on income from donations through the Legal Resources Trust

Major work fields for the LRC include problems of residence, citizenship, consumer abuse, housing, labour matters, corruption of public officials and human rights violations.

FIRMS WITHDRAWING

Although donations to the trust for the year ended March 31 amounted to R3 369 200 and were significantly higher than in previous years, the trustees aim to make the centre less dependent on annual grants, says the report

Mr Cilliers says the trust should expect a decrease in contributions from benefactors because several American corporations have withdrawn or are in the process of withdrawing from South Africa, although they have indicated continuing interest in support for social-responsibility programmes.

EMERGENCY

Combined reports from the various LRC offices state that questions of land and housing have been among the most important tackled by the organisation in the past year.

According to the report, all LRC offices have found themselves with a considerable amount of work arising out of the state of emergency

And a large number of complaints received have been related to the conduct of the security forces in enforcing the emergency

Labour problems continue to form a large part of the work for all the LRC offices and most cases relate to unfair dismissal, the report says

Details of the ongoing work in each regional office, and the organisation's financial statements for the year, also appear in the report

PROFESSIONS

JAN - DEC 1988

SMM 4/1/88

A-born judges 'ailings' of UK a.pers, reporters

The Star Bureau

LONDON — South African-born judges sitting in England's High Court are giving some of their colleagues lessons in independence of mind, says a Fleet Street columnist.

"Mr Justice Scott and Mr Justice Hoffmann are not only among the the brightest rising stars in the judicial firmament, they have also recently shown themselves prepared to take a firm, anti-establishment line in their rulings," adds Observer of the *Financial Times* Men and Matters column.

"Both have endeared themselves to the press — not, as is usually the case with judges, because of purple prose judgments making good copy — but because they have spoken out strongly for the rights of newspapers and journalists."

The columnist says that Mr Justice Scott's judgment in the Spycatcher case was not only highly critical of the government's attempts to stop newspapers writing about the book, but also asserted that the factors in favour of press freedom were "overwhelming" and that "the ability of the press freely to report allegations of scandals in government is one of the bulwarks of our democratic society".

Mr Justice Hoffman was also the one judge who refused to order Jeremy Warner, business correspondent of *The Independent* newspaper, to disclose his sources to inspectors investigating insider dealing.

The columnist says that another characteristic of both men — which they share with Mr Justice Steyn, the third South African-born judge currently sitting in the High Court — is "a lack of stuffiness that is not a strong trait among the judiciary"

ATAL and CAPE 80c (71c + 9c tax)

B/day 6/1/88

Govt facing row over chief judge

(248)

GOVERNMENT is facing a major row as lawyers and politicians have charged that the appointment for the first time of an Acting Chief Justice may be *ultra vires*

Chief Justice Rabie was appointed Acting Chief Justice in a controversial move when he reached the mandatory retirement age of 70 in February last year Last week in a letter published in Business Day, Advocate Peter Leon argued the constitution did not provide for such an appointment

Senior lawyers canvassed yesterday criticised government's action, saying

ROGER SMITH

they suspected it was intent on appointing a particular judge it preferred to the post, rather than those who might have been appointed on Rabie's retirement

Minister of Justice Kobie Coetsee yesterday remained adamant the appointment was "legal"

He said he could not be expected to reply to arguments challenging "actions and/or a status quo which are obviously legal and legitimate"

But legal sources say it would be possible to challenge the appointment in court and if it were found to be *ultra vires* decisions made by Acting Justice Rabie in his capacity as Acting Chief Justice could be nullified

PFP justice spokesman Dave Dalling, who raised the issue of Coetzee's failure to appoint a new Chief Justice in Parliament last year, said yesterday there was very real doubt as to the legality of the appointment.

"It is not at all certain the minister has the power."

He said he did not know what this

● To Page 2

Govt faces row over chief judge

● From Page 1

meant in terms of the legality of judgments handed down by the Acting Chief Justice

He said the issue might well be raised in Parliament in the forthcoming session

Director of Wits University's Centre for Applied Legal Studies Professor John Dugard declined to give a final view on the legality of the appointment But he said the issue had been the subject of argument in legal circles and there were some who supported the view it was *ultra vires*

He knew of some who had considered bringing the matter to court, but had not yet done so

Other lawyers and a retired judge, none of whom wished to be named, told Business Day they agreed with Leon's argument

It was also supported by Lawyers for Human Rights spokesman Brian Cohen

He said if the appointment was *ultra vires* there would be nothing to stop an interested party from moving to have it annulled

He associated himself with the views of Advocate Edwin Cameron, who earlier highlighted the issue in a speech criticising the conduct of certain judges, including Rabie, and complained of the absence of explanation for the extraordinary nature of Rabie's appointment

Dugard commended Cameron for speaking out on the issue, saying his views reflected those of a large number of the profession

Business Day

THURSDAY, JANUARY 7 1988 50c (45c + 5c tax)

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'Moral judges may have to quit'

CONCERN over a recent decision by the Appeal Court has led a leading academic lawyer to argue that resignation could become the only decent option for the "moral judge".

Writing in the South African Journal for Human Rights, director of Wits Uni-

● See Page 4

ROGER SMITH

versity's Centre for Applied Legal Studies Professor John Dugard examined the Appellate Division judgment in June last year in the case of Cape Town advocate A Omar, whose challenge of the validity of his detention and the emergency regulations was rejected

Dugard warned that if the decision was followed by similar judgments — in which preference was given to the interests of the State over individual rights — the position of the "moral judge" committed to the traditions of common law might become untenable

He said the decision supported the views of Professor Raymond Wacks, who had argued that SA judges properly allowed themselves to be guided by the "morality" or "institutional history" of the white community

"If the Appellate Division acts in accordance with the views expounded by Raymond Wacks, resignation may become the only decent option for the 'moral judge'," writes Dugard

The article contrasts with earlier statements he has made defending "the positive role" judges can play by remaining on the Bench

After an International Commission of

● To Page 2 ⇨

'Moral judges may have to quit'

⇦ ● From Page 1

Jurists delegation to SA last year criticised the SA judiciary for "lending undeserved credibility" to an unjust system, Dugard said advocacy of resignation might be counter-productive, given recent signs of a re-awakening of judicial conscience

He said then "Obviously there comes a time when the moral judge has no option but to resign. Many may argue this point has already been reached in SA — that the passing of discriminatory laws, or the introduction of indefinite detention without trial, should have served as signals for resignation"

But he said judges who opposed such laws believed they could contribute more to the advancement of racial justice from their position on the Bench than they could by emigration or by indulging in lucrative commercial law practice

Asked to comment this week, Dugard said he had not changed his position on the issue, but it was clear the Omar case ruling "makes it very difficult for those of us who hold this position"

He said it was now more difficult to retain the views he had expressed

He regretted the judiciary did not appear to have taken notice of the debate on the issue in legal circles and that support for the view that judges should resign was growing with instances such as the Omar case

B/day 7/1/88

SA's judges stand accused

JOHN DUGARD
Professor of Law and Director of the Centre for Applied Legal Studies, University of the Witwatersrand



□ JOHN DUGARD

If the Appeal Court's decision rejecting the challenge to the emergency regulations in the Omar case last year is a warning of judicial policy, and if it is followed by similar judgements, the position of the "moral judge" committed to doing justice in the traditions of the common law may become untenable, writes Dugard in the South African Journal on Human Rights

THE OUTCOME of the Omar v Minister of Law and Order appeal was a disappointment to those who naively believed the Appellate Division was becoming more rights conscious

Recent decisions had given rise to hopes that the judicial dark ages had ended and that the Appellate Division had embarked upon a course in which fundamental common-law rights would be given preference over interests of national security and governmental bullying in the interpretation of ambiguous statutes and the review of administrative action

The Omar case suggests this optimism was misplaced and that we are back to square one, which in judicial terms is Rossouw v Sachs, 1964

The judgement in Omar concerns the weight of fundamental common-law rights in the interpretation of the emergency regulations Can emergency regulations that exclude the right to counsel and the *audi alteram partem* rule without clear authorisation, express or implied, in the enabling statute, be good in law?

The legislative and judicial facts necessary for an understanding of the Omar judgement are briefly as follows

The Public Safety Act 3 of 1953 permits the State President to declare a state of emergency and to "make such regulations as appear to him to be necessary or expedient for providing for the safety of the public, or for the maintenance of public order and for making adequate provision for terminating such emergency or for dealing with any circumstances which in his opinion may have arisen or are likely to arise as a result of such emergency"

In 1985 and 1986 the State President declared a state of emergency and issued regulations which authorised the arrest of any person whose detention was, in the opinion of a member of the police or armed forces, necessary for "the maintenance of public order or the safety of the public or that person himself"

Such a person might be detained for a period not exceeding 14 days, but the Minister of Law and Order might "without notice to any person and without hearing any person" extend the period of detention.

No person, other than a State official, "shall have access" to such a detainee "except with the consent of and subject to such conditions as may be determined by the Minister or the Commissioner of the South African Police"

Finally, in terms of rules issued by the Minister of Justice acting under reg 3(9), it was provided that no detainee might be visited by any person, except with the permission of the person in command of the prison "provided that if a legal representative desires to visit such a detainee, the permission of the Minister of Law and Order or the Commissioner of the South African Police shall be obtained for such a visit" — rule 5(1)

In Omar v Minister of Law and Order the validity of detentions was challenged on two grounds First, that reg 3(3) was *ultra vires* because it excluded the common-law right of a detainee to be heard at the time of the extension of his detention beyond 14 days, and, secondly, that reg 3(10)(a) and rule 5(1) were *ultra vires* because they denied the detainee of this fundamental right of access to his legal adviser

Judge Vivier, with Judge President Munnik concurring, rejected both these challenges, but Judge Friedman, dissenting, upheld the challenge to reg 3(3), finding that

"However wide the State President's powers might be under the Public Safety Act to make regulations providing for the detention of persons, there is nothing in that Act which either expressly or by necessary implication permits the State President, in promulgating regulations for detention, to override the fundamental procedural rule of fairness and of natural justice embodied in the *audi alteram partem* maxim"

In Omar the Appellate Division was faced with the first challenge to the validity of the emergency regulations of 1985 1986 on the basis of their incompatibility with fundamental common-law rights

The importance of the appeal was underlined by the fact that the issues before the court had been considered by at least 16 judges in five divisions of the Supreme Court, with the judges fairly evenly divided

In these circumstances one might be forgiven for having expected first, that the court would have been constituted to include, in addition to the Acting Chief Justice, the most senior judges of appeal, and, secondly, that the court would have delivered a carefully reasoned judgement, with a full consideration of all the relevant authorities and arguments

Both of these expectations were unfulfilled

First, the court was composed of Acting Chief Justice Rabie and Judges of Appeal Joubert Viljoen, Hoexter and Boshoff (acting) Senior judges such as Jansen and Corbett were excluded and little attempt was made to include judges perceived to be non executive minded

Secondly, the majority judgement, delivered by Rabie, hardly reads like a judicial response to a matter of major public importance

Written in the style of a judgement on the interpretation of a hire-purchase agreement or municipal by law rather than a law that has authorised the detention without trial of many thousands, it cites little authority, fails to deal adequately with the arguments canvassed in the provincial and local divisions and even omits to respond to the arguments by dissenting judge Hoexter

The majority judgement rejects the argument that reg 3(3) is *ultra vires* on the grounds of unreasonableness The challenge to the validity of reg 3(10)(a) and rule 5(1), based on similar arguments, is likewise dismissed

In both instances the court finds that the wide powers conferred on the State President permit him to take drastic actions that he considers to be "necessary or expedient" for dealing with the emergency situation, even if this results in the violation of fundamental rights

In his dissenting judgement Hoexter adopts a different approach to the exclusion of fundamental rights by subordinate legislation, stressing that the *audi alteram partem* rule is to be presumed to apply in the case of an enactment empowering an official to make an order prejudicially affecting the rights of another unless there is a manifest intention to exclude it

As reg 3(10)(a) and rule 5(1) purported to apply to persons held for their own safety as well as to those detained for the safety of the public, they were beyond the contemplation of Parliament and bad in law

Strangely, this persuasive argument which links the right to counsel with the declared purpose of a detention in reg 3(1) is not considered by the majority in Omar

In cases of this kind it is appropriate to consider the reasons for the exercise of a judicial choice Judges who refuse to accept the exclusion of basic rights without statutory authorisation are generally guided by a determination to protect individual rights against infringement from the State, and have no hesitation in articulating this philosophy

However, when judges are guided by interests of national security or loyalty to the executive they often prefer to leave the considerations which influenced their choice inarticulated

This is certainly not true of the judgement of Judge M T Steyn in the Bloem case, which expounds a "total onslaught" theory as an inspiration for a pro executive approach, but it does describe the approach of the majority in Omar, for Rabie refuses to articulate the reasons for his choice beyond a general expression of judicial subordination to the executive and hints about the need to protect sensitive information

In his controversial inaugural lecture ("Judge and Injustice," 1984) Professor Raymond Wacks argues that South African judges properly allow themselves to be guided by the "morality or institutional history" of the white community in exercising their choice in the interstices of the law

I believe that Wacks is wrong Racist and repressive statutes must be interpreted in accordance with the principles of equality, liberty, reasonableness and natural justice wherever the law permits of more than one interpretation

There can be little doubt, however, that Omar gives support to Wacks's view

The lack of concern shown by the court for rights judged to be fundamental by the common law, and the failure of the court to consider adequately decisions extolling the importance of these rights, suggests that it was guided, not by considerations to be found in the inherited values and principles of the common law, but by subconscious inarticulated assumptions about the preservation of existing power structures — which Wacks would describe as a component of white 'community morality'

Rossouw v Sachs, 1964 expounded a pro executive judicial policy which was to guide not only the Appellate Division but also the provincial divisions until the early Eighties

Thankfully, there is evidence to suggest that many of our present judges in the provincial divisions are unlikely to accept policy directions from the Appellate Division on matters affecting individual and state in this way

However, if Omar is a warning of judicial policy from Bloemfontein, and if it is followed by similar judgements — as was Rossouw v Sachs — the position of the 'moral judge — the judge committed to doing justice in accordance with the traditions of the common law — may become untenable

If the Appellate Division acts in accordance with the views expounded by Raymond Wacks, resignation may become the only decent option for the "moral judge"

□ *Extracts from Focus on Omar South African Journal on Human Rights, Vol 3 Part 3*

Workers can decide fair shares

LETTERS

Dear Sir,

IN A recent letter to Business Day on the subject of industrial relations, Professor L Douwes Dekker, of the Wits Graduate School of Business Administration, wrote that share ownership in a company does not give one a personal stake in the well being of that company

Apparently he is unaware that shareholders are entitled to a share of the profits of the company, and that therefore shareholders who also work for the company would tend to adjust their behaviour so as to help the company rather than do things like go on strike

Dekker also criticised the "unilateral" nature of the Anglo share offer, saying it was an "individualist' act which clashes with the "collective" nature of unionism

What the "collectivists" apparently don t like is the idea that each worker can decide for himself whether or not to take up the offer Far preferable for collectivists is the system whereby the union barons run workers' lives for them Individualism is far too democratic for collectivists

Unlike Dekker and the unions, I have every faith in the workers' ability to decide for themselves whether to take up Anglo's share offer No coercion in involved here -- workers who do not want shares cannot be forced to take them

It is interesting to note that in fact workers have come out overwhelmingly in favour of share ownership — it is only the union leaders who are opposed to them

The share offers blur the simple sociology textbook lines between capitalists and workers defusing the workplace and doing the union agents provocateurs out of a job

E R TUCKER
Johannesburg

Omar appeal 'signals return to legal dark age'

Lawyers slate judgment in landmark case

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SMM 8/1/88

'The Omar appeal judgment has raised serious questions about the attitude of the Appeal Court to human rights, its relationship to the Government, and the position of 'moral' judges on the Bench. Eight legal experts writing in the *South African Journal on Human Rights* have examined the judgment and its implications for South African law. JANINE SIMON reports

The Omar appeal judgment was, by all accounts, a significant event in South Africa's legal history

The Appeal Court considered for the first time a challenge to the emergency regulations based on fundamental common-law rights. The outcome — that these rights could not stop the State President deeming it necessary or expedient to take action for public safety — has been analysed as signalling a return to a legal "dark age"

In the Omar decision, the Appeal Court ruled on three cases, involving similar points of law, regarded as having crucial implications for emergency detainees.

The appeals — brought by Mr Abdullah Omar, a Cape Town advocate, and five others, and in the case of Fani vs The Minister of Law and Order and the case of The State President vs Bill — raised essentially the same points of law

They were can emergency regulations that exclude the right of a detainee to consult his legal representative and the right for both sides to be heard in a case, the *audi alteram partem rule*, be good in law?

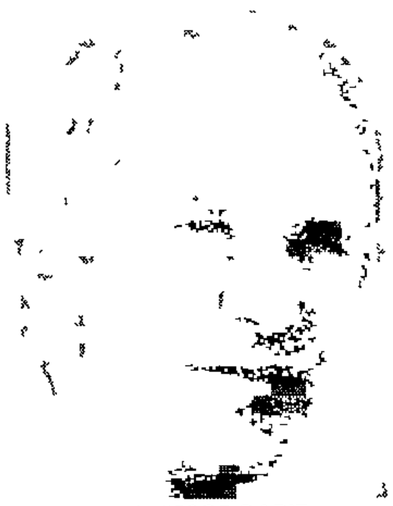
The appeals in the Omar and Fani cases were brought after the failure of an Eastern Cape Supreme Court action for the release of 10 detainees and the failure of a Cape action for the release of Mr Omar and five others.

The appeal in the Bill case was brought by the State President, the Government and the Minister of Law and Order after a Rand Supreme Court judgment granted a detainee, the Rev Jean-Francois Bill, the right to make representations about his detention after being held for an initial 14 days

Dismissed

The Omar case challenged emergency regulations on two grounds that regulation 3(3) excluded the common-law right of a detainee to be heard when his detention was extended beyond 14 days, and that regulation 3(10)a and rule 5(1) deprived the detainee of the fundamental right of access to his legal adviser The judgment dismissed both challenges.

In his analysis of the judgment, Professor Andre Rabie of the University of Stellenbosch said the hearing had had



PROFESSOR RABIE

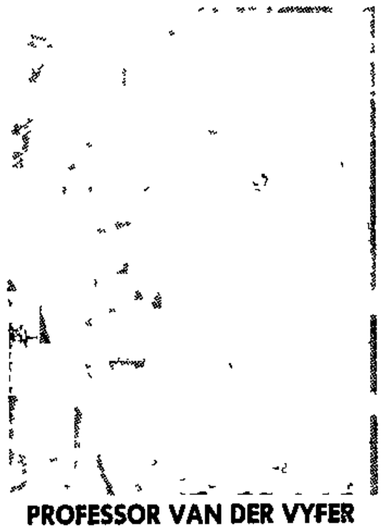
the potential of a showdown between the courts and the executive, as it involved a decision by SA's highest court on the exercise of power by its supreme executive authority

And, said Professor John Dugard, director of the Centre for Applied Legal Studies at Wits, its importance was underlined by the fact that the issues before the court had been considered by at least 16 judges in five divisions of the Supreme Court, with the judges fairly evenly divided in their rulings

Professor Dugard said the court should have been constituted to include not only the Acting Chief Justice but the most senior judges of appeal, and that it should have delivered a "carefully reasoned judgment with a full consideration of all the relevant authorities and arguments"

According to legal experts writing in the *South African Journal of Human Rights*, this was not so

The court consisted of Acting



PROFESSOR VAN DER VYFER

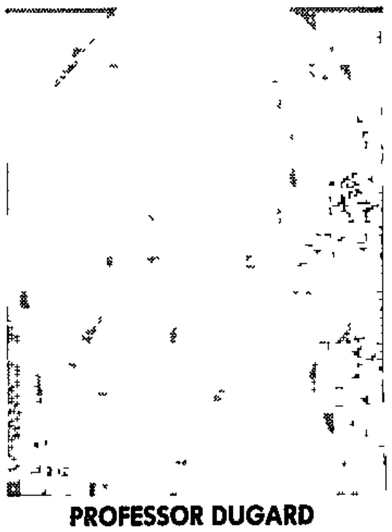
Chief Justice Rabie — whose reappointment last year has recently been criticised in legal circles because he is past the mandatory retirement age of 70 — and four other judges

Professor Dugard claims that other senior judges were overlooked and little attempt was made to include "non-executive"-minded judges

Assertion

Secondly, perhaps the most criticised factor of the judgment was that throughout its 16 pages it used mere assertion, rather than legal authority, to substantiate its rulings, the legal experts said

The judgment, with which three co-judges agreed and one dissented on some points, found in both instances that the powers conferred on the State President by the Public Safety Act of 1953 allowed him to take actions he considered necessary or expedient for dealing with the emergency, even if



PROFESSOR DUGARD

they violated fundamental rights

"It is not open to a court . to substitute its assessment of what would be necessary or expedient to achieve the purposes mentioned and to hold that the regulation is invalid because the State President could, in its judgment, have dealt with the matter in issue in another, less harsh way," the judgment read

This interpretation of the power of the Act was criticised strongly by all the experts

Oxford law student Mr Graham van der Leeuw made a common point in explaining that it was arguable whether Parliament, in drafting the Public Safety Act, intended to allow the State President to deny the fundamental right of reply to a detainee

Because there were alternative interpretations, Acting Chief Justice Rabie had erred in deciding the Act necessarily conferred this power on the President, he said

The legal experts' general opinion was that the Appellate Division had failed to take up its right and responsibility to mediate between the autocratic, executive arm of government and the liberty of the individual

Professor Dugard said the court's lack of consideration for rights that were judged to be fundamental suggested it was guided by subconscious, inarticulated assumptions about the preservation of existing power structures

If the Omar case was a warning of judicial policy from Bloemfontein and if it was followed by similar judgments, the position of the "moral" judge — the judge committed to doing justice in accordance with the traditions of common law — might become untenable, Professor Dugard said

Professor Rabie said the judgment clearly deferred to the executive and established an "unfortunate precedent" that would probably serve to discourage individuals from relying on the courts for protection

Professor A S Mathews of the University of Natal said the judgment took the security system at face value without a hint of recognition of the underlying reality of the mobilisation of security powers for sectarian political goals .. "the litigant was finally thwarted by a majority of *oumas* in Bloemfontein"

Prof Lawrence Baxter of Duke University, North Carolina, described the judgment as a "political and legal disaster for SA".

Two more top law academics quitting SA

LINDA ENSOR

TWO prominent legal academics have accepted posts overseas, bringing to five the number of top university law professors who have quit SA in the past year.

Their leaving is being ascribed to a growing lack of confidence in the SA legal system.

University of Natal (Durban) law faculty dean Laurence Boulle and assistant dean Peter Spiller will be leaving SA in March to take up lecturing posts at Adelaide University in Australia and the University of Canterbury in Christchurch, New Zealand, respectively.

Laurence Baxter, formerly of the University of Natal (Maritzburg), and Cape Town University's Barry Dean and J T Schoombee — generally regarded as one of the more promising public lawyers in the country — have also left.

John Dugard, director of the Centre for Applied Legal Studies at the University of the Witwatersrand, said the departure of so many top legal academics reflected the growing lack of confidence in the legal system, which has been under the spotlight recently over the manner in which judges are appointed.

Increasingly difficult

Dugard said it was increasingly difficult for these academics, who were all involved in teaching public and administrative law, to justify their position in SA's legal system. Academics involved in teaching commercial law did not face the same dilemma.

Spiller said of his prospective home, New Zealand: "It's a social welfare state and I believe in that." He said SA's political future was "uncertain" and added he wanted "to provide more options for my family".

Dugard said it was becoming increasingly difficult for financial and political reasons to recruit new staff for law faculties.

He said: "The discrepancy between university salaries and those prevailing in the private sector is so great as to make it virtually impossible to attract young people as lecturers."

In addition, a number of good, committed young lawyers were leaving the country to avoid military service.

Judge row: law societies speak

ROGER SMITH

THE Association of Law Societies (ALS) has called on government to make public its reasons for appointing an Acting Chief Justice.

In a statement, ALS president Keith Wilson said the circumstances of the appointment of Acting Chief Justice Rabie were unusual and might have been expected to give rise to speculation.

"As this is obviously most undesirable that the office of Chief Justice or its incumbent should be the centre of controversy, it is the association's view that the reasons, which are no doubt unexceptionable, for Mr Justice Rabie's reappointment on an acting basis should be made public as soon as possible."

In a separate development, Justice Minister Kobie Coetsee has rejected criticism of government's appointment of Mr Justice van Heerden as Judge President of Natal when he is due to retire after only six months in the post.

Mr Justice van Heerden replaces Mr Justice Milne, who has been appointed to the Appellate Division.

In response to a Business Day question why government had made the appointment despite Mr Justice van Heerden's impending retirement, Coetsee said yesterday he found the question to be "amazing almost to the point of describing it as arrogant".

He asked whether Business Day was aware Mr Justice van Heerden had been Acting Judge President before and that he would have been Acting Judge President in any event during the leave which was due to Mr Justice Milne in the early part of this year.

Some Natal lawyers, who do not wish to be named, have criticised the brevity of the duration of the appointment

Judge row: law societies speak

(248) B/day 12/1/88

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LAW

A case of morality

Law professors will be rubbing their hands with glee as those old jurisprudential conundrums — what is the status of law, and how should judges behave in an "unjust" society? — surface again

Generations of law students have struggled with these problems They are in the news again following criticism, from respected sources, of some recent happenings in the South African legal world

The ball started rolling with a speech given last year at the University of Natal by Edwin Cameron SC, a research officer at the Centre for Applied Legal Studies at Wits

He made three main criticisms The first related to a judgment given by Justice M T Steyn in Bloemfontein, shortly after the State of Emergency was declared in June 1986 Cameron criticises Steyn for prefacing his judgment with "a politically partisan, emotive and one-sided exposition of the government's view of the causes of and necessity for the State of Emergency"

Cameron continues: "The 'Bloem pronouncement' constitutes a startling venture by a Supreme Court Bench out of the realm of dispassion into the world of thoroughly partisan political rhetoric (It) is a sobering exercise in how judges should not act"

The second criticism deals with the practice of appointing politically compliant judges to head commissions of inquiry (the Munnik Commission, in particular, is mentioned) Finally, the constitutionally unprecedented extension of Chief Justice Rabie's tenure, without explanation, is questioned

The central concern is with the status of the "rule of law" in this country At its most basic, the rule of law means exactly that: when you go into court you can expect to be tried according to *the law* as it stands (not according to what the community might deem correct, or what the judge himself might consider desirable).

Cameron notes "The public must be confident the judicial garb of impartiality and dispassion, which is so important a part of our legal heritage, really exists"

More recently, John Dugard, Director of the Centre for Applied Legal Studies at Wits, voiced concern at the decision last year in the case of *Omar v Minister of Law and Order* In that case, the Appellate Division was faced with the first challenge to the validity of the emergency regulations of 1985-1986, on the basis of their alleged incompatibility with common law rights Dugard deplores the poor quality of the majority judgment (delivered by Acting Chief Justice Rabie), which fails to spell out its premises.

Dugard himself argues that this was the missing premise. the judgment was guided by "subconcious, inarticulated assumptions about the preservation of existing power structures" Dugard's comments are particularly noteworthy in that he is forced to admit that too many such cases might make resignation "the only option for the moral judge"

In 1984 Professor Raymond Wacks argued that South African judges do allow themselves to be guided by the "morality" or "institutional history" of the white community in exercising their choices in areas where they had to use their discretion Since this morality in SA was racist, and hence intolerable that it be applied, Wacks believed South African judges should resign Dugard differed, believing that in these instances racist and repressive statutes should be interpreted "in accordance with the principles of equality, reasonableness and natural justice"

Dugard still stands by those views, but is forced to acknowledge that *Omar* lends support to Wacks's view.

Much jurisprudential ink has been spilled concerning the status of law in unjust societies The view taken on this matter is likely to depend on the extent to which one believes there should be an overlap between law and morality

There is a Latin maxim, central to Natural Law theory *Lex injusta non est lex* (an unjust law is not a law) This, however, should not be taken to mean that there is no law in SA; all sorts of legal transactions take place every day in this country What the maxim does mean is that it is possible to speak of law having a central (moral) sense Insofar as a country's legal system departs from accepted morality, so it departs from law in its central sense On this view, then, SA has law, but much of it is not moral

The positivist legal tradition has no trouble with "evil legal systems" For them, law and morality are completely separate So long as law emanates from the correct source, it doesn't have to be good or moral

For others, such as Ronald Dworkin, Professor of Jurisprudence at Oxford, evil legal systems are much more problematic Dworkin is driven by his theory to concede that in some cases a judge might be obliged to lie This situation might arise in a country such as SA, where it could turn out that the best available account of community morality is that it is, indeed, racist If the judge cannot avoid, on an honest reading of the precedents, this morally repugnant conclusion, then Dworkin thinks it might be right for the judge to lie so as to avoid this conclusion

It must be hoped that more liberal spirits on the Bench are not cowed by some of the recent setbacks More than ever, with individual rights under such powerful assault from the Executive, it is important that we do not lose what is left of the Rule of Law ■

Vacancies on Natal bench may end brief 'liberal' era

By CARMEL RICKARD, Durban

CIVIL Rights watchers expect the character of the Natal judicial bench to change significantly this year because of a number of vacancies which will have to be filled.

For some years lawyers have believed there has been a tendency for a significant proportion of the Natal bench to be more concerned about human rights issues than the judiciary in some other provinces — and to reflect this concern in judgements

Now the province has lost its two most senior judges, both closely associated with this concern for civil rights the acting deputy judge president, Mr Justice Ray Leon, retired towards the end of last year, while the judge president himself, Mr Justice John Milne, has been appointed to the Appellate Division in Bloemfontein

Mr Justice Auret van Heerden will fill the post of judge president for six months, and his new deputy, Mr Justice Allan Howard will take over as judge president mid-year

This leaves the bench with two vacancies and it is widely expected that a third will occur soon with the imminent appointment of another Natal judge to the Appellate Division This judge's appointment has not yet been officially announced but there is little doubt that there will soon be three new faces on the bench in the province.

Observers describe the next period as a "vital time" for Natal and believe that the character of the bench could have changed substantially by this time next year

Meanwhile, another legal expert has joined the controversy over the reappointment of former Chief Justice Pierre Rabie He officially retired last year when he turned 70, the statutory age for retirement, but he was then appointed as acting chief justice, a position which has never existed before

Professor of public law at Natal University, Laurence Boulle, said this week there was little doubt that the appointment of Mr Justice Rabie was "unconstitutional"

Boulle — an expert on constitutional law — said this was clear both from the relevant laws relating to the appointment of acting judges, and because the obvious intention of parliament was not to allow for this kind of appointment

However, he added that while the appointment might be unconstitutional this did not mean a court would find it illegal and he did not believe there would be much chance of a successful court challenge to the appointment.

"In terms of the practical realities of our legal system it would probably never be declared illegal

"It is unlikely that a judge would ever be prepared to make such a declaration In addition there is some ambiguity in the language which would give a judge a way of not finding the appointment illegal "

Boulle said the clear intention of parliament in allowing for acting judges, was to provide a short term solution for a temporary need which could only be met by acting judges

"There is clearly no such need now and therefore this is not the kind of situation contemplated by the legislature

"From a political point of view it is also clearly improper in that the authorities failed to give adequate reasons for the appointment."

-ulation Ad

Study on training of black lawyers

By Bruce Anderson

The training of more black lawyers is one of the most important items on the agenda for the Association of Law Societies (ALS), says the association's newly-appointed president, Mr Keith Wilson.

A scientific study by the society, in conjunction with the Human Sciences Research Council, is tackling the general problem of entrance to the legal profession. The findings of the study are expected by the middle of this year

One of the study's priorities will be to look at the the difficulties experienced by people from underpriviliged backgrounds who wish to enter the profession.

"Once the study's findings are available, we'll know the extent of the problem," says Mr Wilson.

Among the possible solutions could be a full-time practical training course as an alternative to articles of clerkship. Such a scheme would make it possible to train more lawyers to enter the profession after law school. However, plans for this option are still "at a very tentative stage," says Mr Wilson

He also believes there are too many law faculties in South Africa

"There are something like 18 or 19 law faculties," he says "our country is simply too small to support that many law faculties"

He does not believe that the training of more lawyers would necessarily help the large numbers of unrepresented accused in the magistrates' courts.

Although he believes that an increase by the Government of the legal aid budget might help supply more lawyers for such work, he acknowledges that "thousands of people are already asking the Minister of Finace for money".

Legislation has been drafted by the ALS which recommends allowing final-year law students the right of appearance in magistrates' courts

The students would not be unsupervised in the courts

In the same way that a attorney supervises articled clerks in court, a senior lecturer or professor would be responsible for supervising students who appear in court.

The ongoing issue of right of appearance for attorneys in the Supreme Court is also important for the ALS this year

However the notion of fusing the Bar and side-Bar is not the right solution, says Mr Wilson.

He believes talk of fusion is one of the reasons why the Bar is afraid of attorneys being allowed right of appearance in the higher courts

The answer lies in the system used in many Australian states where certain attorneys are accorded rights of audience in the Supreme Court, he said

Mr Wilson is serving his second term as president of the ALS, his first was 12 years ago He has his own law practice in Cape Town.

Sponsorship for accountants

JOHANNESBURG — To counter the current and anticipated future shortage of accountants in South Africa, the Chartered Institute of Management Accountants (CIMA) has embarked on a student sponsorship programme.

The CIMA said it would sponsor 18 students over the next three years and sponsorships for 12 students had been received from companies so far — Sapa

Lawyers to meet over dispute

THE national executive committee of the National Association of Democratic Lawyers is to hold an urgent meeting soon to resolve a "burning dispute" within the organisation.

The meeting is a sequel to a walkout by a 12-man delegation of the Black Lawyers Association at the inaugural general council of Nadel in Port Elizabeth last weekend

Walkout

The walkout followed unhappiness about certain procedural matters at the two-day council

In a statement this week, the BLA said it was now returning to its constituency to seek a further mandate

D/D 8/2/88

Lecturers will not forgo pay changes

248

PORT ELIZABETH — University teaching staff across the country have made it known that they are not prepared to forgo their next salary adjustment.

Reacting to the State President's proposed measures limiting the salaries of various categories of government employees, the chairman of the Committee of University Teachers Associations, Professor Charles Wait, said that investigations into the specific salary adjustment — expected to come through on April 1 — had been going on for more than a year now

"We are in line for this adjustment and there is simply no way we will be told money is not available.

We will take up the issue with the State President himself if necessary," he said.

The Committee of University Teachers Associations, which represents academics throughout South Africa, is already dissatisfied with what it sees as an unfairly wide salary gap between themselves and civil servants.— Sapa

Lecturers' stayaway: settlement is reached

By Pat Devereaux

The inquiry into the absence of eight Johannesburg College of Education lecturers from work on June 16 last year, in sympathy with a United Democratic Front call for a national stayaway, ended last week.

Advocate Mr Edwin Cameron, who appeared for the lecturers, said no details of the *in camera* proceedings could be published, but a settlement had been reached

He said the findings of the inquiry would be forwarded to the director of the Transvaal Education Department (TED) to decide what further action was necessary

This could take up to three months, Mr Cameron said.

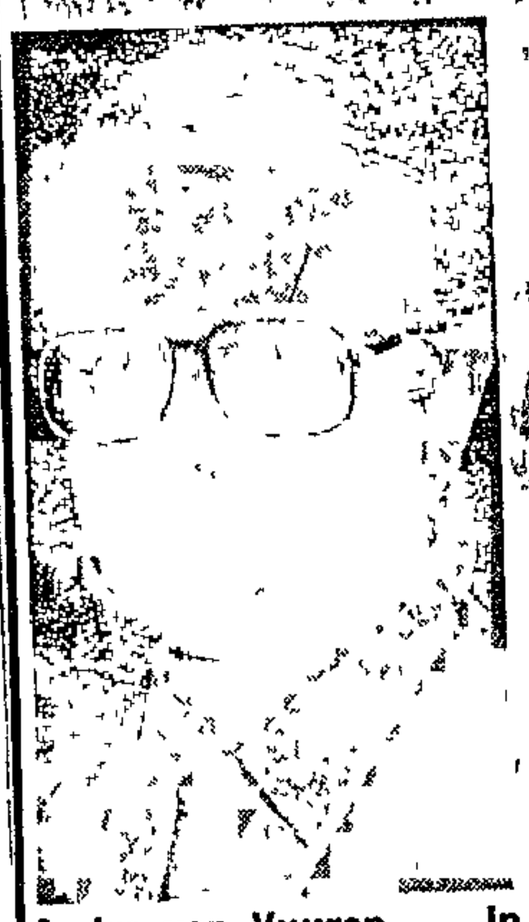
The eight teachers were charged with absenting themselves from their posts on the 11th anniversary of the Soweto uprising. The rector had ordered that they report for service on that day

Lecturers brought before the inquiry were the head of the English department, Mr Michael Gardiner, the associate head, Mr Frances Faller; the acting head of the African languages department, Ms Marilyn Wood, and senior lecturers Ms Gillian Brokensha and Ms Gillian Adler.

Lecturers Ms Yvonne Reed, Ms Geraldine Goldblatt and Ms Tessa Welch, who have since left the college, were also subject to the TED—convened inquiry.

(248) ST 14/2/88

Attorneys at the public opinion bar



Andre van Vuuren ... In the hot seat

By Udo Rypstra

SOUTH Africa's 6 500 attorneys are often criticised for making too much money. But the manner in which they work and their expenses are not always understood — especially by the ordinary citizen.

The umbrella organisation for the provincial law societies, the Association of Law Societies (ALS), is to strike back with a campaign to provide the public with a better understanding of the profession and the services it offers, and to help attorneys in their relations with clients.

The task of co-ordinating this campaign in the face of mounting resistance to the high cost of litigation has fallen on Andre van Vuuren, a former chairman of the George Attorneys Association. He has been elected director-general of the ALS.

Challenge

Mr van Vuuren says: "Changes are taking place and attorneys must be meet the challenge by becoming more efficient and ultimately more profitable."

The ALS will promote the profession by issuing pamphlets, holding seminars and launching a media awareness programme.

Mr van Vuuren's responsibilities will include monitoring political, legislative, professional, social and economic policies and their effect on the profession.

Sporting arena

DURBAN Exhibition Centre's hall No 2 will be converted into an indoor sporting arena.

The city council's management committee has agreed in principle to the terms of a soft loan from First National Bank for the project.

The bank will provide R2,3-million at prime overdraft rate and repayable over 20 years. It will also pay the council R1,1-million for advertisding rights, including the naming of the hall.

"In effect, this means the loan will carry and effective interest rate of 8,8%," says Mayor Henry Klotz, who negotiated with the bank

The hall will have seating for 6 000 and will be suitable for meetings, concerts, equestrian events, athletics and indoor tattoos.

"Increased use will increase the centre's revenue," says Mr Klotz

MANPOWER MIRROR by JULIE WALKER

Sponsor plan for black accountants

OF more than 12 000 chartered accountants in South Africa, only 16 are blacks.

To counter the current and future shortage of accountants, the Chartered Institute of Management Accountants (CIMA) has embarked on a student sponsorship programme.

Denise Jenkin, past president of the CIMA and its present representative to London, says the brain drain has affected all classes of accountants.

The shortage will be compounded by expected economic growth and by the mid-1990s there could be a shortfall of 2 500 accountants.

Sponsorship

Mrs Jenkin says "We became aware that we would never be able to fill all the vacancies from the traditionally white, and to a degree Asian, recruits We asked our mother body in London last year for sponsorship for black and coloured matriculants

"The London office responde. Now it cannot understand why we do not have applicants queuing up.

"We have attracted many black and coloured matriculants, but our screening system is stringent. He or she must have matriculated in mathematics and English and should preferably have studied accountancy at school. We are also looking for leadership qualities."

The CIMA is being helped to train and develop mainly black matriculants to become management accountants by the Association of Black Accountants of Southern Africa (ABASA) and the Rapid Results College (RRC).

Fundamental

Terry Burgess, president of the SA Council of CIMA, says· "It is essential that financial information be presented accurately and in a form needed by decision makers in business The expected shortage of accountants cannot be made up from the white population group"

Management accountants' work is fundamental to the strategy of a business and they are active participants in the management process — evaluating and monitoring operating performance and interpreting financial information from which decisions can be taken.

Mrs Jenkin says·"Management accountants look to see where we are going, not where we have been

"We have been talking to a lot of potential students from the black and coloured population groups and it is starting to filter through that accountancy is a sound profession which pays well It is to a certain extent an alien concept — many matriculated blacks look to the legal and medical professions to provide a good living It is also important for them to realise that membership of the CIMA will be internationally recognised."

Women shine

The CIMA hopes to register 75 students this year — 50 through the newly commissioned college of ABASA and 25 through RRC.

It has undertaken to sponsor 18 students in the next three years Sponsorships for 12 students have been received from Barlows, AECI, Wilson Rowntree, Eskom and Anglovaal.

Of those 25, four are women.

"For the past few years females have taken the top prizes in chartered accountancy examinations," says Mrs Jenkin

The programme is divided into two parts The first is a year's full-time study — which costs the sponsoring company R6 000. Thereafter the sponsoring companies employ the students for at least three years They study part time while gaining practical experience.

The students would then be eligible for membership of the CIMA as they would have gained the required three years' practical experience.

Even among white accountancy students, who may have the advantage of a superior secondary education, the pass rate is not high.

Chartered accountancy firms are recruiting black articled clerks who have matriculated with mathmetics and English Articled clerks take between three and five years to become chartered accountants, many never make it.

A HOLIDAY Inn with 100 bedrooms, a shopping and office complex and 130 houses will be built at Ulundi, Natal, at a cost of more than R25-million.

The R10-million inn will be built on the banks of the White Umfolozi River on a 40 hectare site high above an oxbow bend. It will replace the 50-room Holiday Inn — the smallest in the world hotel chain.

The KwaZulu Finance and Investment Corporation (KFC) will own the hotel. It will be managed by Holiday Inn KwaZulu, in which Holiday Inn, KFC and black shareholders have a stake. .

The hotel will be next to a 6 000-hectare game reserve which is being developed by the KwaZulu Government's Bureau of Natural Resources The region has many attractions of a historical and cultural nature and the Umfolozi game reserve is only 30km away

Marius Spies, executive director of the KFC, says the preliminary design of the hotel has been completed A design competition held last year was won by Pheiffer, Marais & Moull, of Durban. Detailed planning has started and the complex should be completed in two years

The shopping and office complex will cost about R12-million. Construction will start in March on a site close to the old Holiday Inn A total of 7 500m² retail area and 2 400m² of offices will be available. Most of the office space will be taken up by KFC for its headquarters

Lawyers to decide on next move

THE BLACK Lawyers Association is to hold a general meeting this weekend to decide its future involvement in the National Association of Democratic Lawyers.

By NKOPANE MAKOBANE

Mr Keith Kunene, the BLA's chairman, said the meeting is a sequel to a walkout by a 12-man delegation of BLA at the inaugural general council of Nadel held in Port Elizabeth at the end of last month

The walkout followed disagreement about certain procedural matters at the two-day council

Withdraw

In a statement issued immediately after the walkout, the BLA said it had decided to withdraw from the council. It said it was now returning to its constituency to seek further mandate and direction

Mr Kunene said the general meeting would be held at the Pine Lake Inn in Nelspruit on Sunday The BLA's executive committee would meet tomorrow to get a briefing from delegates who attended the Port Elizabeth council meeting

"We appeal to all members to attend this crucial meeting. It is expected that BLA members will reiterate their stand of being non-racial It is hoped that those present will insist on BLA and Nadel to be non-sectarian in as far as their political stance is concerned," he said

Attorneys seek to tidy up the office, cut costs

By Udo Rypstra

ATTORNEYS are looking at ways to improve their efficiency and reduce the cost of litigation.

After the success of small claims courts in which attorneys serve without payment, the Association of Law Societies (ALS) says it has been conducting research into cheaper litigation It hopes to have submissions available for consideration next month

The ALS is also looking at ways to make the legal profession more accessible to law graduates, and is investigating the possibility of setting up a centralised computerised data bank to provide attorneys with easier access to the growing mountain of information they require

The new director-general of the ALS, Andre van Vuuren, and the chairman of the association's public relations committee, Ed Southey, will not disclose their plans to reduce legal costs But they say attorneys should be be allowed to appear in some Supreme Court actions — for example, uncomplicated divorce and default cases

Mr Southey says "We do not believe in the fusion of the Bar and side Bar. The services of advocates, especially those who are specialised and experienced in court craft, are essential in many cases"

The ALS says attorneys are using unrealistic Supreme Court tariffs which have led to confusion, dissatisfaction and mistrust among clients The tariff was increased by only 11,6% a few months ago after the ALS asked for 40% to wipe out accumulated shortages

The Supreme Court tariff assumes that a successful party can reclaim costs from a loser But because of increased overheads, the successful litigant receives only part of the costs

The ALS argues that a realistic tariff would not only refund an attorney for long hours in a Supreme Court matter, but make it more accessible to litigants who would not have to worry about costs

Mr Southey says attorneys' overheads have increased to such an extent that that their former profit of 50% has been reduced to between 20% and 30%

He says statistics from the Human Sciences Research Council show that attorneys are not earning as much as is believed

Another problem facing attorneys is that graduates find it increasingly difficult to enter the profession because of the lack of vacancies for articled clerks. Black graduates are most seriously affected

Office automation has become a costly overhead for attorneys

Lawyers sceptical of proposed special labour court of appeal

HELEN CHAPPEL

A SPECIAL labour court of appeal — chaired by Supreme Court judges — would be a retrogressive step, going against a fundamental rationale behind the reforms initiated by the Wiehahn Commission.

This is the view of lawyers approached for comment on a recommendation for the special labour court in the Labour Relations Amendment Bill.

Those spoken to felt the step would restore the resolution of labour disputes at appeal level to the more conservative lawyers and take it away from specialised labour experts.

The existing industrial court system effectively recognised an international trend to deal with labour disputes in a specialised way.

A labour attorney said: "Common law courts are generally 'hostile' to the developments in labour law jurisprudence

"For this reason, in the rest of the world, these cases have been removed from the ordinary courts and placed in the hands of specialists accustomed to notions peculiar to labour law, such as 'equity' and 'collectiveness'.

"The labour law jurisprudence — or legal philosophy — which has developed over the last five or six years in SA would be eroded by the appointment of Supreme Court judges to the special labour court."

Sympathetic

The expert added that there was a possibility of the judges being sympathetic to "conventional" labour law and allowing it to develop. But the expectation was that this would not happen and judges would be randomly allocated by the Judge President

Another attorney said that it would be unwise to restrict representation before the special court to advocates because this would increase litigation costs On a more optimistic note, the special court would offer the opportunity for appeal from industrial court decisions which were formerly final.

The advantage of having judges preside in a special labour court was that they would lend it a status not enjoyed by the industrial court — though it would be best to select the presiding officers for both levels of court from a single "bench".

Assocom manpower secretary Vincent Brett commented: "Assocom has been calling for a long time for the industrial court to be given Supreme Court status The concept of bringing Supreme Court judges into the special labour court is something we welcome — albeit only for appeals

Expertise

"It can be assumed there won't be different judges at every sitting of the special labour court, and the selected judges may be given time to develop an expertise in the labour field"

A criticism of the planned introduction of a special labour court to hear appeals from the industrial court is that the two courts fall under different government departments.

Institute for Industrial Relations executive director Mike Miles said "Although the industrial court still falls under the control of the Department of Manpower, its decisions will be enforceable through procedures executed under the Department of Justice"

The registrar of the industrial court — employed by Manpower — would also be registrar of the special labour court, under Justice.

Miles said the Bill improved on earlier drafts because, "under the earlier draft, an unresolved dispute could be referred to either the industrial or special labour court, which would also hear appeals.

"The new Bill restricts the function of the special labour court to appeals only, so there will be less 'grasshopping' between the labour courts"

The backlog of cases before the industrial court would not be eased by the special labour court The delay in getting a case before the industrial court four to six months

Journalists protest at new clamps

Star 4/3/88

By Sally Sealey 248

Journalists' organisations joined forces in Johannesburg yesterday to protest against the Government's virtual banning of 18 organisations.

The meeting, which was called by the Association of Democratic Journalists (ADJ), the Media Workers' Association of South Africa (Mwasa), the Southern African Society of Journalists (SASJ) and the Anti-Censorship Action Group (ACAG), was attended by about 350 people.

Chairing the meeting, Mr Khulu Sibiya, editor of *City Press*, said: "Journalists have a duty to their readers and to society as a whole. As a symbol of this resolve we will read statements made by the 18 organisations the Government hoped to silence."

Ms Pat Sidley, SASJ president, said: "Journalists have long been used as a conduit for lies, wittingly or unwittingly. The Government seeks to use journalists as a key part of their strategy but it is our duty to provide free and accurate information."

Lawyers to convene inquiry into alleged police shooting

By Claire Robertson,
Pretoria Bureau

A lawyers' group has decided to hold its own commission of inquiry into a shooting incident, involving police, in which two children died.

Lawyers for Human Rights has decided that it will convene inquiries, "in the light of a growing tendency by Government not to hold commissions of inquiry into incidents involving officials — such as the "Mamelodi massacre" and the "Winterveld shootings" — said national director of the group Mr Brian Currin.

The first, due to commence today, will investigate the circumstances surrounding the death of two children and injury of at least 14 others during a police dagga raid in the coloured township of Langverwag, near Kakamas, in the far northern Cape last month.

Four-year-old Desirée Cloete and Michael Julies (13) died during the incident.

First reports from the scene said that police had opened fire to defend themselves from stone-throwing.

However, independent eyewitnesses later gave an account of the incident that pointed to police opening fire on curious bystanders, according to a dossier of evidence collected by independent MP Mr Jan van Eck, released last week.

Lawyers for Human Rights has informed the Commissioner of Police that it is to hold the commission, and has expressed a desire to call policemen to testify, said Mr Currin.

Three commissioners have been appointed. They are Mr Justice Moloto, director of the Black Lawyers' Association's legal education centre; Mr Peter Leon of the firm Webber, Wentzel; and Mr David Dison of the firm Bell, Dewar and Hall.

The secretary of the commission is Mr Aubrey Lekwane of Lawyers for Human Rights.

The commission will sit at Kakamas and its findings will be published by the end of this month, Mr Currin said.

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Vital topics for the Bar conference

Crucial aspects of South Africa's legal system will come under the spotlight at the National Bar Council conference to be held in Cape Town from April 5 to April 8

About 300 top lawyers as well as judges, retired judges, advocates, teachers of law and representatives of trade and industry will attend the conference, organised by the General Council of the Bar

Speakers include some of South Africa's most prominent legal figures such as Acting Chief Justice Mr P J Rabie and Appeal Court judges Mr Justice M M Corbett and Mr Justice G G Hoexter

According to a statement, topics to be discussed include legal costs, accessibility of the legal system to the man in the street, human rights and the role of the legal system in a changing society

Discussions on future developments in the legal profession, specifically on the controversial issue of whether the disciplines of advocate and attorney should be merged, promise to be of special interest

Hot debate is expected on the subject of the present system of appointing judges to the Bench.

A leading British authority on the legal profession, South African-born and educated Lord Benson, will also address the conference

Lord Benson, an accountant by profession, chaired the Royal Commission into Legal Services from 1976-79 and was the adviser to the Governor of the Bank of England

Outcry over clamp on week-old committee

Restrictions on new anti-apartheid body may be challenged

Legal experts in Cape Town have been consulted about challenging the restrictions placed on the Committee for the Defence of Democracy (CDD) which have drawn widespread condemnation

Chairman of the Democratic Lawyers' Association, Mr Dullah Omar, SC, told The Star last night the "indications are that the restrictions will be challenged in court"

If a court challenge is mounted, the case will be brought in the Cape Supreme Court "because that is where the committee has be operating", he said

Restrictions on the week-old organisation were gazetted on Saturday The police simultaneously prohibited a meeting the CDD organised at the University of the Western Cape yesterday afternoon

Church leaders responded to the ban by organising an inter-faith prayer service at St George's Cathedral

PRINCIPLES

Law and Order Minister Mr Adriaan Vlok's prohibition of the activities of the CDD "once again reveals the attitude of the South African Government towards the very principles of democracy", the Black Sash said yesterday

A statement released during the Sash's national conference being held at the weekend added "The totalitarian nature of our society is exposed beyong doubt

"We for our part reaffirm our commitment to democracy and human rights We shall continue to work for their protection and for an end to unjust and oppressive rule."

The National Democratic Movement strongly objects to the Government's banning of the CDD, a spokesman said at the weekend

"We are seriously concerned about this action A government that cannot allow peaceful opposition politics must feel very insecure whatever it may say about state security and public order

"If opposition leaders cannot practise politics in a peaceful manner how are we ever going to find national answers for lasting peace and security?" the statement said

DEFENDED ACTION

Mr Vlok has defended the action and issued a warning to clergymen to stop preaching revolution

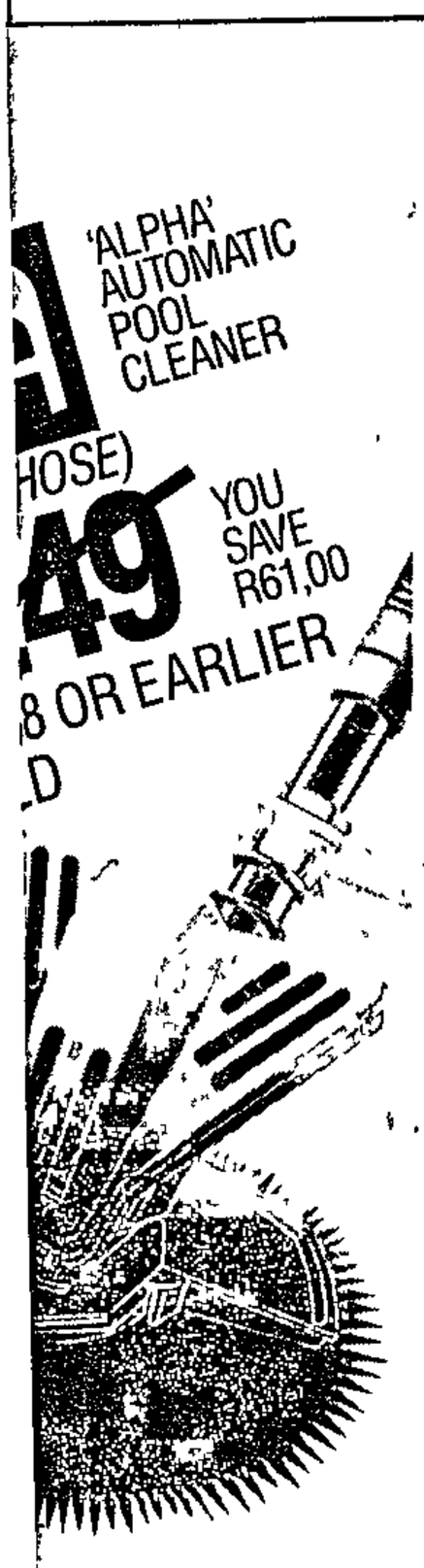
In a statement Mr Vlok said certain clergymen had chosen the path of confrontation and has warned them to stop doing so or the Government will be forced to take the necessary action

Mr Vlok said the ANC was desperately attempting to extend the revolutionary onslaught and doing everything in its power to involve the church, in particular the white section of the population

He said the ANC wanted the church to be developed into a battlefront against authority

The special edition of the Government Gazette number 11194, published in Pretoria on Saturday, said

"Under the powers vested in me by regulation 6A of the regulations published under the Public Safety Act, 1953 (Act 3 of 1953), by Proclamation R 96 of 11 June 1987, as amended by Proclamation R 106 of 26 June 1987 and Proclamation R 23 of 24 February 1988, I, Adriaan Johannes Vlok, Minister of Law and Order, hereby prohibit the . (Committee for the Defence of Democracy) as from the date of publication of this order and subject to regulation 6A (4) of the said regulations, from carrying on or performing any activities or acts whatsoever"



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FFICIAL

Swazi alarm over unions

The Star's Africa News Service

MBABANE — Swazi MPs have expressed alarm about the growth of labour unions.

ism had planted seeds of discontent between workers and employers

Labour Minister Mr Ben Nsibandze said "Leaders should know

Protect judges, says Coetsee

HOUSE OF ASSEMBLY — Judges were the bearers of the authority of the state and it was necessary, therefore, that they be treated in a "special way" in Parliament, Minister of Justice Kobie Coetsee said yesterday

He was proposing adoption of the report of the Select Committee on a Question of Privilege, which said it had been unable to decide whether the PFP MP for Sandton Dave Dalling had committed a breach of privilege in criticising the Judge President of the Cape, Mr Justice Munnik, for his role as a one-man commission of inquiry into last year's ANC advertisements.

It did, however, find Dalling had failed to abide by established parliamentary practice that a judge be attacked only by way of a substantive motion.

Coetsee said the report reconfirmed respect for parliamentary usages. The victor here had been the basic decency of Members to each other and to judges.

There were constitutionally sound reasons why no judge should be attacked other than by way of a substantive motion.

Judges were bearers of the authority of the state and for that reason MPs should treat them in a special way

This was also a recognition of the independence of the judiciary from the other arms that made up the state, he said.

He said it would lead to chaos if a judge's person were dragged into every pronouncement made in Parliament.

He said the courts were entitled to ask that they be protected in a particular and exclusive manner. — Sapa.

The MINISTER OF TRANSPORT AFFAIRS

(1) Yes, to Perskor Corporation (Pty) Ltd of South Africa only

(a) Desk calendars, order books and diaries

(b) 4 000, 100 and 300 respectively

(c) Perskor Corporation (Pty) Ltd of South Africa

(2) Yes

(a) and (b) Fall away

(i) R16 120, R590 and R4 562,20 respectively

(ii) R9 974,52, R770 and R4 562,20 respectively

(3) No

(a), (b)(i) and (ii) Fall away

(4) (a) R15 306,72

(b) Particulars not readily available and it will take much time and expense to gather such information

Printing contracts awarded to two companies

846 Mr D J DALLING asked the Minister of Law and Order

(1) Whether the South African Police awarded any printing contracts in 1987 to two companies, the names of which have been furnished to the Commission for Administration for the purpose of the Minister's reply, or to their associated companies and printing operations, if so, (a) in respect of what publications or printed matter, (b) how many copies of each publication or item were ordered from each company and (c) what are the names of the companies concerned,

(2) whether these contracts were put out to tender, if not, (a) why not and (b) what was the total amount paid by the Police in respect of each of these contracts, if so, what was the (i) tender price originally accepted, and (ii) total amount paid out, in respect of each contract,

(3) whether the Police subsidize any publications published by the above companies, if so, (a) which publications and (b)(i) why, and (ii) what is the amount of the subsidy, in each case,

(4) what total amount was spent by the Police in 1987 on printing and publishing involving (a) the above companies and (b) any other specified companies?

The MINISTER OF LAW AND ORDER

(1) No

(a) to (c) Fall away

(2) Falls away

(3) No

(a) and (b) Fall away

(4) Falls away

Chartered accountants in employ of Receiver of Revenue

849 Mr J J WALSH asked the Minister of Finance

(a) How many chartered accountants were in the employ of the Receiver of Revenue as at the latest specified date for which information is available, (b) at which offices were they employed and (c) how many of them were so employed in lieu of performing their national service?

The MINISTER OF FINANCE

(a) 183

(b) Bellville
Benoni
Bloemfontein
Boksburg
Brakpan
Durban
Germiston
Johannesburg
Cape Town
Klerksdorp
Krugersdorp
East London
Paarl
Port Elizabeth
Pietersburg
Pietermaritzburg
Pretoria
Roodepoort
Springs
Standerton
Welkom
Head Office
Special Investigations

(c) 181

50-year-old public servant: buying back of pensionable service

869 Mr D J N MALCOMESS asked the Minister of National Health and Population Development

(1) Whether, with reference to his reply to Question No 20 on 8 March 1988, any provision has been made for a 50-year-old public servant who has bought back pensionable service from the age of 50 to the age of 18 to pay the required amount of R391 680 over a period of years, if not, why not, if so, (a) what arrangements can be made in this regard, (b) what is the rate of interest charged and (c) how will the balance be paid in the event of this public servant retiring at the age of 60,

(2) what will be the amount of the (a) tax-free retirement cheque and (b) annual pension paid to a public servant who retires at the age of 60 on a salary of R96 000 per annum and who (i) bought back and (ii) did not buy back pensionable service at the age of 50 years while earning a salary of R48 000?

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

(1) Yes

(a) Monthly instalments up to date of retirement

(b) Twelve per cent compound interest (The total obligation will amount to R846 142 20)

(c) By deduction from gratuity payable on retirement, and if insufficient the remainder to be settled in a single payment

(2) (a) (Gratuity)

(i) R57 935 (R270 950 gross, less buy-back debt R213 015)

(ii) R64 512

(b) (Annual pension)

(i) R73 669

(ii) R17 814

Land and Agricultural Bank: amount loaned to farmers

874 Mr D J N MALCOMESS asked the Minister of Finance

What total amount was loaned by the Land and Agricultural Bank to farmers from the (a) White, (b) Coloured, (c) Indian and (d) Black population group in the latest specified financial year for which figures are available?

The MINISTER OF FINANCE

(a) R446 059 520

(b) R217 400

(c) R527 400

(d) Nil

Own Affairs

Printing contracts awarded to two companies

91 Mr D J DALLING asked the Minister of Health Services

(1) Whether his Department awarded any printing contracts in 1987 to two companies, the names of which have been furnished to the Commission for Administration for the purpose of the Minister's reply, or to their associated companies and printing operations, if so, (a) in respect of what publications or printed matter, (b) how many copies of each publication or item were ordered from each company and (c) what are the names of the companies concerned,

(2) whether these contracts were put out to tender, if not, (a) why not and (b) what was the total amount paid by his Department in respect of each of these contracts, if so, what was the (i) tender price originally accepted, and (ii) total amount paid out, in respect of each contract,

(3) whether his Department subsidizes any publications published by the above companies, if so, (a) which publications and (b)(i) why, and (ii) what is the amount of the subsidy, in each case,

(4) what total amount was spent by his Department in 1987 on printing and publishing involving (a) the above companies and (b) any other specified companies?

The MINISTER OF HEALTH SERVICES

(1) No

(a), (b) and (c) fall away

(2) (a), (b)(i) and (ii) fall away

ACCOUNTING

Accounting crisis

The pending crisis in the accounting profession has again been highlighted — this time by the Association of Black Accountants (Abasa)

Research by various bodies shows that SA will need 20 000 chartered accountants (CAs) in 12 years' time.

Of 11 500 registered CAs, some 1 500 have emigrated Of those remaining, says Abasa, only 17 are black (excluding Indians and coloureds) Somehow, SA has to produce more than 800 CAs a year for the next dozen years

Accountants have probably done more to encourage blacks than other traditional professions, such as medicine, law or architecture

The most recent development was the formation of the Eden Trust by the Public Accountants' & Auditors' Board, with the SA Institute of Chartered Accountants (Saica) and Abasa The trust is trying to raise R20m by mid-year and has only R2m in its coffers so far

Of that amount, R13m is earmarked for education. If that earns, say 10% interest a year, R1,3m will be available for accounting scholars At the current cost of some R7 000 a year for a budding accountant at university, it will not go far

And it assumes, of course, that enough blacks qualify for entrance to university accounting courses

The gap between secondary and tertiary education is another area that will absorb Eden's funds — in academic support programmes, particularly at English-speaking universities

Saica has also introduced a voluntary code of employment Member firms are obliged, within three years, to undertake that 10% of trainee accountants will be black. That way, the target of 10% of the profession being black by the year 2000 can be met

All the bodies involved in encouraging black entry and advancement in accounting hope, of course, that funds will be given by other interested bodies ■

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Professor Andre P Brink "For me it is impossible not to write truthfully about what I experience here."

"Although a writer never writes with the purpose of getting a lot of people to read his work, it is a bonus when this actually happens," Professor Brink said

"A writer wants to be read

"The worst thing that can happen to a writer is to be surrounded by silence One needs reaction to one's work, so that the important interaction between writer and reading public can take place," Professor Brink said

But, said this often controversial writer of books like Looking on Darkness, A Dry White Season and Rumours of Rain — all books with the colour question as theme, a writer must write according to what comes from within himself and not with the purpose of pleasing people or to deliberately address certain issues

"For me it is impossible though, not to be influenced by the context in which I grew up and in which I live I must write according to what is happening inside me

"Although writers cannot be prescribed to as to what to write, they have a specific function in the context in which they live

"Writers may never write with a pre-conceived concept to influence the reader or to deliberately make people aware of certain issues The quality of such writing will suffer But, especially in a closed society like the South African society, writing is the one medium that one can use to influence and to make people aware"

Professor Brink said literature tended not to be as important in democracies like Sweden "But in South Africa, literature plays a major part in the changing process and writers must be aware of their responsibility in doing their part"

Professor Brink, who is a holder of the decoration of Chevalier of the Legion of Honour from the French Government, won the Martin Luther King prize for literature in 1980 for A Dry White Season, and winner of CNA prizes for literature for his books Rumours of Rain and A Chain of Voices

His books have often been the subject of controversy Kennis van die Aand (translated as Looking on Darkness) was unbanned at the end of 1981 after being banned in 1974

The themes of his books deal with the South African situation ranging from novels set in an historic background, commenting on the attitudes of the early settlers in the country towards its indigenous people, to those dealing with the treatment of people in police custody in contemporary society

According to Professor Brink, different writers react in different ways to the situation in South Africa but, he feels, there are too many writers that do not write deeply enough into the South African situation

"For me it is impossible not to write truthfully about what I experience here"

Professor Brink said he is at the moment thinking about starting a new novel but will only get down to serious writing after his overseas trip on which he will depart early in April

The writing on the wall

D/D 31/3/88

24&

Research into South African literature has shown that André P. Brink, professor of Afrikaans at Rhodes University, is the most popular author in South Africa

The research, done by a unit of the Human Sciences Research Council, has also indicated that Professor Brink, along with Alan Paton and Elsa Joubert, are among the country's most influential writers **MARIETJIE MYBURG** spoke to him at his home in Grahamstown

248 SMM 7/4/88

Lord Benson to give keynote address

Bar conference to hear of study into advocacy 'fusion'

Own Correspondent

CAPE TOWN — To fuse or not to fuse the roles of advocates and attorneys in South Africa will be one of the questions addressed at the National Bar conference at the Cape Sun Hotel this week.

And there to contribute his considerable experience and knowledge will be Lord Benson, who was chairman of the British Royal Commission on Legal Services from 1976 to 1979.

Johannesburg-born and educated, Lord Benson (79) has been active as a chartered accountant for 62 years and will give the keynote address at the two-day conference which officially starts today

As chairman of the royal commission, he had the benefit of hearing evidence on the fused professions of barristers and solicitors from chief justices of the United States, New Zealand and Australia, which employ such a system.

Wide debate

At a press conference, Mr H P Viljoen, SC, chairman of the General Council of the Bar of South Africa, said that the suggestion last year by past president of the Association of Law Societies, Mr Billy van der Merwe, that attorneys should have the right of audience in the Supreme Court and to be appointed judges had inspired debate at many legal conferences

"The debate needs to be properly aired and delegates will be interested to hear from someone like Lord Benson, who is well-informed on the subject," Mr Viljoen said.

Lord Benson said the royal commission examined every aspect of British legal profession

He said there were no moves towards "fusion" in England

"The Marre Committee, which is due to report in May, has heard evidence from the organisation representing English and Welsh solicitors that they believe in a strong independent Bar and do not support fusion," Lord Benson said

"This is in line with the evidence we heard on the commission"

Likewise

Mr M Seligson, SC, chairman of the National Bar Conference Steering Committee, said there was "reason to believe that there is a considerable body of opinion similarly against fusion in South Africa"

Positive features of a separate Bar, said Lord Benson, were its obligation to specialise and the independent opinion given by barristers

"One feature of the Bar the English public weren't prepared to do without was specialisation on various legal topics

"And another benefit of the Bar is the independent, objective view of one's position a barrister could give This is the most precious thing in any profession

"A solicitor who is a friend and advisor of long standing of his client often cannot provide that because he is too close to the problem"

Mr Paul Nemo of the Paris Bar Council, attends as an observer

Big cash boost for lawyers' project

7/4/86 Sowetan

THE Association of Law Societies' Street Law project will receive R1,1 million following a decision by the Minister of Justice, Mr LI J Coetsee, to allow the attorneys profession to underwrite funds for the project.

"The future of the Street Law project has been in jeopardy because of lack of funds.

"In terms of the Attorneys Act we needed ministerial approval to underwrite the R1,1 million underwritten by the Attorney's Fidelity Fund," said Mr Graham Cox, chairman of the ALS' standing committee on Street Law

The Attorney's Fidelity Fund, which underwrote the money, was established by attorneys All attorneys have contributed to the fund

Street Law is an important part of the Association of Law Societies' programme to convey the function of law in everyday life

It is directed at high school pupils regardless of economic, ethnic and social backgrounds

Mr Cox said "There is an urgent need in this country to improve access to justice

"There are many who perceive the courts, not as defenders of individual liberties but as instruments of oppression.

"People need to be informed of their legal rights

"They need to be told how to make the system of justice work for them and not against them Street Law addresses this problem."

Mr Cox said the money would enable the ALS to extend the Street Law project to the Transvaal, Cape and Free State

The money will be used over three years

Committed to project

"Working in conjunction with the University of Natal's Centre for Socio-Legal Studies, Street Law has been running for two years in Natal as a pilot project

"It has proved a tremendous success, with more than 88 schools participating in Natal this year

"In addition there are a number of schools where Street Law is being taught on an *ad hoc* basis"

The Law Society of the Transvaal was so committed to the project that it contributed R50 000 of its own funds towards starting a Street Law programme in the Transvaal in conjunction with Wits University

The money voted by the Board of Control of the Attorneys' Fidelity Fund will also be used to publish a further four text books on various aspects of the law

These books will be published in English and Afrikaans and will be made available to schools on a national basis

The funds will also be used to employ six co-ordinators to support Street Law on a national basis

Street Law is already being undertaken in Lesotho but it is orientated to an agricultural community

Students are given a realistic idea of the role that law plays, what the law does and what the law does not do This is accomplished by debates, role playing, mock trials and formal teaching

The Street Law programme tries to

- Explain the legal implications of bread and butter issues,
- Demonstrate how the law can be used to protect the individual's rights,

Call to grant lawyers equal rights to those enjoyed by barristers

(248) SMM 8/4/88

CAPE TOWN — Lawyers, who have the same qualifications as barristers, should have equal right of audience, Mr S W (Billy) van der Merwe, immediate past president of the Association of Law Societies, said in Cape Town yesterday

Mr van der Merwe, who was the second speaker at the National Bar Conference on the subject "The future of the legal profession in South Africa, is fusion the answer?", agreed that fusion was not the answer

He said it was imperative, however, that lawyers with the same qualifications as advocates should have the same rights of audience and should be allowed to appear in higher courts.

Mr van der Merwe pointed out that, because of subsidy curbs and the higher acceptance standards to universities, the number of graduates would decrease at universities and fewer and fewer students would graduate annually.

He said 42 percent of law students were women, but that most of them did not enter the profession

A time would come when there would not be sufficient advocates to be appointed to the Bench

Mr M D Kuper SC, chairman of the Johannesburg Bar Council, addressed delagates on "The view of the Bar" to fusion and said Lord Benson's keynote address was a "devastating indictment on the movement to fusion"

He said the law and the legal profession in South Africa were under strain and "suffered an injury to the body of the law" when the State interfered with the right of the courts to protect individuals' rights

Referring to the appointment of judges from senior counsel — Mr van der Merwe said he would like to see this appointment made from the attorneys' profession as well — Mr Kuper said the present system was "precious and must be retained".

He said fees asked by advocates were "fair and proper" and complaints could be made to the governing councils of the Bar.

Mr H P Viljoen SC, chairman of the General Bar Council of South Africa, said his council was very conscious of the harm done when advocates "overreached" when asking fees, and it was with regret that the council had heard about a fee of about R50 000 that was mentioned in a Pretoria newspaper recently

Mr Justice P J Rabie, chairman of the morning session, in his summary called on senior advocates to make themselves available should they be approached to accept an appointment to the Bench

Briefly referring to costs, Mr Rabie said Mr van der Merwe had once told him that "If you want to pay peanuts, you must not complain if you get a monkey" — Sapa

(248) SMM 8/4/88.

Judge calls for better legal aid for the needy

CAPE TOWN — Costs of litigation present a problem in most countries of the Western world and South Africa is no exception, according to Mr Justice C F Eloff, deputy Judge President of the Transvaal and chairman of the Legal Aid Board.

Addressing the National Bar Conference in Cape Town yesterday on the subject "Coping with costs of litigation", Mr Justice Eloff said costs were a many-faceted question

On the one hand there was the need to streamline and simplify legal procedures and various judicial commissions have over the past 30 years addressed this particular problem

A more vexing aspect of the question arose from the fact that for many years legal costs have been, and were likely to remain, at levels beyond the means of most citizens.

"As far as the needy members of our community are concerned, it is simply out of the question for them to engage the services of legal practitioners out of their own resources," the judge said.

Legal aid was rendered to indigent persons by various bodies and the major bodies were the Legal Aid Board, the various Legal Aid Clinics and the Legal Resources Centre.

The Legal Aid Board provided the majority of legal aid as it rendered a service across the board regardless of whether ordinary criminality or a civil liability was involved

The board received 64 976 applications for legal aid in 1986/87 and received an amount of R9 577 000 from Parliament for this period, of which an amount of R7 787 358 was appropriated for legal costs.

Mr S A Cilliers, SC, said the grip of the law on society was a psychological one.

The law could only function properly if people respected it

If respect for the law broke down and the psychological grip was lost, it would result in chaos

Mr Cilliers said that the legal profession should not be regarded as a group of people which had to be approached reluctantly because of fear of high costs

He thought the profession should become a resort of information and that it should widen its access to all, including the poor

Because funding would be a problem, he suggested that company lawyers should also be available to give advice to employees.

In this way the burden would be lightened on legal aid bodies and legal advice would be more accessible. — Sapa

Social issues: challenge to our legal system

From an article written Mr L Nowosenetz (below), of the Pretoria Bar, for the first issue of *Consultus*, a journal published by the General Council of the Bar of South Africa.



The unresponsiveness of our legal order to changing social conditions has contributed towards a crisis of legitimacy that the entire legal system is facing

The spotlight of public criticism has fallen as never before upon the courts and the very independence of the judiciary. Scepticism has been expressed on issues such as the efficacy of the courts in mitigating the rigours of statutory discriminatory laws, the effectiveness of judicial review to curb certain executive acts, and the access of litigants to the courts.

Sadly, among those who have been excluded from the political process, a large body of cynical opinion has formed that the legal regime is likely to frustrate their access to justice further

Legal practitioners have not escaped criticism either, on the grounds of the high cost of litigation, the unavailability of legal representation for the accused in lower courts and the reluctance of lawyers to engage themselves in unlucrative work relating to social issues

Allied to this is the perceived quiescence of lawyers in the face of emergency measures, press restrictions, detentions, etc

The challenge facing the legal profession is to respond with imaginative and innovative steps to relate legal practice to the conditions prevailing in our times, thereby maintaining and enhancing the reputation of the law.

Some responses have emerged over the past few years Public law, human rights law and society are receiving increased attention at our universities, where new teaching posts and research institutes have been established A stream of learned writing, as well as new journals dedicated to these hitherto neglected areas of public law, is now appearing.

Practical legal studies are now included in the curriculum for law degrees and several universities are running full-time law centres under the supervision of qualified lawyers. Law students are receiving practical legal training while serving the community through the provision of legal clinics for the needy.

Street law programmes have also recently been introduced with the aim of disseminating to the public a basic understanding of how law affects ordinary people in everyday life.

The goal of educating the lay public on their legal rights is as necessary as it is hard to accomplish As long as the broad mass of the population sees law as an instrument of social control rather than a guarantee of fundamental rights and democratic values, our system risks the fate of the dodo.

Perhaps the most significant development is the growth of public interest law centres, of which the foremost example is the Legal Resources Centre (LRC) established about 10 years ago, now with branches throughout the country. Independently run, the LRC operates like an attorneys' firm but provides free legal services in matters of public law, labour and human rights to indigent and socially distressed litigants.

The advent of the Small Claims Courts in 1985 has undoubtedly been an enormous success in enabling litigants to pursue civil claims in court, unassisted by lawyers, in a simple and informal manner, and costing them virtually nothing. The time has also come for a streamlining of petty criminal matters, possibly through a Justice of the Peace system The decriminalisation of certain traffic and other petty offences is already on the agenda

Thus some signs of a hopeful new order are emerging, tentatively dislodging the encrustations of our past What is the response of the organised Bar as well as the role of individual counsel to these developments? So far, only a small corps of outstanding and dedicated lawyers have been at the forefront in developing a more meaningful societal role for the law in South Africa

Save for certain renowned counsel who have made significant contributions towards the promotion of basic rights and civil liberties through our courts, the broad profession of advocates have not wandered far beyond the usual confines of commercial practice

Some of the reasons for the inhibitions upon counsel have been structural, given the ethical and practical limitations of the briefing system and the split Bar tradition Economic constraints, too, cannot be ignored.

Nevertheless, it is time to reconsider the parameters of the rules that restrict advocateds in accepting briefs from the public and the scope of the work that they may do Are some of our present rules of conduct really necessary, or has the Bar ensconced itself within rules designed more for self-perpetuation than its integrity and independence?

It is submitted that new and insufficiently explored possibilites exist for counsel to participate meaningfully in serving the broad community of South Africa.

Call for lawyers to have same rights as barristers

D(D 8/4/88

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CAPE TOWN — Lawyers who had the same qualifications as barristers should have equal right of audience, Mr S W van der Merwe, immediate past president of the Association of Law Societies, said yesterday

Mr Van der Merwe, who was the second speaker at the National Bar Conference here on the subject, "The future of the legal profession in South Africa, is fusion the answer?" agreed that fusion was not the answer

He said it was imperative, however, that lawyers with the same qualifications as advocates should have the same rights of audience and should be allowed to appear in higher courts

Mr Van der Merwe pointed out that the numbers of graduates would decrease at universities Because of subsidy curbs and the elevation of acceptance standards to universities fewer and fewer students would graduate annually He pointed out that 42 per cent of law students were women, but that most of them did not enter the profession.

He said a time would come when there would not be sufficient advocates to be appointed to the bench

Mr H P Viljoen, SC, chairman of the General Bar Council of South Africa, said his council was conscious of the harm done when advocates "overreached"when asking fees and it was with regret that the council had heard about a fee of approximately R50 000 which was mentioned in a Pretoria paper recently

The Transvaal Law Society had pointed out that the client who was charged this amount did not wish to report the matter and the Bar Council said it did not have the facts and thus could not act

Mr Justice P J Rabie, chairman of the morning session, in his summary called on senior advocates to make themselves available should they be approached to accept an appointment to the bench — Sapa

248 SMM 12/4/88

'Law needs to be made accessible to more blacks'

Own Correspondent

CAPE TOWN — The need to make the law more accessible to more blacks was stressed at South Africa's first National Bar Conference in Cape Town yesterday.

The two-day gathering of 300 advocates and 40 judges heard speakers unashamedly admit that the image held by blacks of their legal system needed to be improved.

The independence, excellence and competence of the South African judiciary was fiercely defended, but the chairman of the National Bar Council, Mr Henri Viljoen, SC, suggested that making the lower courts independent of the public service and having judges appointed by a panel independent from the State would go a long way to removing people's suspicion of the law.

Professor Laurie Ackermann, incumbent of the chair of human rights at Stellenbosch University, said South Africa lagged far behind in the field of human rights.

It was not surprising, he said, that the majority of South Africans, who were denied fundamental human rights, were changing their attitude towards the legitimacy of the State and its legal process.

"Even in non-controversial areas, it is meaningless having a fine legal system if there is inadequate access to it, particularly if the majority of those without access belong to one particular group."

It was also stressed that advocates should make the poor aware of their legal rights.

Counsel were urged to give free advice where possible and the private sector was asked to bolster funds for legal aid.

On a "domestic" matter, advocates at the conference seemed to favour retaining separate attorneys' and advocates' professions, despite a plea from attorneys for rights of audience in the Supreme Court and other tribunals.

There seemed to be unanimity on the issue of supplying judges for the Bench only from the pool of senior counsel, although fears were expressed by some that an alternative would become necessary if there were not enough "silks" to go round.



MOKOMENE High School in the Ramokgapa district near Pietersburg was presented with a floating trophy by Mr W M Masipa, managing director of the local Sebjane Bookshop. The trophy was for the school's outstanding matric results in 1987. In the picture are (from left): Mr M A Masipa of the local council of principals, Mr S M Mabetoa, principal of Mokomene, Mr Masipa of Sebjane, and Mr J Ramahuma an education inspector.

Black lawyers pledge to help

LAWYERS for Human Rights, in their quest to provide free legal representation to people who would otherwise not be reperesented, is appointing regional organisers throughout the country including rural areas.

The aim is to make legal assistance available to all South Africans and to make people aware of their rights.

The regional organisers will be specialists in community service structures in their areas. They will also be in a position to refer people to organisations or statutory bodies that can assist them

According to Mr Aubrey Lekwane, the regional organiser for the Witwatersrand, lawyers throughout the country are being approached to volunteer a specified number of days each year when they will render free legal service

"By the end of this year it is our goal to have secured the involvement of 2 000 lawyers throughout the country, with an average of three days each a year, totalling 6 000 days of free representation," Mr Lekwane said.

Two regional organisers have already been appointed, one in Pretoria and one in the Witwatersrand area A regional organiser in the Eastern Cape is to be appointed soon and by June the organisation hopes to have regional organisers in the Durban / Maritzburg area and the Western Cape

'The law must be accessible to blacks'

Sowetan
12/4/84

248

THE need to make the law more accessible to more blacks was stressed at the South Africa's first national bar conference in Cape Town.

The two-day gathering of almost 300 advocates and 40 judges heard speakers unashamedly admit that the image of their legal system held by blacks needed to be improved

The independence, excellence and competence of the South African judiciary was fiercely defended but there were suggestions by the chairman of the National Bar Council, Mr Henri Viljoen (SC) that the lower courts be removed from the aegis of the public service and that judges be appointed by a panel independent of the State.

These changes would go a long way to removing suspicion of the law.

The statement by Professor Laurie Ackermann, incumbant of the chair of human rights at Stellenbosch University, that South Africa lagged far behind in the field of human rights will not come as news to many South Africans who have first-hand knowledge of, for example, detention without trial.

It was not surprising, said Professor Ackermann, that the majority of South Africans, who were denied fundamental human rights, were changing their attitude towards the legitimacy of the State and its legal process.

"Even in non-controversial areas, it is meaningless having a fine legal system if there is inadequate access to it, particularly if the majority of those without access belong to one particular group."

Other speakers focused on the need for advocates to make the poor aware of their legal rights and just when they should engage in litigation

Counsel were urged to give free advice where possible and the private sector was asked to bolster the limited funds available for legal aid

Separate professions

On a "domestic" matter, advocates at the conference seemed to favour retaining separate attorneys' and advocates' professions, despite a plea from the attorneys for rights of audience in the Supreme Court and other tribunals

And there seemed to be unanimity on the issue of supplying judges for the Bench only from the pool of senior counsel, although fears were expressed by some that an alternative would become necessary if there were not enough "silks" to go round

D/P 13/4/88

(248)

Liberal lawyers under attack from the rear

KEN OWEN: Johannesburg

Any attempt to reconstruct South Africa's liberal tradition in the face of totalitarian attacks from both the left and the right must surely begin with the law

That the law is in trouble there can be no doubt Its very legitimacy is constantly questioned by academics and lawyers, and even "liberal" judges have been told — as happened at a conference at Wits last year — that they should prepare to defend themselves at a new set of Nuremburg trials against the charge of collaborating with an evil system

Suggestions have been made, not only by lesser academic figures like Professor Wacks but even by the outstanding liberal academic lawyer of his time, John Dugard, that it may soon be impossible for judges to reconcile duty with conscience

This is not a field into which a layman can venture with great confidence (notwithstanding Koestler's view that it is the task of journalism to "debase" difficult subjects in order to bring them within the reach of the general public), but the law is too important to be left to lawyers

At least the general public should know something of the alarming trends that have emerged in the legal debate, and for this purpose there is no better guide than the recently-published collection of essays edited by Professor Hugh Corder of UCT and published by Juta under the title "Law and Social Practice in South Africa"

It is a troubling book. Corder and Dennis Davis, an associate professor at UCT, argue in a joint introduction that "South African legal theory generally is hopelessly out of touch with the reality of our social and economic structures and demands for political change" They complain that the amalgam of English and Roman-Dutch law as practised in SA was "an attempt to foist historically specific forms and values on to alien territory"

Their criticism goes beyond the condemnations raised by Dugard, and by such towering figures among practising lawyers as Sydney Kentridge, that the higher courts have failed to enforce the human rights provisions of Roman-Dutch law which would have curbed gross violations of those rights by security legislation Corder himself was among these critics of the courts

The basis of liberal criticism was the packing of the court in the Fifties with judges whose qualifications, according to Kentridge, were not discernible to the legal profession This was followed by the attempts of Chief Justice L C Steyn to eliminate the contagion of English law, except that, according even to Steyn's defenders, the court was curiously blind to the liberal traditions of Roman-Dutch law when it came to questions of civil liberties

I recall reading in 1982, with a mixture of glee and disbelief, a criticism of the Steyn court by the Wits academic Edwin Cameron that inspired a new hope Roman-Dutch law might, if its human rights aspects could be revived, provide for Afrikaners a liberal tradition which won their respect, as English liberal tradition clearly did not do Dugard's battle against the legal establishment might, it seemed, save the law from itself

Now, however, Corder and Davis say that the debate has moved from "the establishment vs Dugard" to "Dugard and others vs the materialists"

Materialist, in this context, simply means Marxist or neo-Marxist What Corder and Davis are saying is that the battle is no longer between a conservative view of the law, represented mainly by J C de Wet of Stellenbosch and his protege, Chief Justice Steyn, and the liberals, it is now a battle between liberals and conservatives on one hand, and the left on the other

Not surprisingly, the names that crop up in the text are familiar in a political context Politics is much cruder, a much more rough-and-ready business, than the law, but it is worth noting that they cite as seminal the work of Raymond Suttner, whose interpretation of the Freedom Charter is that it requires the nationalisation of the economy down to the level of barber shops

They also identify as a major figure in the debate one Harold Wolpe, former member of the SA Communist Party, who has lived in England since his escape from prison in the early Sixties

Davis himself is, in political terms, hardly a liberal he is a proponent of the oddly circular argument, put forward during last year's university controversy, that free speech should be denied to those who deny it to others

How Corder should be classified I do not know He is in any event a man of singular integrity and fairmindedness, and a meticulous editor His book opens — at least to this layman — a fascinating range of perspectives There is an essay on Calvin which denies to Dr Andries Treurnicht a Calvanist base for his theory of the volk

There are essays on the major modern legal thinkers, Fuller, Hart and Dworkin, which explore the dilemmas of law in an unjust state, dilemmas given a modern urgency by the behaviour of the courts in enforcing the law in Nazi Germany There is, by Cameron, an essay on civil disobedience which, given the recent actions of clerics in protest against bannings, is long overdue Davis explores the peculiarly Marxist, but very real, dilemma of advancing towards the "real democracy" of socialism without simultaneously falling under the "bureaucratic socialism" of Eastern Europe

But when all of this is said, there remains a question The pretext for the book is that South African legal theory is hopelessly out of touch with "the reality of our social and political structures and the demands for change" — that an "alien" system has been "foisted" on this country That complaint indeed echoes some of the objections of black people, among them revolutionaries who reject the jurisdiction of the courts, black consciousness spokesmen and the proponents of "street law" or "people's law" The crisis of legitimacy, after all, is most vividly manifested in the attempt to set up competing "people's courts"

Yet in this study there is not one word about the values and norms of the African people which might underly the rejection of the "alien" system "foisted" upon them There is not one line about African law of persons, nor about the African view of the State, nor even African law of property The entire debate is imported from totalitarian Europe in order to attack Europe's democratic heritage in this country

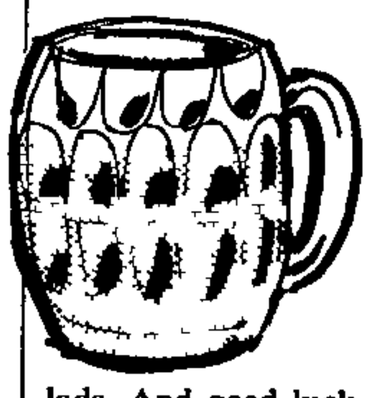
If the omission of Africa from this debate is not simply racist or ethnocentric, it is an attempt to smuggle Marxist theories of law into the debate in the guise of an attack on the "alien-ness" of our liberal traditions

Those traditions, says Charles Simpkins, are revered by every community in the country, and his argument is reaffirmed every time a black trade union or an affiliate of the UDF goes to court to seek redress The answer to the Marxist attack is to ensure that when they do go to court, they find justice

Not concerned were repairing a bad

ACCOUNTANCY

Advertising looms



By this time next year, it is quite possible that chartered accountants (CAs) will have stripped themselves of inhibition and will be out touting for business with the best of the service industry lads. And good luck to them.

Accountants are by common consent conservative fellows. By disposition not unlaced by pecuniary self-interest, they have preferred business to come to them of its own volition — or in terms of their charter, the Public Accountants' and Auditors' Act

Despite a referendum two years ago confirming this preference, the accounting profession now appears to be on the verge of changing its collective mind. In a few months the SA Institute of Chartered Accountants (Saica) plans to launch an advertising campaign and release a discussion paper on a new code of conduct.

And that, we guess, will be the profession's prelude to a free-for-all, although we can see them wince at such a description.

They kept all this a secret until word reached us of a saucy pitch last year by one of the fastest growing firms of CAs, Ernst & Whinney (E & W), for Anglo American Corporation's consultancy business. This audit has been done for many years, of course, by Pim Goldby and Aiken and Peat.

When the leaders of the profession heard about E & W's bare-faced brass, they did what you'd expect accountants to do they had a private luncheon for the managing partners of the largest firms (including E & W) to discuss the code of professional conduct and ethics.

But, says Pim Goldby's Colin Brayshaw, any implied accusation by the *FM* that his firm had used this forum to invoke professional restrictions to defend its turf against aggressive competition is invalid.

"No professional restrictions exist, the turf isn't ours, and the form that competition took was not aggressive or novel but entirely conventional."

In short, Pim Goldby supports deregulation, the free flow of information, and competition on the basis of rival firms pointing out their expertise and experience

What Pim Goldby didn't like in E & W's presentation to Anglo (now in written form and in limited circulation) was language that it regarded as "knocking" competitors "We discussed that and sorted out the matter without formal complaints to disciplinary bodies E & W participated and gave no indication of regarding it as 'a rapping over the knuckles.' "

The grey image of accountancy is changing as competition hots up. Technology advances have caused a decline in audit fees, and the resultant diversification in services has led to some strange contradictions and a more widespread desire to advertise. A competitive pitch for Anglo American Corporation's work brought this all into the open.

The *FM* had used that phrase to describe what occurred. And we accept now that accountants don't use that sort of language

Well, now the secret's finally out. Behind closed doors, the proverbial little grey men are turning into gladiators They're going directly for the throats of competitors, and they're well-equipped to do it.

Firms of CAs are floating companies on the JSE, advising multinationals on how to counter sanctions; completing tax returns for the average individual and the biggest companies, speeding into manpower consultancy with top people, and offering comprehensive consulting services with teams of MBAs, computer experts, and even geologists. And of course CAs are still auditing.

The *FM* can tell you all this — but CAs are not allowed to Officially the profession still believes that it's not in its own, or the public's, interest to advertise, or to solicit business

Contrast this with the fact that every other country with a substantial CA corps now allows advertising — even Zimbabwe. Only the US, so far, has shown signs of having second thoughts

The paradox is that South African CAs are working with their hands tied behind their backs — and the same CAs tied the knots in a most intriguing fashion

Historically, like the tight-fisted professionals that inspired some of Dickens' characters, our CAs have sheltered behind the cosy benefits of a closed shop The problem now is that audits don't pay enough to keep accountants in the style to which they've become accustomed

In the beginning there was the audit, and audit comprised practically 100% of fee income Today almost everyone agrees that the audit should remain vested exclusively in the hands of CAs It is important that accounts should not only be audited, but also be seen to be audited by an independent, objective, self-regulating body

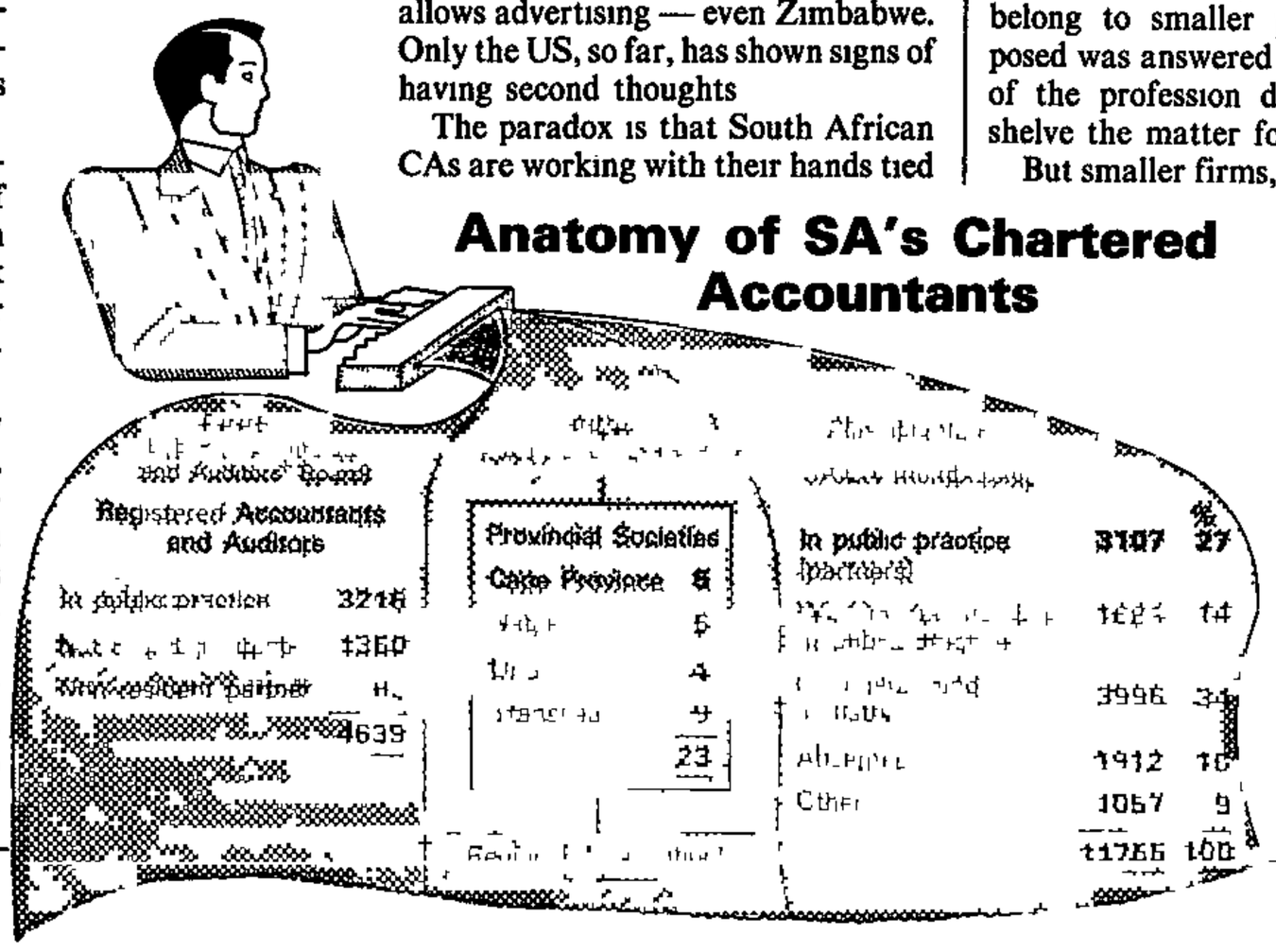
The *FM* can safely say that there is nothing too contentious about the audit system, but it's contracting in a variety of ways. Technology and computers are one pressure centre software, better and more inexpensive by the month, is forcing down in-company audit costs and time Therefore CAs are increasingly spending less time auditing, and they earn less audit income

A big break in fee composition came in 1986, when Arthur Andersen's international fee income from audit slipped below 50% of total for the first time The bulk was earned from management advisory services and taxation And here lies the rub in these two areas, anyone can compete and advertise — financial institutions, one-man shows, trust companies, personal asset enterprises, management and labour consultants the list goes on

The writing was on the wall shrinking auditing fees had to be replaced by fees from another source

To give SA's profession its due, it did hold a referendum on advertising in 1986 Because the voting was done by individuals rather than firms, and most practising CAs belong to smaller practices, the question posed was answered with a "No " Members of the profession decided, unofficially, to shelve the matter for five years

But smaller firms, who felt that the larger ones were bullying them at the time of the referendum, have now radically changed their tack Competition from outside the profession has pushed them into action The profession's governing bodies — the statutory Public Accountants' and Auditors' Board (Paab) and Saica — have done a dramatic about-turn on the decision to delay for five years



"The result," says Saica president Rick Cottrell, "is that in mid-1988, the profession will launch a national media advertising campaign It'll say something along the lines of the CA being a business problem solver — consult him first " Quite correct CAs are not just tickbirds poring over huge ledgers and journals (and they *do* show originality in their choice of beer brands)

Just before the campaign, the two governing bodies will issue a discussion paper, a formal profession document, on a new code of conduct The main aim of this, says Cottrell, will be "to start a consultative process that will lead to changes that will make the profession relevant to its members and its clients " At long last, competition has been invited to the party, not in fancy dress, but in its true colours

Which is exactly what the profession needs CAs benefit from the three classic characteristics of a closed shop

- ☐ Entry costs (barriers) are high,
- ☐ Audit fees are fixed; and
- ☐ There is the privilege of the compulsory statutory audit

In other words, if you can afford the thousands of rands needed to become a CA, and have the brains and guts to make it, the future is yours.

Until recently, the profession vigorously defended its turf against all competition, real or imagined It felt safer steeped in its historical context — which included ethical and disciplinary rules The rule against advertising, it must be stressed, is just one of the subsidiary rules. The main competitive restraints include a ban on soliciting and claims of cheaper or superior services

But advertising helps in identifying paradoxes that have arisen as the profession keeps its hands tied

Take Price Waterhouse, which owns 100% of PE Corporate Services (PE) PE is allowed to advertise, but subsidiaries of other accounting firms, offering substantially the same goods, may not The *FM* understands that the profession's governing bodies have ruled on PE, so the position is legal.

The only discernible difference is that PE was bought out by Price Waterhouse, rather than set up by it, as other companies had done And, of course, enterprises like PE litter the accounting profession They're established to give status to non-CAs who are not allowed to become partners in the accounting firm

This problem reflects troubles that run much deeper in the profession Consider a large firm which was recently twice reported to the Paab for alleged breaches of ethical codes Both times the complaints were laid by relatively junior partners of major firms.

"BIG NINE"

Alphabetically

Arthur Andersen
Aiken & Peat
Arthur Young
Coopers & Lybrand
Deloitte Haskins & Sells
Ernst & Whinney
Pim Goldby
Price Waterhouse
Theron van der Poel

Paab is statutorily bound to investigate all complaints

In the words of the managing partner "Twice we were found not guilty, after considerable expenditure of partner time, money and energy which could have been better used in client business " In short, everyone lost except for the lawyers, who made a fortune

Most enlightened top CAs believe that some problem areas can be best handled in discussions between managing partners on a person-to-person basis For instance, one firm has a rule that no complaints are lodged except through the managing partner.

Yet another anomaly in a discussion regarding various examples of major firms' possible breaches of the ethical code, it was revealed that some breaches were by firms who themselves had been complainants to the Paab

A further paradox is that last year the governing bodies authorised an independent human resources consultancy to give CAs seminars on marketing Explains Cottrell "This is to teach individuals how to market themselves " In other words, the cynic would say, do your pitch across the 18th green, not through the media Is this cost-effective?

But what we find encouraging is that there is also pressure from CA audit clients Companies are increasingly calling for "audit tenders " Though the practice is in its infancy in SA, such tenders allow different firms to communicate with companies that may have had the same old auditors for decades In their nature, tenders may violate the profession's ethical rules

There are also outside pressures on the profession. Competitors in non-audit services have long argued that the CA's audit base gives him an automatic market to which he can peddle non-audit products Even CA advertising will not solve that one, given that the audit function should remain in the hands of the profession

With a shakeout in SA's accountancy profession imminent, the *FM* supports the statement in principle of Pim Goldby's Colin Brayshaw, that the profession

- ☐ Favours deregulation and the free flow of information in the accountancy market,
- ☐ Favours competition on the basis of rival firms pointing out their expertise and experience, and
- ☐ Is opposed to exaggeration or over-claiming

Hopefully, the discussion paper will encourage a more enlightened approach to open market forces.

The problem will be finding, along with a new ethical code, a new way of disciplining the profession ■

PROPERTY UNIT TRUSTS

High yielders

The property unit trust and property loan stock sector continue to fall, but with already high yields continuing to improve, they must become attractive.

For those investors who believe the property market will remain firm for some time, property unit trusts could be an interesting investment, although the index is still hitting new 12-month lows But another vehicle is also gaining popularity — the property loan stock

Property loan stocks do not fall under the Unit Trust Control Act and are thus not subject to the same controls as property unit trusts The trusts can raise funds only by way of rights issues to existing unit-holders, and may borrow to a maximum 5% of the book value of their assets, with the borrowings only to be used for a particular purpose for a specific building The loan stocks are issued by companies which can borrow and issue further loan stock and shares to raise funds for acquiring new properties John Rayner, property unit trust analyst at stockbroker Max Pollak, points out that management is therefore crucial, as gearing can have a negative as well as a positive effect

There are now 14 trusts and eight loan stocks listed The loan stocks are Barlow Rand Properties (Barprop), RMS Property Holdings (RMSprop), Amaprop, Higate, Pangbourne, Growthpoint, Hyprop and Retprop Investments Amaprop's loan stock is different from the others in that a well-established company authorised and issued the stock Barprop was formed by Barlow to hold its properties, and thus succeeded in effectively arranging a sale of its properties without losing control, as the loan stocks have no voting rights

The others are new companies formed specifically to hold properties and are financed mainly by loan stocks — though some, such as Retprop, have also listed their ordinary shares But the managements of all except Retprop and Hyprop — whose management is well known in the property world

Principled ... or pampered? Why lawyers avoid the bench

A judge's remarks that advocates won't take a drop in salary to join the bench prompts a controversy over why lawyers refuse to serve: principle or profit. JO-ANN BEKKER reports

CONTROVERSY has erupted over accusations that senior advocates had been refusing judicial appointments out of a reluctance to take a drop in salary.

Mr Justice MM Corbett's remarks earlier this month thrust the earnings of senior counsel under the spotlight — the top few are reliably said to earn five times a supreme court judge's salary.

But most legal practitioners interviewed this week denied that financial considerations were the sole, or even the main, reason for refusing appointments to the bench

Justice Corbett, whose controversial address was delivered to the first National Bar Conference in Cape Town, conceded that some advocates refused appointments for ideological reasons, or because they strongly opposed the death sentence.

Expanding on this a Johannesburg attorney said a significant number of senior counsel did not want to have to apply legislation with which they did not agree, such as the Internal Security Act which provides for detention without trial. Neither did they wish to have to impose the death sentence, which is mandatory in certain cases

A Johannesburg advocate said the government had emasculated the courts by passing its security legislation "Courts have become arbiters in commercial disputes and judges in crimes in which the government does not have an interest," he said "The courts' fundamental role in acting as a bulwark against abuse of power has been eroded.

"There are a lot of people who for that reason alone are not prepared to accept appointments to the bench"

Another reason was many advocates did not feel temperamentally suited to a judge's life which was "very lonely, very responsible and very demanding", according to Michael Kuper, chairman of the Johannesburg Bar Council.

Jules Browde, chairman of Lawyers for Human Rights, pointed out that the government — which makes all judicial appointments — sowed the seeds for future opposition to judicial appointments shortly after coming to power in 1948.

In 1952 the National Party government packed the Appeal Court with its sympathisers in order to get "coloured" people removed from the voters role In the following years, it was an open secret that senior counsel who held views diametrically opposed to the government would not get appointments Consequently many advocates refused appointments in protest.

"Today the government has a lot of judges who have got there because of their politics," an advocate said. "This has had the effect of lowering the standard and prestige of the bench In turn it means people are less and less inclined to accept appointments — with a couple of brilliant exceptions."

However, Professor John Dugard, head of Wits University's Centre for Applied Legal Studies, agrees with Justice Corbett that money is the main consideration for most who refuse judicial appointments.

"The majority of senior counsel are not ideologically opposed to the government although they occasionally make political noises," he said "They refuse to accept judicial appointments for financial reasons"

Human rights attorneys confirmed this week that it was generally impossible to commission senior counsel on the maximum fees laid down by foreign funders of R1 200 for a day's representation in court.

Some will work for R1 800 but the general fee for a day in court is R2 400 Top counsel can earn twice that Senior counsel can earn a gross of R300 000 and a few are in the half a million bracket.

Judges — whose salaries are set by the Judges Remuneration Act — earn R115 000 a year on the Supreme Court bench and R122 000 on the Appeal Court bench They also receive pensions and housing, car and travel allowances.

"I would imagine that for some advocates accepting a judicial appointment would mean their income would be halved — for others it would be more than halved," Kuper said. He added there was a wide discrepancy between advocates' earnings at one bar and between different bars

However, lawyers point out that senior advocates have always taken a drop in salary to go to the bench

Browde said the theory behind appointments to the bench was that advocates became senior counsel at the bar and earned well, built up savings, then went to the bench However, that practice was rocked by political appointments in the 1950s.

"The crowning moment in an advocate's life is becoming a judge," a Johannesburg attorney said. "If the judicial climate was different and if there was no Internal Security Act or death penalty, it would be a different situation The leadership figures would go to the bar and the rest would follow

"Many would be prepared to sacrifice if there was something for which to sacrifice."

Henri Viljoen, chairman of the General Council of the Bar of South Africa, said he could not agree that there was "any crisis regarding the availability of advocates for appointment to the Supreme Court bench.

"It is true that there are senior practitioners who are unwilling to take appointments, but that has always been the case.

"However, even taking into account the fact that there are able senior counsel whom the government is not prepared to appoint to the bench for reasons unconnected to their professional competence, there have always been and still are sufficient other competent candidates among senior

Three months and no offers

PROFESSOR John Dugard of the Centre for Applied Legal Studies said that although he did not know the numbers, the state's desperation to make judicial appointments had 'become a joke'

'A friend of mine was appointed a senior counsel in Pretoria last year,' said Dugard

'I saw him a few months later and congratulated him He said: 'I can't be very good, I've been here three months and I haven't been offered an acting appointment to the bench.'

Manpower Mirror by Julie Walker

Accountants — an endangered species

THE CA's Eden Trust — the chartered accountants' education endowment trust — has raised more than R12-million of the R20-million target to promote the profession.

Eden Trust was founded by chartered accountants to widen and improve the education and training of entrants to the profession.

Many factors contributed to the need for the trust

Emigration and the lack of immigration to SA by accountants caused an overall reduction in the number of qualified people in SA in the past two years.

Articled clerks

In November last year the number of absent members of the SA Institute of CAs had increased by 38% Membership had increased by a modest 13%.

Between 1983 and 1986 there was a 15% reduction in the number of articled clerks enrolled. There are about 11 500 chartered accountants in SA today The projected number required by the end of the century is 20 000.

African, coloured and Asian members number fewer than 250. Eden Trust hopes that they will account for 10% of the total by the end of the century.

Problems are compounded by the shortage of university teachers in accounting and related subjects.

The trust's objectives fall into four main categories: scholarships and bursaries for students on academic support programmes, provision of undergraduate and graduate bursaries; financial support of university teachers of accounting and related subjects, and encouragement and financing of accountancy research.

An annual contribution of R75 000 provides a single bursary and/or scholarship, for both academic support programmes and university education. This is in 1988 terms and the rise in the cost of living will lift the figure

Contributors

A major industrial and mining group made the latest contribution to the trust. Contributions are being made by chartered accountants in public practice — of the total received, R8-million has come from such sources.

Several industrial, commercial and financial companies are considering making contributions to the trust, as are the smaller firms of practising accountants. The target of R20-million is steadily being reached.

The objectives of the trust are relevant to the European Economic Community and Sullivan codes which apply to some foreign-controlled companies.

Eden Trust programme chairman Mike Woods says the amount raised so far has assured the trustees of more than 100 bursaries next year.

There is no shortage of competent but dis advantaged students. It remains important for the trust to strive for the objective of 250 bursaries a year.

The trust has awarded its first bursaries to university accounting students in the Cape, Transvaal and Natal. The students are attending universities in Johannesburg, Pretoria and Cape Town.

Lawyers in the dock

(248) B/day 29/4/88

ROGER SMITH

IF JUDGES and lawyers did not distance themselves from the existing legal sytem in SA, they could not hope to save the Roman Dutch legal tradition in a post-apartheid society, Professor John Dugard, Professor of Law at Wits University, said on Tuesday

He was speaking at a seminar on law in a post-apartheid society attended by about 100 people at Wits.

Dugard criticised the organised legal profession, such as the Johannesburg Bar Council, for failing to speak out on such issues as the case of the Sharpeville Six (currently under a stay of execution) or even the sending of what he termed an SADF "execution squad" into Botswana "The legal profession must not be surprised if it is seen as part of the superstructure of apartheid," he said

He quoted the 1971 statement by the late Professor Barend van Niekerk, Professor of Law at Natal University, which had resulted in Van Niekerk's conviction for contempt of court Van Niekerk criticised the failure of the legal profession to respond to the introduction of the Terrorism Act "Unfortunately, things haven't changed much since 1971," said Dugard.

He criticised the tendency of lawyers to refuse to play a part in prescriptive thinking, and called for them to make a contribution by putting forward alternative constitutional models.

"It is appalling the organised legal profession is ducking this issue — the (last) General Council of the Bar of SA conference ignored it completely", he said.

Dugard sketched two possible scenarios for a post-apartheid society, and their effects on the legal system — although stressing such a society was "not just around the corner" and a state of siege could be expected for another 20 years or so.

The first, involving a relatively peaceful negotiated settlement, would mean a transition to a Zimbabwe-type situation. This was, he believed, "the best we can hope for".

If this happened, he expected common Roman Dutch law would be retained, the judiciary and many existing judges and lawyers would be retained, but so would the NP government's security legislation.

Legitimacy

The other scenario, of a violent transfer of power after a long war of attrition, could see the scrapping of Roman Dutch law and, as the courts and lawyers had been seen to give legitimacy to apartheid, they too would go.

He expected Roman Dutch law would be replaced by something like a Code Azania, and it was only to be hoped it might be as good as the Code Napoleon introduced after the French Revolution of 1789

He said there could be Nuremberg-type trials, and he feared that these would be of not only NP leaders but other people. "I hope they do not apply the doctrine of common purpose as far as the Appellate Division has in some cases, such as the Sharpeville Six."

He concluded by saying that if the virtues of the legal profession were to be retained, "lawyers must come to terms with the crisis facing us".

The conservative attitude of lawyers was also criticised at the seminar by Professor Johan van der Westhuizen, director of Pretoria University's Centre for Human Rights, who said the Bar Council conference session on human rights had been "very flat"

"In order to establish the legitimacy of the legal system we need more than reform," he said. "We must try to build a new society, and must look for new symbols of legitimacy, unity and justice"

Johannesburg attorney Kathy Satchwell condemned the SA legal system as based on discrimination and exploitation. "Our statutes can never claim to have been approved by the entire community affected by them — they are not of, by and for the people," she said.

"In a post-apartheid society the most striking change must be that our laws must have the approval and consent of those subjected to them, and must be enforced by them"

She referred to her experience of cases involving people implicated in "people's courts," which she regarded "not as a model for the future, but as a crisis reaction to a crisis situation"

George Bizos SC agreed with Dugard that the organised legal profession had often behaved as Van Niekerk had said, but he said it had not remained aloof

He referred to the work done by labour lawyers and lawyers in legal resources centres and legal clinics, which he said would help to shape the laws and institutions of the future

Lecturers told 'Use your brains'

Star 21/5/88 (248)

By Esmaré van der Merwe

A University of the Orange Free State professor has called on other lecturers to use their "assumed brainpower" to bargain for a rectification of their salary discrepancies.

Their salaries have not only lagged behind those of the private sector but also behind those of civil service personnel in comparable positions.

Lecturers' associations should organise themselves in a strong countrywide bargaining unit, similar to other interest groups, which can negotiate with the State on salaries and conditions of employment, says Professor A S de Beer.

The professor, who is head of the university's communications department, says in an article in *Acta Aktueel*, a half yearly lecturers' opinion publication, that the "incomprehensibly extreme salary discrepancy" between universities and the civil service should be addressed urgently.

He suggests that universities be separated from the civil service and from primary and secondary educational bodies, and that minimum salary scales for university personnel be implemented.

Universities should plan and implement the principle of job differentiation at macro-level.

For example, it should be made clear why a medical professor earns more than R100 000 annually, while his science colleagues earn less than half of that.

Professor de Beer says the growing perception that lecturers could be underpaid because they earned something extra on the sideline should be eradicated. Moonlighting is detrimental to their educational task.

He quotes several examples of salaries paid to people in comparable positions in the civil service and universities.

For example, in 1977 a senior lecturer earned R1 200 more than a civil service director. However, a senior lecturer now earns about R30 000 less than a director (fringe benefits included).

Professor de Beer slams the cutbacks in university subsidies, which had decreased by between 22 percent and 29 percent since last year.

The Government says universities determine their own salaries and could pay their academic staff more, he says.

"But with what should lecturers be paid if the State cuts back on subsidies every year?"

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SA women 'victims of discrimination in the legal profession'

Star 2/5/88

248

A growing number of women are graduating from law schools and entering the legal profession as attorneys and advocates, but few senior legal positions are occupied by women. BRUCE ANDERSON reports.

About half of the law school graduates in South Africa are women yet the country still only has one woman judge and one woman senior counsel

This disturbing statistic was quoted in a recent editorial in *De Rebus*, the attorneys' journal

On a more hopeful note, the article noted that "the influx of women in the magistrates' courts, both as prosecutors and magistrates, and the increasing number of women at the Bar and in attorneys' offices, coupled with the more tolerant approach to women being exhibited by the younger brand of attorney and businessman, will surely bring about a greater recognition and acceptance of women lawyers in time to come"

Many women lawyers have confirmed that discrimination in the legal profession does exist, but it does not present an insurmountable problem

Women paid less

A woman attorney said the barriers became more apparent when she began to occupy more senior positions

Discrimination took the form of a lower salary than that paid to male colleagues and a tendency on the part of the partners to prevent her from becoming involved in more robust court cases

Although senior male attorneys have often expressed doubts about promoting women because they often marry and leave the firm to have children, the *De Rebus* editorial notes that "there is a new breed of woman entering the profession, a woman who chooses to remain childless in order to pursue her career If such a woman should choose to marry, that fact should not be held against her"

Indeed, in some areas woman make better lawyers than their male counterparts

According to *De Rebus* "Psychologists and sociologists recognise that because of their socialisation process, women are less confrontational than men and are more open to discussion and compromise

"It has been suggested, therefore, that a new trend in the practice of settling disputes by interaction and mediation is likely to emerge as more women lawyers become involved in litigation"

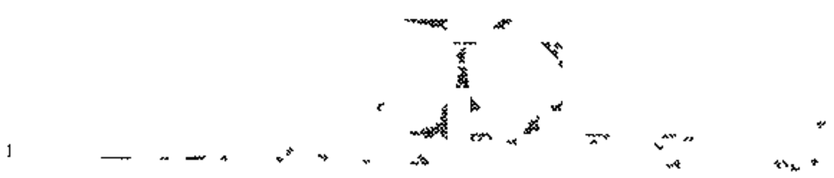
Overdue for promotion

Although it has been said that there is a reluctance on the part of law firms to employ women as articled clerks, three women lawyers said they believed law firms were fair in giving articles to woman graduates

But there seems to be little doubt that women are long overdue for promotion to the more senior positions in the legal profession

As *De Rebus* puts it "Mrs Thatcher began her career as a law student, advanced to become a barrister and today is the Prime Minister of Great Britain In other countries, women today occupy senior positions in government and in the legal profession

"Has the time not arrived in this country for women to be given greater recognition for the role they play in the legal profession?"



WOMEN AT LAW Finding it difficult to climb the steps to the top positions

'Staff morale reaches unprecedented low'

University of Natal facing cash crisis

GENER

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or

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Own Correspondent

DURBAN — A crisis move to slash staff and academic departments at the University of Natal, in line with subsidy cuts, has been suspended after an outcry

The major cuts, representng more than 100, or 16 percent, of academic staff, were set out in a hard-hitting plan drawn up by a sub-committee of the university planning committee and presented to faculty deans last week

The short-term academic plan follows reports that R13 million will have to be slashed from the university's budget this year after a 25 percent cut in the Government's subsidy, leaving a budget shortfall of R26,1 million Student fees for this year were increased by 5 percent last week

The proposal marked 19 "uneconomical" departments — among them architecture, electrical engineering and certain agricultural subjects — as "very seriously at risk" and placed the scope of arts and social science departments in jeopardy

Academics labelled the plans as the "most drastic staffing decision in the university's history" and said staff morale had reached an unprecedented low

At an Academic Staff Association meeting on Wednesday about 160 academics voted to reject the document and lodged an objection to the non-constitutional manner in which the paper had been presented

On Friday, at an extraordinary senate meeting to discuss the crisis, heads of department further voiced their opposition Later the principal, Professor Pieter Booysen, said the issue had been resolved and it had been agreed that the plan be seen as a consultative document, open to revision

He said the short-term plan had been referred to faculty committees which would, in turn, respond to the university planning committee.

SERIOUSLY THREATENED

The plan placed 13 subjects in the arts and social science faculties in jeopardy Most seriously threatened were foreign languages as well as music, classical culture, speech and drama, comparative African government and administration, and the Centre of Applied Social Sciences.

Academics agreed that, while the immediate issue seemed to have been resolved, the financial crisis remained Most conceded that staff cutbacks and the dissolving of some departments seemed inevitable

Plastic threat to beaches

Political Staff

THE levels of plastic pollution off the South African coast were among the worst in the world and unless active steps were taken, the situation would deteriorate, Mr Renier Schoeman, the NP MP for Umhlanga, said yesterday

A pollution survey had established that along a 140km section of the Natal coast there was 72 800kg of non-biodegradable foreign matter, he said during the debate on the Environment Affairs vote

Women now form 47% of professionals

Political Staff

AN encouraging increase in the contribution of blacks, coloureds and Indians to high-level and middle-level manpower had taken place over the last 20 years and women now formed 47% of the professional occupation category, the National Manpower Commission reported yesterday

The Commission, whose report was tabled in Parliament yesterday, said a gradual increase in the percentages of the total population accounted by high-level and middle-level manpower.

In 1985, high-level manpower constituted 11% and middle-level manpower 25% of the total work force

"There has been an encouraging increase in the contribution of blacks, coloureds and Indians to high-level manpower and middle-level manpower

"For example, their contribution to high-level manpower increased from 25% in 1965 to 32% in 1985, while their contribution to middle-level manpower increased from 20% in 1965 to 40% in 1985"

Good news for local authors

Veteran newspaperman and suburban newspaper publisher William Greenberg is setting up a wholly South African-owned corporation to publish local authors in paperback.

He is seeking nine investors to join him in a closed corporation to take advantage of what he believes is a huge gap in the 1 million books a year paperback fiction market, which is supplied almost exclusively from overseas

Market research has shown that all South African book sellers, from the largest distributors to retail book shops, supermarkets and department stores, support the idea of South African fiction aimed at a mass readership, provided the retail price is kept low, he says.

South African authors of popular fiction are getting a raw deal from publishers, says Mr Greenberg. "Publishers tend to concentrate on local English novels which might be candidates for the CNA literary award, the Booker Prize and so on.

"This category of book does not necessarily appeal to the average reader."

Apart from previously unpublished manuscripts, Mr Greenberg plans to publish translations of best-selling Afrikaans novels and to acquire the South African paperback rights to best-selling novels by South African authors published overseas.

Films could provide a valuable spin-off, he believes.

Conference calls for inquiry into police action

By Claire Robertson, Pretoria Bureau

A conference of 150 academics, lawyers and politicians called on the Government yesterday to appoint a judicial commission of inquiry into the activities of the kwaNdebele police and the mbokotha (vigilantes) in the homeland

The conference, "kwaNdebele — the future", organised by the Pretoria branch of Lawyers for Human Rights, "noted with alarm the allegations of gross misconduct, abuse of power and political interference by the kwaNdebele police and the vigilantes", according to the unanimous motion

If the Government failed to set up a commission, a private inquiry should be established with the same brief, it was decided

kwaNdebele 'workshop for peace' aborted

Pretoria Bureau

A planned workshop which hoped to take the first steps towards peace in kwaNdebele collapsed in March this year when several Government departments withdrew at the eleventh hour, it was revealed at a conference in Pretoria yesterday.

Professor Simon Bekker of Unisa's sociology department and an independent researcher contracted by Lawyers for Human Rights, Ms Pat Rainey, had spent six months organising the workshop, which was to have been held in Pretoria on March 28

Representatives of the Departments of Law and Order, Constitutional Development and Planning, Development Aid and the SADF were to attend the one-day workshop.

DID 7/5/88

Lawyers in split

148

UMTATA — Four executive members of the newly-formed National Association of Democratic Lawyers (Nadel), including its Transkei president, Mr Dumisa Ntsebeza, have resigned in an argument over representation.

In a statement yesterday, Mr Ntsebeza said he, the Natal vice-president, Mr Donald Kali, the assistant secretary, Mr Imrann Moosa, and the assistant treasurer, Mr Justice Poswa, had resigned because they felt they were unable to "pursue this struggle with those who violate all democratic principles in order to build puny fiefdoms".

The status of Nadel's annual meeting had been one of the issues.

Some had held that the meeting should be of the general council only instead of the whole membership. — DDR

More lawyers leave Nadel

Sowetan 18/5/88

(248)

FOUR executive members of the National Association of Democratic Lawyers have resigned because of what they call "rabid sectarianism and mischief making within the organisation".

The four national executive members are Mr Dumisa Ntsebeza (president), Mr Donald Kali (Natal vice-president), Mr Imraan Moosa (assistant secretary) and Mr Justice Poswa (assistant treasurer)

Their resignations follow the withdrawal of the Black Lawyers Association from Nadel on January 31, 1988 In a statement, the four executive members said "In announcing our resignations from Nadel, we reaffirm our commitment to democracy and justice We are, however, unable to pursue this struggle for democracy and justice with those who violate all democratic principles in order to build puny fiefdoms "

Nadel was formed after an amalgamation of the Black Lawyers Association, the Democratic Lawyers Association, the Lawyers for Democracy, the Eastern Cape Democratic Lawyers Association and independent lawyers groups.



Mr DUMISA Ntsebeza, president of Nadel, who has resigned.

Two other executive members who resigned previously were Mr Dikgang Moseneke and Mr Keith Kunene They resigned when the BLA pulled out

Legitimacy of system questioned — judge

By Tim Cohen

Many South Africans have begun to question the very legitimacy of our legal system, a Rand Supreme Court judge, Mr Justice Goldstone, said on Tuesday night.

Speaking on "Law and Morality" at a function organised by the Law Students' Council of Wits University, Mr Justice Goldstone said sitting judges rarely spoke on a public platform, but he had accepted the invitation because of the importance of the topic

"Wider powers conferred upon the executive and the police by successive security statutes and states of emergency in the early 1960s and since June 1985 have added impetus to the quest for standards and for terms of reference

"Black lawyers question its (the legal system's) legitimacy not only because of laws which discriminate on the grounds of colour, but for the reason that blacks have not participated at all in the law-making process," he said.

"On that ground, all the laws are said to be lacking in legitimacy"

IGNORED

Mr Justice Goldstone said the fact that this debate was being conducted at all levels of South African society was important and frequently ignored by critics of South Africa

"It is in this context that we have to find criteria to measure the laws and the legal system

"Surely decent and moral people can agree on whether some or other law is moral or ethical or just, whether they be supporters of a socialist, capitalist, liberal or mixed forms of government

"The present state of non-equilibrium is far too serious to allow our society to become static

"It is precisely in this situation that lawyers, of all people, should steadfastly do all within their power to retain much that is good and necessary in our legal system

"It makes no sense to jettison the good of the one we have because we cannot have the best that we may desire," he said

No action planned over lawyer who criticised Appeal judgement

By Tim Cohen

The Bar Council will take no action against a Johannesburg advocate, Mr Edwin Cameron, who sharply criticised the Appeal Court for upholding the death sentence on the "Sharpville Six".

Lawyers believe the move reaffirms the public's right to criticise judges.

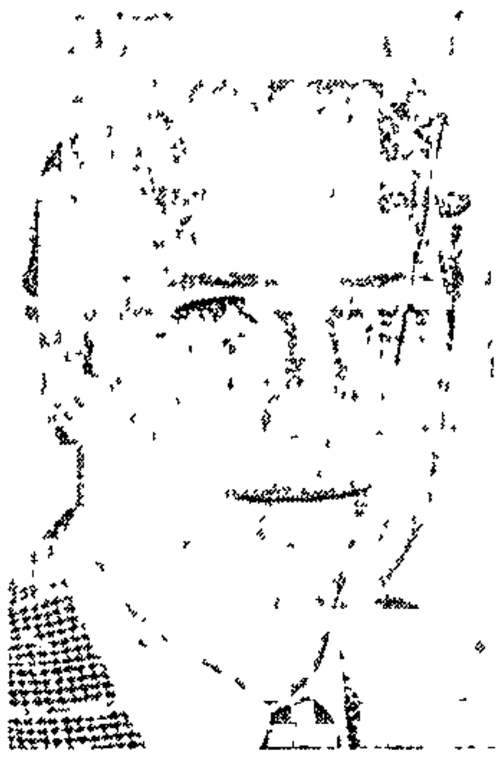
A Sunday newspaper article written by Mr Cameron on the Sharpeville Six case was referred by the Judge President of the Transvaal, Mr Justice Moll, to the Bar Council at the request of the Appeal Court, with a view to possible disciplinary proceedings

As is usual, no reasons for the Bar Council decison were given

In an address at Wits University this week, the incident was analysed by Professor Etienne Mureinick who concluded that it was in the interest of good judging itself that judicial decisions are the subject of "candid and vigorous public debate"

Mr Mureinik, who was speaking on the topic of law and morality, said shortly after the article was published, Mr Cameron, in an interview with a British journalist, suggested that the judgment in the case represented a widening of the doctrines of criminal liability "in response to evidence of township revolt".

Opening the first national Bar Conference in Cape Town, the Acting Chief Justice, Mr Justice Rabie, made remarks which may be understood as



Mr Edwin Cameron
. . . .newspaper article
on Sharpville Six

saying that Mr Cameron's suggestion was little short of shocking and disgraceful, Mr Mureinik said

Some lawyers would conclude that Mr Justice Rabie's comments at the Bar Conference were unjudicial, he said "But that conclusion would rest upon a doctrine which has been fostered, more than by any one, by judges themselves

"It is the doctrine that says it is wrong for judges to enter upon public controversy; in particular that they should abstain from extra-judical comment on questions pertaining to issues which might arise in suits brought before them."

However, Professor Mureinik said the Acting Chief Justice deserved congratulation for making the intervention because, he said, "the doctrine of judicial uncontroversiality is a dangerous one"

"Judges are not mere private individuals they are the third arm of Government, and in them there reposes a power nothing short of political

"Every member of the community has a right to say whether he or she approves of the way in which judges are exercising their power and 'what the community may assail the judges may justify'.

"By making the comments that he did at the Bar Conference, the Acting Chief Justice committed himself to the proposition that judges should not consider the public fray beneath their dignity."

The Acting Chief Justice's comments may also be taken as an implicit affirmation of the legitimacy of criticising judges, Professor Mureinik said

And no judge of stature could properly be taken to be claiming a right of reply without conceding a right to speak, he added

"As such Mr Justice Rabie's response was timely and welcome, especially because some of the other responses to Mr Cameron's views may be taken as contesting the legitimacy of expressing them"

Professor Mureinik concluded that scrutinising judicial performance was a "routine scholarly activity in countries with comparable judicial systems and similar academic traditions"

...kind and generous to his cause.

...to Pietermaritzburg in a bid to raise R2 million.

NADEL expects 200 to attend first AGM

CAPE TOWN — About 200 delegates from all over the country are expected here this weekend for the first annual general meeting of the National Association of Democratic Laywers (Nadel).

The AGM will open with a public meeting in the Woodstock Town Hall tomorrow evening and will be addressed by Cosatu leaders, Mr Elijah Barayi and Mr Cyril Ramaphosa.

Other speakers will be Dr Allan Boesak, Mrs Hilda Ndude and advocate, Mr Dullah Omar.

A closed session to be held on Saturday will deal with Nadel's position on the imposition of the death penalty as well as Repression: with special reference to the judiciary.

The theme of the AGM is People's rights in South Africa. — DDC

...and that he assu... that they (the Tia... nese) had the same ...tentions as the pec... who owned the d... net found at the ri... on October 16.

In closing, the prose... tor, Mr. Andre Sm... said he rejected ... accuseds' argum... that the Chalum... River was half ... South Africa and h... in Ciskei and the... fore was out of t... court's jurisdiction.

The case was postpon... until May 23 for ju... ment.

The magistrate was Mr Da... Theron and the accused c... ducted their own defence.

One year on, lawyer group splits over army service

2026/Sept/Mercury (248)

By CARMEL RICKARD, Durban

THE first annual general meeting of the National Association of Democratic Lawyers (Nadel) — formed last year to unite all the country's anti-apartheid legal professionals — is to be held this weekend, but already one of the groups which originally made up the association has broken away.

Nadel was launched last May to bring together a number of lawyers' groups so that they could work under a single banner "for a just and democratic future in South Africa".

It was representative of over 700 members of the profession from organisations including the Democratic Lawyers' Association, Lawyers for Democracy and the Black Lawyers' Association

In March this year members of the Black Lawyers' Association split off over dissatisfaction with Nadel's constitution, taking its estimated 120 members, about a fifth of the total Nadel membership.

However, it is understood that BLA had on its agenda a potentially explosive issue to sort out with Nadel before finalising its position in the larger body — that no one who had done military service or who was liable for service could be a member of Nadel.

Even before this issue was debated, however, the BLA came unstuck from Nadel over a constitutional question — the role of the AGM.

In terms of the constitution, each branch sends delegates to the AGM, the number of delegates depending on the size of the branch membership. The BLA, however, wanted all members who attended the AGM to be able to vote.

After BLA's breakaway over this issue, four members of Nadel's executive — who sympathised with the stand of the BLA but are not BLA members — resigned. This week they issued a statement explaining their position.

Lawyers Dumisa Ntsebeza, Donald Kali, Imrann Moosa and Justice Poswa said they did not want to continue in Nadel with "those who violate all democratic principles in order to build puny fiefdoms".

Responding to this statement yesterday, national secretary of Nadel, Ismail Ayob, said the BLA had tried to change the constitution but had not been able to get the required support.

The four executive members then left, as they found themselves without support and "unrepresentative of the views of Nadel's membership" but they chose to make their resignation known only some time after the event.

Other Durban Nadel lawyers said yesterday that although the four who resigned claimed they did so because Nadel was undemocratic, in fact "what was at issue was competing notions of democracy and competing forms of representation.

"What the BLA sought was to amend the constitution so that whoever happened to turn up at the AGM would be able to decide on policy.

"The Nadel membership resisted their attempt to undermine the democratic principles of the constitution adopted by the whole membership at the inaugural meeting."

Lawyers quit group to join the BLA

CP Correspondent

SIX recently resigned members of the National Association of Democratic Lawyers have decided to work under the banner of the Black Lawyers Association, a former affiliate of Nadel

They claim they will continue to forge unity between oppressed lawyers, irrespective of their ideological differences

"Although the Black Lawyers Association has its origins in the black consciousness movement, we are committed to non-racialism openly and privately," said Don Kali, Nadel's former vice president and one of the six who resigned

"It must be borne in mind that there are black lawyers who work against the interests of the oppressed people as well as white lawyers who espouse the same ideals as the oppressed people

"We don't want any partisanship We want all tendencies within our association to be accommodated," said Kali

The split in the year-old Nadel – which for the first time brought together lawyers of different political persuasions – was initiated by the BLA

The BLA wanted the constitution amended so that the supreme decision-making body would be an annual general meeting of the members, instead of the general council, on which all affilates are represented

Although a majority at a special general council meeting in Maritzburg in March voted in favour of a motion to effect this change, they could not muster the two-thirds majority stipulated in the constitution

Dissatisfied with the outcome, the BLA recalled its two members serving on the Nadel national executive – Tranvaal vice president, Keith Kunene, and treasurer, Dikgang Moseneke

Others who resigned included Nadel's president, Dumisa Ntsebeza, assistant secretary Imrann Moosa, and the assistant treasurer, Justice Poswa

A joint statement by the the former Nadel members, said "We as elected members of Nadel are constrained to announce our resignation from Nadel

"We are committed more deeply than ever to the struggle for democracy and justice which includes the effective mobilisation of all democratic lawyers as South Africa slides further into a permanent state of ermegency

"We, however, are unable to pursue this struggle with those who violate all democratic principles" – Concord

22/5/88 CP Pres (248)

Varsity conditions 'slumping'

The Committee of University Teachers' Associations (Cuta) said at the weekend it was disturbed by the "total deterioration" of the service conditions of teachers at universities.

A motion to this effect was adopted unanimously on Saturday by Cuta at the annual general meeting of the University of South Africa in Pretoria.

Cuta said it had lost complete confidence in the readiness and ability of the Government and, in particular, the Minister of National Education, Mr F W de Klerk, to properly define and handle the "already pressing and worsening financial position of academics at universities".

It also found it increasingly problematic to negotiate service conditions with the Government via the Committee of University Principals — Sapa

Teachers express 'concern'

Sowetan 23/5/88

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A motion to this effect was adopted unanimously on Saturday by the Cuta at the annual meeting of the University of South Africa.

The Cuta said it had lost complete confidence in the readiness and ability of the Government, and in particular, the Minister of National Education, Mr F W de Klerk, to properly define and handle the "already pressing and worsening financial position of the academics at universities."

The Cuta had taken note of the positive public statements of Mr de Klerk regarding the essential role that universities played in day-to-day affairs.

It had, however, become clear to the Cuta that urgent attention had to be given to the "critical" state of affairs of university life.

The Cuta decided, among other things, to embark on the following:

Emergency meeting

As a first step, the Cuta will in the short term attempt unconditionally to have the service conditions of university teachers redressed so as to achieve at least parity with the rest of the public sector. This includes adjustments of between 50 and 100 percent.

The Cuta will also strive for the uncoupling of university life from the rest of the education sector so that the function and position of universities could be properly defined.

The Cuta will also ask for an emergency meeting with Mr de Klerk regarding the compensation package of university teachers.

The Cuta said in its statement today that the decisions had been unanimously accepted by representatives of the teachers' association of Medunsa, the University of the North and QwaQwa, Port Elizabeth, Potchefstroom, Pretoria, Rhodes, Stellenbosch, Unisa, Free State and Western Cape.

Vista attended the meeting as as observer. — Sapa.

State aware of university pay concerns

STV 26/5788

CAPE TOWN — The State recognised problems with university lecturers' salaries and conditions of service, the Minister of National Education, Mr F W de Klerk, said yesterday

In a statement reacting to media releases by the Committee of University Teachers' Associations, he invited the committee to approach him through "the right channels" after which he would be prepared to hold discussions

The committee had failed to take economic realities into account and it needed to adopt a less impulsive and more analytical approach to the problem, he said

Some of the comparisons that had been made between the salaries of certain university and public service posts were incorrect — Sapa

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May 26 1988

Arbitration can cause damage to client's case

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By Carina le Grange Star 26/5/88

Unless parties and their legal representatives are astute, arbitration can cause considerable damage to a client's case, Johannesburg attorney Mr Tony Gorley believes.

Writing in the latest edition of the South African attorneys' journal, *De Rebus*, Mr Gorley says people who turn to arbitration instead of normal court procedures for settling disputes may be mistaken about its supposed advantages.

He says what people expect to derive from arbitration is "speed, reduction in costs of litigation, finality of awards, secrecy and the ability to select an arbitrator with specialised knowledge"

He acknowledges that simple matters may be resolved more quickly through arbitration than through the courts, but says the situation is different for complex matters, one of which is the setting of a date.

"Many defendants have succeeded in delaying hearings for considerable periods of time — ultimately to their benefit."

He says the cost of arbitration is heavy and often higher than that of matters which are dealt with in the courts

"The arbitrators' fees and the costs of recording the evidence and hiring a suitable venue are heavy costs over and above those normally incurred in court proceedings"

"One particular field in which lay arbitrators are notoriously unable to reach a proper decision is that of legal costs."

Dealing with finality of awards, he says there is no provision in South Africa for appeals and no reasons are usually given for awards

Mr Gorley writes that his conclusion is that arbitration is better than normal litigation only for the relatively rare special case of a purely factual technical dispute

Copyright move is 'frightening'

The proposed abolition of the 10-year copyright on industrial drawings is "frighteningly bad and has the effect of abolishing the protection grant for 10 years in respect of copyright and certain artistic works", a Pretoria mechanical engineer, Mr Alan Dunlop, believes.

Writing in the latest edition of the attorneys' law journal *De Rebus*, he says the amendment to the Copyright Act before Parliament is a threat to technological sources valuable to South Africa and that it could "cripple" the country as happened in some South American countries

Mr Dunlop points out that the amendment has come before Parliament without prior publication or opportunity for comment by interested parties

He says South Africa does not enjoy top levels of indigenous technology and importation of "priceless" overseas technology must be protected by law

He says the more irresponsible Latin American countries tried during the 60s "to legalise piracy of foreign technology and the result was immediately and catastrophically counter-productive"

Because new technology was not protected and could thus be copied, foreign countries stopped introducing their technologies, and industrial advancement based on foreign technology collapsed

"It is fallacious to imagine that we can enjoy the importation of this priceless overseas technology if it is not protected by our laws"

Mr Dunlop concludes that the Government believes that by legalising piracy it will do the country a service, but the Latin American experience has proved the opposite.

"Foreign technology will dry up and South Africans will lose out."

Lawyers group calls for 'isolation' of bar councils

By GAYE DAVIS, Cape Town

ANTI-APARTHEID lawyers have pledged support for the international isolation of the country's judiciary, bar councils and law societies

They will campaign for prisoner-of-war status for captured guerrillas, and will investigate guidelines for a post-apartheid South African constitution

These are among the resolutions at last weekend's first national annual general meeting of the National Association of Democratic Lawyers (Nadel) in Cape Town

Nadel, which represents about 600 lawyers, said the judiciary and associations of Bar Councils and Law Societies had "either by ommission or action sided with the oppressive regime"

It therefore backed efforts by the international legal community to deny such bodies membership of international organisations

Resolving to work for a non-racial and democratic society in which the judiciary and administration of justice were "truly independent", Nadel said the majority of South Africans did not see the present judiciary as impartial

Other resolutions responded to charges that legal professionals' involvement in fighting apartheid consisted in merely defending its victims rather than struggling alongside them, as the National Union of Mineworkers' general secretary, Cyril Ramaphosa, said at the meeting



Executive members of the National Association of Democratic Lawyers Left, Dulla Omar, Plus Langa and Krish Govender Picture ADIL BRADLOW, Afrapix

The NUM witnessed "with dismay" the March walkout by one of Nadel's member groups, the Black Lawyers' Association (over a constitutional issue), Ramaphosa said "At a time when the Organisation of African Unity is marking its 25th anniversary by reaffirming its resolve to destroy apartheid, comrades in the legal profession are breaking up (their organisation) through walkouts and resignations"

Nadel's strength would grow once every lawyer was also a member of a civic organisation — an activist first and then a lawyer, he said.

In a message, the Congress of South African Trade Unions said "Democratic lawyers must determine what role they are going to play If we are saying that the legal space is narrowing and that the law has become a weapon for racist tyrannical control, then it is obvious that your part in fighting for justice cannot stop at using your skills to defend the people It is the whole legal system that is geared to protect the interest of the minority oppressors and exploiters

"You need to continuously demonstrate that you are indeed working under protest within a legal and constitutional system that has completely discredited itself in the eyes of the people"

Resolutions taken subsequently pledged Nadel members to future active involvement in organisations, noting that "the role of lawyers is inseparable from the overall struggle against apartheid, oppression and exploitation, as well as the moulding of a future non-racial, non-sexist, unitary and democratic South Africa"

Calling for the abolition of the death penalty and an immediate moratorium on all pending death sentences, Nadel members agreed to support campaigns to end capital punishment.

The organisation called for "all persons driven to take up arms against the South African regime and subsequently captured" to be treated as prisoners-of-war in terms of the Geneva Protocol of 1977, saying it would campaign to achieve this

Another resolution attacked state efforts to undermine the labour movement through restricting the activities of Cosatu and the Labour Relations Amendment Bill

Nadel also called on the "commercial press" to recognise its responsibility to report objectively and accurately, noting that in general, it had "taken sides against the oppressed" and engaged in "irresponsible acts of journalism"



Mason urges 'social service'

By CARMEL RICKARD, Durban

A SENIOR legal academic has called for the state to start a new scheme which could see lawyers doing their national service in court.

David McQuoid-Mason, dean of law at Natal University, Durban, and an expert on Legal Aid, wants to see a system allowing lawyers and senior law students, called up by the South African Defence Force, to do community service as "public defenders", appearing for people who would otherwise be unable to afford it.

McQuoid-Mason's call follows an announcement by Justice Minister Kobie Coetzee, that the Legal Aid Board budget was to be greatly increased — from R12-million this financial year (already up 33 percent on last year), to R22-million in 1991/2

He welcomed the increase but said he hoped the money would be "creatively used" so that a large slice was spent on defending people charged in criminal cases

At present about 80 percent of the Legal Aid Board budget was spent on civil matters such as divorces and accident claims

By comparison, little money was spent on defence of accused in criminal cases

"Last year the Legal Aid Board granted money for 6 000 to 7 000 criminal cases and in addition the bar did a couple of thousand *pro deo* at no charge.

"Compare this with the roughly 150 000 people who went to jail each year without having been defended by a lawyer at their trials"

McQuoid-Mason said there were ways of reducing the number of people jailed without being represented in court. some petty offences should be decriminalised which could reduce the prison population by about 80 percent, and the state should set up a system of "public defenders"

Citizenship red tape blocks Xhosa lawyer's ambitions

CP Correspondent

A MAN who passed his law exams at South African institutions has been refused permission to practice in the country because he was born a Xhosa.

After passing the Natal Law Society's admission exam, Lawrence Nomvete's ambitions were halted by bureaucracy last week when the Maritzburg Supreme Court ruled that as a Xhosa by birth, he must prove his South African citizenship before being allowed to work in the country

Nomvete's problem started when the Transkei government came into being in 1976. At that time, those born on land that became part of the new country forfeited their South African citizenship and automatically became subjects of Transkei.

For Nomvete – who was born 29-years-ago in Bizana – the matter has now become desperate as he prepares to challenge the judge's verdict He will argue that he studied and resided in this country. This, however, opens him to more serious scrunity by the court which may decide he is an illegal resident.

All attorneys in South Africa are obliged to make an application to the Supreme Court for formal legal acceptance as practising lawyers.

The court has to satisfy itself that the applicant is a "fit and proper" person and has never been convicted of crime

It is mostly left to the law societies to lodge objections against such applications.

In Nomvete's case, the society did not have any objection.

It was only when his counsel told the judges he was awaiting the outcome of an application for an identity document under the Restoration of South African Citizenship Act that the judges ruled unless he showed proof of his identity, he could not work in SA.

The other option for him is to wait until the Department of Home Affairs has processed his ID application, but that could take about eight months to process.

His mother's ambition was for her son to become a carpenter. She sent him to live in Umlazi, Durban, to study at a vocational college after his father died in 1970.

There, he passed matric and was sponsored to attend Fort Hare University. – Concord

MANPOWER MIRROR by JULIE WALKER

Foreigners rush for jobs in SA

A CLAIM that South Africa is regarded as high risk by prospective foreign workers has been challenged by UK-based recruitment agent John Reeves.

In a story headlined Outrageous salaries as engineer shortage grows, Business Times conveyed the experience of a South African engineering recruitment agency The report dealt with the problems of attracting engineers from abroad

It said "South Africa is bracketed in the same risk category as Middle Eastern countries as far as prospective immigrant workers are concerned"

Mr Reeves spent several years in the recruitment business in SA Writing from the UK recruiting office of Cape Town-based Roy Collocott & Associates, he begs to differ

"Your comment is a little hard to swallow," says Mr Reeves His London office was established in November 1987 to recruit specialist personnel for SA companies

"Our national advertising campaign in the first two months of 1988 brought more than 400 inquiries from engineers of all disciplines wishing to join in the upturn of the South African economy on an immigrant or contract basis

"In the six months of operation more than 1 000 inquiries were received and the first applicants have arrived "I would be overoptimistic to suggest that all those inquiries would fit into prospective employers' requirements, but interviews suggest that the 'serious-minded' have their sights set on continuing a career in this country

"I would emphasise that most applicants are highly qualified people who have done their homework"

Mr Reeves's experience certainly casts the foreign recruitment scene in a new light

He says that the most important member of the family is the wife "If she is not happy the chances are that the family will return to the UK We offer career counselling services which cover every aspect of SA life"

A letter also came from Roy Silver, president of the Association of Personnel Service Organisations of SA (APSO)

Mr Silver's association has made a recommendation to the National Manpower Commission supporting a change in the law to stop any charging of fees to work seekers

Mr Silver says "However, in our reply to the commission's report we explained that there is a trend both locally and overseas to charge executive work seekers consulting fees for career path change advice as well as relocation planning and placement services

"We believe that in certain cases this type of fee charging should be allowed"

Charging of work seekers is not common in the skilled recruitment market, but is prevalent among agencies handling unskilled candidates.

Mr Silver says the Government's approach to the personnel industry is that it will look after the underskilled work seeker and leave the advising of skilled people in the job market to private-sector agencies

Standards

APSO is the only representative of the personnel industry It has established an educational institute, the Institute of Personnel Service Consultants (IPSC), to uplift standards in the recruitment field

APSO itself was born from the 10-year-old Aprosa in 1977, and IPSC was formed nearly five years ago

APSO members passed a resolution in 1986 that their own employees would be required to pass a three-hour examination covering general, legal and ethical points as covered in the IPSC Affiliate Handbook, within six months of joining the industry

There are also examinations in which members may become certified personnel consultants This follows a course lasting several years

APSO represents more than 200 companies and has several divisions covering secretarial, temporary, artisan, drafting and management sections

Mr Silver says "Our clients also need educating They need to learn more about management, motivation and job satisfaction Our ethical code is to try to get the clients to overcome the tendency to discriminate against applicants for no better reasons than sex, religion or colour."

There are several black consultants in the personnel placement industry He says their numbers will grow to mirror the number of qualified blacks entering the job market

There is a move to establish employment consultancy services in black townships

Chartered Accountants' Congress

Profession is 'out of touch'

(248) Stv 8/6/88

DURBAN — Accountants have been accused of seeing the world as a mirage rather than a reality, says Tony Norton, executive president of the JSE

Adressing the congress of the Chartered Accountants' Society in Durban yesterday, he said the profession did not concentrate on what was relevant to society in South Africa, particularly the issue of inflation

He said chartered accountants had responsibilities far wider than the technical functions of accounting and could well be considered a national service

He said the profession's commitment to society, including education based on local research, appeared to be out of keeping with its enormous responsibilities

Mr Norton was critical of the tendency of the accounting profession to opt increasingly out of responsibility

"I know this has much to do with the threat of outrageous damages for professional negligence"

He said, however, that the profession rendered a service at a standard and must be held accountable for that standard The issue of undue awards for damages should be adressed in the context of that issue

Mr Norton put forward seven suggestions he felt should be considered by accountants They were

- To provide a true picture in the annual accounts of their clients of the real effects of the continuing high level of double-digit inflation
- To ensure that the presentation of earnings, assets and liabilities was correct and not too sophisticated
- To improve the quality of disclosure, particulary in respect of exchange losses
- To demonstrate clearly and publicly that professional firms could stand up to pressure from large client companies and qualify their accounts when necessary
- To accept greater responsibility for professional actions and not qualifying their opinions to virtually preclude themselves from anything but responsibility for the accuracy of their addition of numbers
- To get as close as possible to their clients to become veritable professional partners and thus assist clients even more in running their affairs better.
- To review the basis of professional training against the needs of South African society and to invest more money in the promotion of research — Sapa

Latest media clamp 'could be ultra vires'

Lawyers challenge 'gagging' rulings

Political Staff

Lawyers are planning to contest the new media emergency regulations which forbid quotation of known spokesman or office-bearers of the United Democratic Front and 17 other restricted organisations

Johannesburg attorney Miss Priscilla Jana is to seek counsel's opinion on the scope of the new clampdown which was gazetted with the new emergency on Friday

She said today it seemed that section 3 (1)(f) of the Media Emergency Regulations might effectively forbid publication of any political remarks by people such as Dr Allan Boesak, patron of the UDF.

Though political statements by the UDF, Azapo and other organisations were prohibited under restriction orders served on them in February, officials of these bodies have continued to be quoted in their personal ca pacities

But section 3 (1)(f) prohibits publication of statements by people "known" to be spokesmen or office-bearers of organisations such as the UDF which have been restricted under regulation 3 (8)(b) or 8 of the Security Emergency Regulations.

The new regulation seems to be aimed at preventing the office-bearers of the these organisations from claiming that they are speaking in their personal capacities

Miss Jana said that the new regulation might now effectively gag these people from making any political statements because of the broad scope of section 3 (1)(f)

PUBLIC SAFETY

The section prohibits any statement which either has the "effect or is calculated to have the effect of of threatening the safety of the public or the maintenance of public order, or of delaying the termination of the state of emergency"

Mr Paul Jenkins, a media lawyer, said that he thought that the regulation could easily be ultra vires. He did not think it would prevent the publication of all political statements by people such as Dr Boesak.

"I don't see how a statement by him such as 'Apartheid is bad' could fall within the scope of this section

"However, where I think it could be tricky is if someone like him should call for sanctions This could be interpreted as threatening public safety."

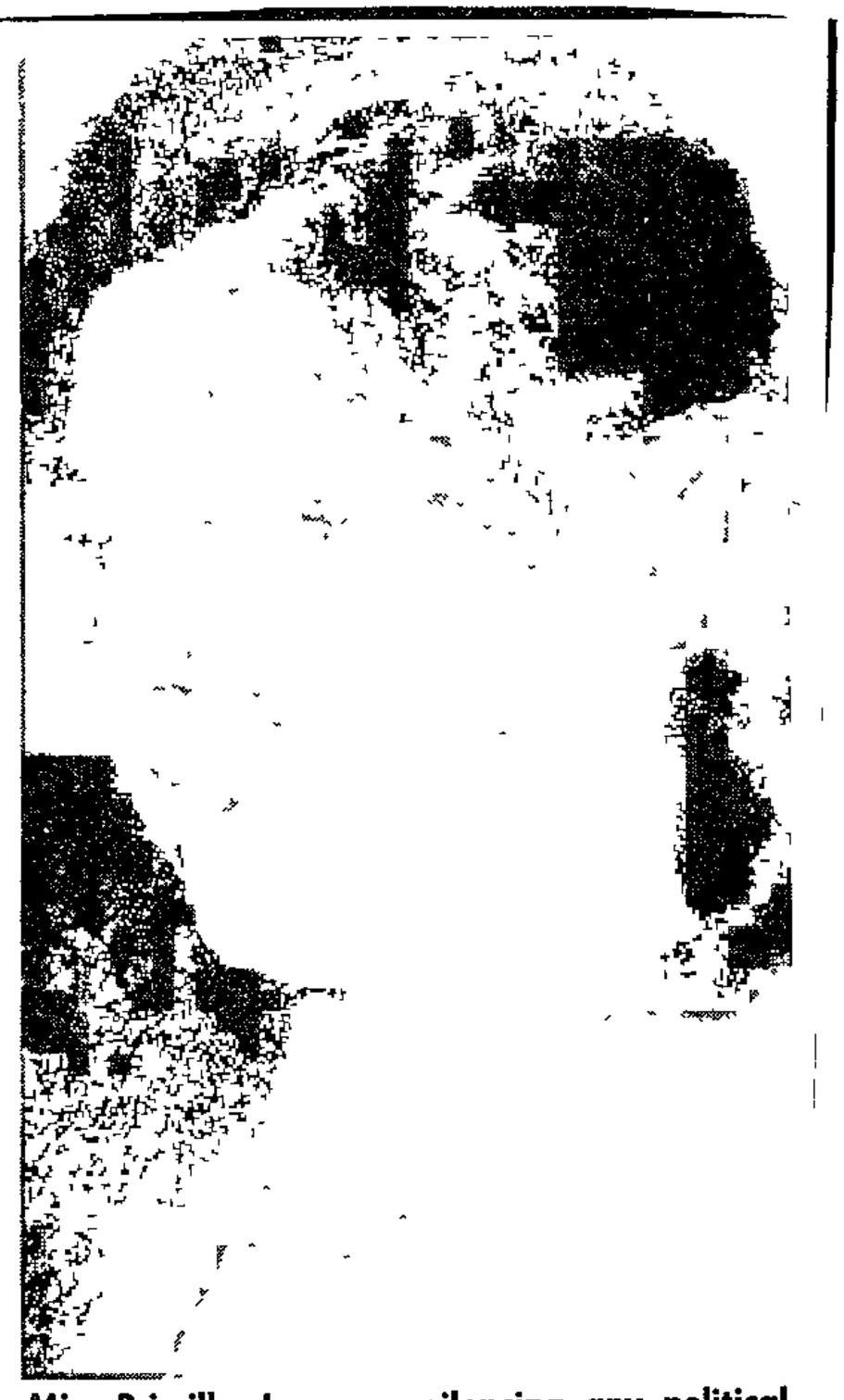
But he said he considered the section ultra vires because to prevent a person from making certain statements just because he was an office-bearer of a certain organisation went beyond the intentions of the original Act

Asked how the regulation would prevent quotation of people like Dr Boesak, an offical of the Department of Home Affairs media relations office said that this would have to be judged from case to case.

"Where Dr Boesak is talking as a church leader, this will not fall within the scope of the Act

"Where he makes political statements, the publication will have to decide in each case whether or not the statement threatens public order and safety or delaying the termination of the state of emergency."

Section 3 (1)(f) also prohibits publication of statements by spokesmen and office-bearers of organisations banned under the Internal Security Act such as the ANC.



Miss Priscilla Jana ... silencing any political statements from people such as Dr Boesak.

Lawyers express their outrage

PAT DEVEREAUX

Lawyers' groupings this week threw their weight behind the widespread outrage at the prolonging of the state of emergency and imposition of further sweeping media restrictions.

Criticising the Government's move, the Association of Law Societies of South Africa said in a statement "The fact that it has been deemed necessary in the interests of public security to prolong the State of emergency in more stringent terms than before, for a further 12 months, will be viewed by every South African citizen and hence every lawyer, with disappointment and regret

"With disappointment — because it means that we have been served with a notice that the process of peaceful political and social reform, which we are all so eager to encourage, continues to be impeded

"With regret — because restoration of the rule of law, which is surely the resolve of every lawyer, and not a deroga tion therefrom, will be the ultimate safeguard of every citizen's rights".

Last week the Saturday Star a quoted a Mr Ken Owen, on the new media emergency regulations, believing him to be the same Mr Owen who is editor of *Business Day*.

Unfortunately the wrong Mr Ken Owen was contacted and his brief quote attributed to Editor Owen

The Saturday Star apologises to both Mr Owens for the mix-up

Reacting to the reimposition of the State of emergency, Chairman of the Witwatersrand region

● To Page 2.

Lawyers slam clamps

● FROM PAGE 1.

of Lawyers' for Human Rights Mr Peter Leon said yesterday "It is extremely regrettable. The most worrying aspect is that what was seen as a temporary expedient in 1985 is now the law of the land

"The media regulations are more sweeping and encroach on press freedom giving the Government more censorship powers What is happening here is what happened in Rhodesia — the state of emergency was continually extended."

Further condemnation of the renewed state of emergency came from Chairman of the Black Lawyers Association, Mr Keith Kunene, who said "The latest media regulations make the press almost redundant The truth can no longer be published.

"The emergency regulations make a mockery of democracy — the police are now the investigators and judges and answerable to no one. And this is all in the name of security."

Law association praises arbitration

Star 27/6/85

By Helen Grange 248

The growing preference for arbitration rather than court action in settling commercial disputes is seen by the State as welcome assistance to presently overloaded courtrooms, according to the president of the Association of Law Societies, Mr Keith Wilson

Arbitration, which is part of the legal system but an alternative to court procedures, meant that some of the disputes congesting court roles could be handled immediately by an arbitrator in accordance with the Arbitration Act of 1965

As an extension of the legal system, arbitration was not a privatised concern operating in the spirit of competitiveness with the courts

"Arbitration is an adjunct to the legal system and not a privatisation of civil law

"It has a large role to play, especially in speeding up technical disputes in the commercial industry. Lengthy legal procedures can be cut down and disputes of a specialised nature can be dealt with by an arbitrator knowledgeable in that field and therefore better equipped to judge fairly," says Mr Wilson

Mr Wilson further pointed out that the process of arbitration was not bound up in legalities. "It is elastic, dependent entirely on the nature of the dispute."

Laws applying to arbitration also ensured that an arbitrator was chosen fairly by both parties to ensure impartiality.

Afrikaans writers face stormy conference

By Esmaré van der Merwe

The annual Afrikaanse Skrywersgilde conference, being held from tomorrow to Saturday, could prove one of the stormiest in the guild's 13 years

Although clashes between dissident writers and the Afrikaans Establishment are nothing new — the guild was formed primarily to protect Afrikaans literature against censorship — a sequence of events this year has caused more anger than usual among members of the literary fraternity

● In April it was announced that two prestigious literary awards were not to be awarded this year

The R20 000 *Rapport* prize, awarded annually by Rapport Publishers, was inexplicably withdrawn only days before it was to have been awarded to journalist/writer Koos Prinsloo for his volume of short stories "Die Hemel Help Ons"

In the book — which deals, among other topics, with SA's border war and homosexuality — one of Prinsloo's characters makes a crude remark about President Botha That is believed to be the main reason for the sudden withdrawal of the award

The withdrawal has been interpreted as the prize's death knell, as leading Afrikaans writers have indicated they do not want to be associated with it any more

A few days after the *Rapport* debacle, the Akademie vir Wetenskap en Kuns announced it would not award its Hertzog prize for drama this year because none of the submitted works had met the selection committee's standards.

● *Die Kerkbode*, mouthpiece of the Ned Gereformeerde Kerk, responded strongly to the "young writers of the 1980s' criticism of the Establishment and the Church" Editor Dr Fritz Gaum called some contemporary Afrikaans literature "ethically corrupt" and made special reference to Prinsloo's book

REVOLUTIONARY AIMS

● Worldwide acknowledged author André Brink clashed head-on with the Government after a French magazine had quoted him as saying he had associated himself completely with the ANC's revolutionary aims and methods

Although Brink said he had been misquoted, it was announced that his statements were to be the subject of a security police investigation

● In another controversy involving Brink, it was announced that his latest novel, "States of Emergency", would not be released in South Africa.

Although sensitive personal matters are believed to be at the core of the decision — the novel deals with a married lecturer's passionate affair with one of his students — publishers Faber & Faber thought the book too political for South Africa and feared it could be banned here

Against this background, the guild's conference

rouses more than the normal interest

Some topics for discussion indicate the guild's determination to focus thoroughly yet again on the strained relationship between the Establishment/State and the writer

Jan Rabie will deliver an address on "The National Party and literature" and editor-turned-politician Mr Harald Pakendorf will discuss "Politics and literature"

Wilhelm Liebenberg takes on the topic "Afrikaans and the national freedom struggle" A discussion on "What makes a writer relevant?" features well-known authors Antjie Krog, Elsa Joubert, P J Haasbroek and Koos Prinsloo

Guild chairman Chris Barnard says it is difficult to forecast how political the conference will be

The conference, to be held at the Alpha training centre near Broederstroom, is open to the public

Lawyer praises judge's ruling

(248) B/day

SUSAN RUSSELL 30/6/98

The judgment given in Natal last week which compels legal representation for accused in certain cases was "a victory for the human rights movement in South Africa", Lawyers for Human Rights national director Brian Currin said yesterday

In what has been described as a landmark for the SA legal system, Mr Justice Didcott held that conviction in certain cases could be set aside on review if the accused had not had legal representation

The judge made this ruling on setting aside the conviction of two people for housebreaking

Both had been unrepresented

In terms of his judgment, which is binding in Natal, the courts had to consider the complexity and seriousness of cases before them.

If the judicial officer found that the trial would be grossly unfair if it went ahead without the accused having legal representation, the trial must not proceed until this was procured.

Mr Justice Didcott said his ruling did not apply to petty cases where those who could afford a lawyer would probably not engage one or Supreme Court trials where pro deo counsel was available

Commenting on the judgment, Currin said the judgment was a victory in principle

However, to have any real effect, he said, magistrates in this country had to be informed of the significance and importance of the judgment

It was also necessary to make legal representation accessible to those who could not afford it

"The right of legal representation in cases where the State is a party is a fundamental human right which LHR is personally addressing through our pro bono legal service"

Didcott 'landmark' trials judgment hailed by lawyers

(248)

Star 30/6/87

By Melanie Gosling

The legal profession has hailed the Didcott judgment, which rules that a trial should not proceed unless the accused is provided with a defence laywer, as a turning point which could revolutionise South African law.

"This could prove to be one of the most important judgments yet given by a South Africa judge It has profound implications for the criminal justice system and should be welcomed by everybody who is concerned to see that the system functions fairly and equitably," Mr Arthur Chaskalson, SC, the national director of the Legal Resources Centre, said yesterday.

He said the spectacle of poor people unable to afford legal counsel being tried, convicted and sentenced to long terms of imprisonment, was one which no one connected with the law could be satisfied with

Professor John Dugard, director for applied legal studies at Wits, said the judgment was one of the most important delivered recently

"It draws heavily on international precendents to lay down a rule for legal representation which will bring South African law more into line with the legal systems of civilised countries"

It emphasised the key role judges played in our legal system by developing law

He hoped the judgment, which was strictly binding only in Natal, would soon become practice across the country

Mr Chris Nicholson, director of the Legal Resources Centre in Durban said until now the law had been available only to those who could afford it

"People are going to have to get legal aid, and it is up to the Government to provide funds to make the law available to all"

Huge breakthrough for people who cannot afford attorneys

LAWYERS WELCOME COURT RULING

Sowetan 30/6/88 25 248

DURBAN'S Legal Resources Centre has welcomed a landmark judgment in the Maritzburg Supreme Court as a "huge breakthrough for people who cannot afford lawyers".

Last week the convictions and sentences of two men charged with housebreaking were quashed by Mr Justice Didcott because they had had no legal representation during their trial

Mr Justice Didcott said the magistrate had not told the men they were entitled to legal representation and had not offered them the opportunity to obtain it

The judgment is binding on Natal courts and "persuasive" in other provinces

Mr Chris Nicholson, director of the Legal

SOWETAN Correspondent

Resources Centre, said this week that the judgment would assist the poor Until now, the law was available only to those who could afford it

"If you don't have a lawyer acting for you, you are deprived of justice," he said

"People are going to have to get legal aid and it is up to the Government to provide funds to make the law available to those who cannot afford it."

Mr Jules Browde, chairman of Lawyers for Human Rights said if the judgment were followed it would lead to an important improvement in the administration of justice in South Africa

The two men in the case, Mr P Khanyile and Mr M Mkwanyana, were convicted in a magistrate's court in Natal for housebreaking on the sole evidence of fingerprints The case was sent to Mr Justice Didcott on automatic review

INFLATION ACCOUNTING

The comforts of delusion

With persistent inflation, the problem of cost accounting remains pressing

The more often a company changes its accounting policies, as a general rule, the more cautious the investor should be about buying its shares But that should not preclude attempts to adopt policies which recognise that inflation exists and that it is destructive.

Too few companies in this country, where inflation remains a major problem, are prepared to tackle this thorny accounting problem It is easier simply to issue disclaimers on the grounds of imperfect techniques and pretend that it doesn't exist But what is convenient to the corporate treasurer is mightily misleading to the investor.

South African accounting standards are a joint product of those represented on the Accounting Practices Board — Assocom, Seifsa, the Chamber of Mines, the JSE and chartered accountants (CAs) in public practice But it is *users* of financial statements — not *preparers* — who are voicing increasing concern over standards, especially as they apply to inflation

For example, a company can in reality be financially unsound, despite its reflecting substantial profits — by showing sales at today's inflated rates over stock purchased at yesterday's prices By not adequately taking the impact of inflation on earnings into account, companies are easily tempted to pay dividends out of capital. Also, as the value of the rand continues to erode, provision for replacement of imported capital goods needs to reflect harsh realities rather than static accounting concepts And so on

JSE president Tony Norton singled out the problem of inflation in accounting at the CA's recent annual congress It is generally referred to these days as current cost accounting. He pointed out that we have to "recognise that, unlike the developed countries which normally lead us, we continue to experience a continuing high rate of inflation"

Less than 20 of the 700 or so non-mining companies listed on the JSE include a current cost adjusted financial statement in their annual audited accounts To an extent this is understandable, the problem is worldwide The International Accounting Standards Committee (IASC) has yet to find consensus solutions in many areas For example, the committee is tackling the question of removing free choices (options) within a particular standard There is controversy in areas such as deferred tax, consolidation (group) accounts, goodwill — and current cost accounting

There is a reason for the pressure to reach international agreement In the words of the IASC's David Cairns, financial markets have been revolutionised to international level overnight — but accounting standards have remained national One of the aims of the committee, formed over a decade ago, he says, is "to boost the formation of truly international capital markets by helping investors understand the financial statements of companies in any nation"

In SA, with endemic double-digit inflation, current cost accounting — or rather the lack of it — offers probably the most fertile field for creativity and delusion. The higher the inflation rate, the more distorted financial statements can become The typical accounting period of 12 months adds yet further distortions

The favoured historic cost accounting method allows a company to overstate shareholders' profit before tax, retained income



Pim Goldby's Wilmot ... suspicions of subjectivity

and EPS Dividend cover is increased

Moreover, if companies were taxed on current cost profits, they would generally pay lower amounts of tax This is a crucial point, for, if Inland Revenue agreed to tax on current cost profits, adoption of a current cost accounting standard would be instantaneous

Revenue's attitude — unofficially — is that current cost accounts would be yet another way of reducing taxes payable But if the taxing of current cost profits was accompanied by reducing tax concessions for industry and commerce, overall tax receipts would increase Indeed, the erosion of such concessions is exactly what was recommended by the Margo Commission

Creative accounting is not limited to ignoring inflation — and manipulation of earnings and other figures is not limited to SA Far from it In the US and UK, financial statements are directed at existing and potential investors, thus tending to provide realistic estimates of earnings — as in SA

German and Japanese accounts, on the other hand, are still drawn up with the tax authorities in mind, thus tending to underestimate earnings

Perhaps the universal problem is the general level of disclosure, which is measured — in its broadest context — in terms of public interest The IASC is seeking a solution by application of the principle of "relevance" Any change in accounting standards, the argument goes, should be made with this as the overriding consideration

That's a long way from where we are today Some companies are forthright in totally disregarding current cost accounting Says Barlows in its latest annual report "The group recognises that financial statements prepared on an historical cost basis do not disclose true profits, as they are unable to reflect the impact of inflation

"However, conventionally prepared financial statements still form the basis on which business decisions are made and the yardstick by which companies are judged

"Until a method of accounting for the effect of changing prices is developed which is meaningful, standardised, generally accepted and of benefit to users of financial statements, the group prefers to refrain from any attempt to disclose such effect"

That would appear to summarise the attitude of the hundreds of JSE-listed companies which do not provide current cost-adjusted accounts

Does Barlows have a point? In recent years, the company's EPS has benefited from ignoring inflation, particularly in the treatment of stock More recently, it adopted the partial method for deferred tax (linked closely to inflation concepts), which, coincidentally or not, significantly improved its EPS

AC 201, issued in SA in 1978 and entitled "The Disclosure of Effects of Changing Prices on Financial Results," *is* a "meaningful" and "standardised" reference point, though only a guideline, rather than a Generally Accepted Accounting Practice (GAAP) If AC 201 is regarded as insufficient, there is IAS 15 — "Information Reflecting the Effects of Changing Prices"

SA, as a founding member of the IASC, and a board member, has agreed on a "best endeavours" basis, to implement International Accounting Standards wherever possi-

ble In other words, when SA adopts a new accounting standard, it will *at least* comply with the relevant IAS.

So, whereas AC 201 is not a GAAP in SA — and, therefore, not compulsory — every company listed on the JSE *could* comply with it — or with IAS 15 On the other hand, as pointed out, IAS 15 is being reviewed because its implementation in the West has been unsuccessful It has been withdrawn in the US and UK, where low inflation rates have taken the heat out of it

Those companies which have implemented current cost accounting — SA Breweries, Premier Milling, Pretoria Portland Cement, Adcock Ingram and Afrox (among others) — have shown it to be of benefit Afrox, in particular, gives clear and unambiguous current cost accounts which show how dramatically figures change when reality is recognised In a full current cost-adjusted statement, Afrox shows that, whereas historical profits after tax were R47m, current cost profits were 29% less at R36m **(see table)**



JSE's Norton ... taking account of reality

Afrox uses four main adjustments in recognising inflation

☐ Depreciation Fixed assets are revalued The increase is reflected in a non-distributable reserve A like amount for depreciation is used to reduce trading profit (a *cash* item, which has a direct impact on EPS),

☐ Cost of Sales Adjustment This is identical to the change for fixed assets, relating to stock,

☐ Monetary Working Capital Adjustment. This recognises that inflation decreases the cost of debt Paying yesterday's debt with today's inflated money gives a *credit*; and

☐ Financial Adjustment Gearing This is similar to the working capital adjustment, but relates to longer-term debt instruments

In the result, Afrox's EPS for 1987 on historical accounting were 152,84c, against 117,57c on current cost — a difference of 30% Historical dividend cover was 3,33 against 2,75 — a 21% difference Profit on capital employed was 14,34% and 7,85% — a difference of 83%

Of course, current cost accounting is more complicated than suggested here Its impact varies depending on the nature of an organisation's business, showing greater differences with capital-intensive companies (such as Afrox) than with trading companies like Pick 'n Pay And, of course, the higher the inflation rate, the greater the *benefits* of inflation accounting for companies which are highly geared

In SA, there is currently a peculiar benefit that goes with current cost accounting To quote Norton, such "figures are increasingly important in pointing out to workers and their trade unions that the reality of the profits of the company are often not what they seem to be"

What are the arguments against current cost accounting? These were summarised in a reply to Norton by Pim Goldby's Peter Wilmot, one of SA's representatives on the IASC Wilmot said CAs do not doubt that inflation is ravaging SA. "But experience — here and elsewhere — shows that current cost-adjusted financial statements may not be the answer"

Analysts, said Wilmot, were suspicious of current cost accounting because

☐ Many of the values were subjectively calculated They preferred to make their own adjustments,

☐ Companies see it as a costly exercise with limited benefits,

☐ There are competitive implications among account preparers, and

☐ There is a perception among preparers that there would be a down-rating of the market price, followed by the shares through the inevitably lower EPS

Wilmot added "The irony is that in times of high inflation, everybody acknowledges that historic cost financial statements are deficient, but *there is no concentrated call from users* for current cost accounts"

What is the answer, not only to the problem of current cost accounting, but also to making financial statements more relevant? The IASC's approach is to involve international organisations of financial analysts, stock exchanges, securities commissions, trade unions, lawyers, bankers (particularly the World Bank), financial executives and chambers of commerce — as well as intergovernmental organisations

SA's governing accounting bodies follow a similar approach They just don't seem to get enough done In the meantime, perhaps Norton's suggestion, that an unofficial current cost statement should be issued with all accounts, provides a partial answer

He believes SA can stay with historic cost accounting, providing there is also a full cash flow statement (on which GAAP will soon be issued), incorporation in the notes, assessments of the current real value of assets, and a current cost accounting income statement in a memorandum setting out the underlying assumptions

This would "give the user of the accounts a reasonable assessment of the reality of the business and its profits and assets This statement need not be audited, but it is useful and, in many cases, an invaluable tool for management and investors"

Our view is that until the tax authorities are prepared to tax current cost profits — and there is little hope of this while government is short of cash — those companies which can be persuaded to follow Norton's sound advice will soon tire of winning only Brownie points

While the Exchequer benefits from inflation and government is devoid of vision, there is unhappily going to be no change for the better

This is a pity. For it goes without saying that improved accounting standards are important to the fostering of adequate economic growth in a country where there is a real danger of atrophy They are of themselves not enough to reverse that process, but they at least prevent reality from being masked

Barry Sergeant

RECOGNISING INFLATION

Afrox accounts — 1987

	Current cost R000	Published R000	Historical R000
Turnover	448 391	148 391	448 391
Trading profit	92 733	92 733	92 733
Current cost adjustments			
Depreciation	1 745	—	—
Cost of sales adjustment	870	—	—
Monetary working capital adjustment	(1756)	—	—
Financial adjustment	11 082	—	—
Entity profit	80 874	92 733	92 733
Net interest paid	3 324	3 324	3 324
Profit after interest	77 550	89 409	89 409
Adjustment for minorities	1 294	—	—
Shareholders' profit before taxation	78 844	89 409	89 409
Taxation	42 496	42 498	42 498
Shareholders' profit after taxation	36 348	46 911	46 911

Future of writers' guild hangs in balance

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Esmaré van der Merwe

The 13th annual conference of the Afrikaanse Skrywersgilde, held at Broederstroom last week, marked some significant changes in attitude on the writers' guild's future role in the protection and promotion of Afrikaans

In one debate, it was argued that Afrikaans writers should join "national liberation movements"

Formed in 1975 mainly to protect Afrikaans literature against censorship, the guild's existence has been marred by political controversy and in-fighting

At this year's conference, various speakers including outgoing chairman Chris Barnard and P G du Plessis, emphatically warned against politicisation

"Petty political motions" did not achieve anything constructive, Barnard warned in his chairman's address

"We sit pompously at conferences like this," said Barnard "We moan and groan about everything wrong and corrupt in our society.

"But what does this guild practically do to help those peoples whose fate we bemoan?

"The guild is no political party. It cannot and should not force a single political policy on to its members"

Barnard's words were generally welcomed.

However, a new political debate was sparked by Wits lecturer Mr Wilhelm Liebenberg, who urged that Afrikaans writers and Afrikaners become involved in the "national liberation struggle"

"It is our responsibility to prove that Afrikaans, a language born out of struggle, can again become part of the struggle against oppression."

His address resulted in a carefully worded motion — that the guild's new executive committee investigate the possibility of co-operation with organisations striving for a non-racial, democratic South Africa. It was passed unanimously

However, newly-elected chairman Jeannette Ferreira, a lecturer at the University of Zululand and an established writer, indicated a specific change in attitude in a policy statement announced shortly after the new eight-man executive committee had been elected

DISBANDMENT

It contained five statements

- The guild has survived its crisis
- It planned a conference with other democratic organisations (which, she said, would probably be held outside the country)
- They regarded themselves as African writers
- They were concerned about the violation of freedom of speech.
- They would seek contact with people from outside the power structures to find each other beyond enforced boundaries.

She refused any explanation or discussion of these principles.

The Star was told by some committee members that this statement, which was deliberately being kept vague, could result in the guild's disbandment so it could become involved in "broader movements".

Other committee members expressed their dismay about the defined attitude

StarStyle

SA companies overlooking a valuable resource

Star 12/7/85

Working women get raw deal

248

By Sally Sealey

Women as a high-level resource is a relatively new concept in South Africa

In a paper entitled: "Going beyond the foundations of female advancement — Indications for South African organisations", Professor Ronel Erwee of Pretoria University said South Africa had a long way to go in catching the rest of the world as far as recognising women as a high-level resource.

Many companies provided rudimentary policies on black advancement but no incentives or course for the advancement of women

"The number of women involved in high-level jobs according to the National Manpower Commission (NMC) has risen from 31 percent in 1971 to 37 percent in 1985"

The report found that white men were the highest single source of top management followed by white women and then blacks.

The NMC found the female contribution per occupational group in South Africa from 1971 to 1985 were

Accountants/Auditors 1971 — 5,9 percent, 1985 — 18,5 percent.
Administration 1971 — 9,9 percent, 1985 — 13,3 percent

Lawyers 1971 — 3,0 percent, 1985 — 11,5 percent

Scientists 1971 — 6,7 percent, 1985 — 19,4 percent.

Professor Erwee said at her own university the number of women feeding into the university system had increased from 32 percent in 1977 to 39 percent in 1987

Professor Erwee outlined three phases of female advancement:

- The pre-legislative phase — prior to 1983
- The Transition phase — 1983- 1987.
- The Equalising Opportunities phase — 1988 —.

She said the first phase was still prevalent in many companies and several surveys had shown that a number of leading companies in the Johannesburg-Pretoria area offered very little career advancement.

At least 140 business and professional women in senior positions were asked to give their perceptions and their company's attitude to their advancement.

Fifty two percent said their companies offered no career development plans, while 34 percent said their company offered a career development plan to all staff. However, 14 percent said they offered them only to a specialised group.

The women were also asked whether they were paid equal pay for equal work — 54 percent said they were

About 54 percent of the women also said they were not promoted as quickly as the men.

Professor Erwee said the 1983 legislation was important in terms of removing discriminatory clauses and making it illegal to discriminate against women and people of colour.

The third phase, the equalising opportunities phase, which included a departure from tradition and organisational culture, was usually initiated by individuals

Professor Erwee suggested a number of areas where companies could change their attitudes: promotion practices, advertising posts internally, granting access to training opportunities; access to advancement programmes; maternity leave should not be seen as a career break.

there should not be black or women advancement but total human resource advancement."



Ronel Erwee . . . outlining phases of female advancement.

University staffers flex their muscles for better pay

Star 20/7/87 (248)

By ZENAIDE VENDEIRO, Education Reporter

A new university staff association has burst on to the scene in South Africa — and it could be heading for a clash with another long-established body

The decision by the recently-launched Union of Democratic University Staff Associations (Udusa) to campaign for improved salaries and conditions of service is tantamount to a declaration of war on a rival organisation

Bread-and-butter issues were previously the domain of the Committee of University Teachers' Associations (Cuta), to which academic staff associations at all Afrikaans and some English universities belong

Many Udusa members feel Cuta has been ineffective, even having failed to obtain a meeting with Minister of National Education Mr F W de Klerk to discuss salaries

At its launching congress at the University of Durban-Westville this month, Udusa declared itself "the body with the widest democratic representation among South African universities"

Its claim is based not on numbers — it has a membership of about 3 800 — but on its presence at most campuses, including those in the independent states and homelands, which Cuta does not admit as members

But promoting the material interests of its members is not Udusa's priority

Most of the first congress was devoted to other matters, such as the academic boycott, and violations of academic freedom on campuses

Udusa expressed its concern at the "deteriorating situation on some campuses" — particularly in the indpendent states and homelands

Udusa called on the authorities to remove police and military from certain campuses, curb excesses of campus control offices, and refrain from expelling students from residences

Black SCs will lead to black judges — prof

SUSAN RUSSELL

A CHALLENGE faced black lawyers who had distinguished themselves at the Bar to apply for silk, so the absence of black senior counsel could not be used as an excuse for the lack of black judges.

This is the view of the head of the Department of Criminal and Procedural law at the University of Zululand, Professor Charles Dlamini.

Writing in the latest issue of the attorneys' journal De Rebus, Dlamini said this was the reason always given for the fact that SA had no black judges.

He said that while blacks in this country outnumbered whites by five to one, white attorneys, advocates, magistrates and prosecutors outnumbered black counterparts by more than 10 to one.

The establishment of legal aid clinics had made a positive contribution, but, he said, many legal firms were white and often specialised in commercial cases which were more lucrative than criminal or public interest law cases.

Dlamini said the debate over a Bill of Rights for SA provided one example of the black lawyers's widening role.

"The black community can only make an informed decision on this issue if they have received some guidance from the lawyers — people who understand the legal implications of such a document."

Dlamini said the law taught at SA universities was relevant to what a legal practitioner in a capitalist, first world, free enterprise economy would be required to know. Not enough attention was paid to the impact of the law on the black community, he added.

used to uphold a racist p

Media group plans to challenge action against agencies

By S'BU MNGADI

THE government is heading for a showdown with journalists over the compulsory registration of news agencies – including mainstream newspapers – and freelance journalists.

As the July 31 registration deadline approaches, chief director of media relations in the Department of Home Affairs, AJ Engelbrecht, has shaken the media establishment with his announcement that mainstream newspapers could also have to register as news agencies under the emergency regulations.

Although urged to seek legal advice on their individual positions, these newspapers face fines of up to R20 000 if they are obliged to register and they do not.

The regulations have been criticised as being so wide that even the government's Bureau for Information, columnists, part-time correspondents and public relations officers may be affected

Media lawyers have said that in practical terms, every journalist operating in SA – whether freelance or full-time – would be affected by the regulations, whether directly or indirectly.

Journalists have responded by forming a loose coalition – the Save the Press Campaign – made up of journalist associations, independent news agencies, anti-censorship watchdogs and freelance journalists. The coalition will challenge the validity of the media regulations

Papers are expected to be filed on August 1 – a day after the government's deadline on registration – in the Maritzburg Supreme Court.

The matter may be heard in tandem with the Natal Indian Congress' application on August 8 against the validity of the current third state of emergency.

Journalists have interpreted the latest clampdown as a "stealthy introduction through the backdoor" of the mandatory registration of journalists, as first mooted in the 1982 findings of the Steyn Commission.

The Commission recommended the drawing up of a register which could exclude journalists convicted of security offences and those who break a statutory code of conduct

Organistations in the Save the Press Campaign include the Association of Democratic Journalists, the Media Workers' Association of SA, the SA Society of Journalists, Concord News Agency, Eastern Cape news agencies, and the Anti-Censorship Action Group

Meanwhile, the coalition in Johannesburg is today briefing industrialists on the situation and a Newspaper Press Union delegation meets Home Affairs Minister Stoffel Botha on August 11.

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24/7/88 SPREP

24/7/88

Plea over Vale passport

By Ayesha Ismail

Twelve members of the Political Science Association of South Africa yesterday endorsed a statement calling for the Government to reconsider its withdrawal of Professor Peter Vale's passport.

Professor Vale, president of the association and director of the Rhodes University's Institute of Social and Economic Research, had his passport withdrawn last week without reasons being given by the Department of Home Affairs.

The statement expressed the "great concern" of the members, because Professor Vale is highly regarded both at home and overseas as a political scientist.

The statement said "We fear the Government's restriction on professor Vale's freedom of movement will increase the growing academic isolation of South Africa.

EXCHANGE IDEAS

"It is essential to exchange ideas across the South African borders and we want assurance from the Government that the right of the South African political scientists should be respected."

The association's vice-president Professor Deon Geldenhuys (RAU), endorsed the appeal.

Bring black language into law degree, say students

Argus 2/9/88 248

By JEREMY DOWSON, Staff Reporter

WHILE many of the country's advocates want Latin scrapped as a prerequisite for admission to the Bar, University of Cape Town law students have called for a black language to be made compulsory instead.

The UCT Law Students' Council was among bodies and members of the legal profession asked to comment on whether Latin should be compulsory for aspirant advocates.

The dean of the University of the Western Cape law faculty, Professor Daan van Rensburg, said the lack of black judges was "one of the main reasons we support the abolition of the Latin requirement".

It was "very unfair" that students with, for example, Xhosa or Sotho as their first language, had to pass post-matric courses in English, Afrikaans and Latin.

STARTING FROM SCRATCH

The irony was that "most lawyers — even some law professors — can't read Latin any more".

Some students — particularly those from Transkei or Ciskei — arrived at UWC without having studied Afrikaans.

"This means they have to get up to the level of matric before being able to to do the Afrikaans I course."

Professor van Rensburg agreed with Professor Charles Dlamini, head of the University of Zululand's law department, who believes that unless ways are found of addressing problems surrounding the entry of blacks into the legal profession, the situation of only white judges on the Bench will persist.

A "MAJOR BARRIER"

The dean of law at UCT, Professor Bill Whitaker, said the faculty supported the abolition of Latin as a compulsory requirement.

"I believe Latin to be a very good discipline, but I can't say I regard it as being absolutely essential for a practising lawyer. Most practitioners here have taken the view that it is not essential."

Latin was "a major barrier" to blacks wishing to enter the profession.

"Latin doesn't come easily to anyone — black or white. But on the whole, whites don't seem to experience the same difficulty with the language as blacks."

The dean of law at the University of Pretoria, Professor David Joubert, said about 80 percent of academics in his faculty were in favour of compulsory Latin.

"We believe a specialist lawyer — which is what an advocate is — should be able to read and evaluate the old Roman law authorities."

The dean of law at Stellenbosch University, Professor Cornie van der Merwe, said about 90 percent of academics in his faculty supported the retention of Latin.

"Those who have done Latin at school tend to do better at law. It teaches one to be precise."

COMPULSORY LANGUAGE

He did not believe Latin was a major stumbling block to anyone, black or white, and said that at Stellenbosch a higher percentage of students failed private law than Latin.

The president of the UCT Law Students' Council, Mr Stuart Mathews, said the council believed a black language should be made compulsory instead.

However, the council did not view the Latin requirement as "by any means the biggest stumbling block" for blacks entering law.

"There's a wide range of reasons more blacks do not become advocates — including socio-economic and political factors," he said.

The president of the Cape Bar Council, Mr Gys Hofmeyr, SC, confirmed that in a referendum this year members of the Bar had voted for Latin to be dropped as a requirement for admission as an advocate.

A local lawyer described the outcome of the poll as showing "an important shift in thinking". He regarded it as being "directly related to concern about the need for more black advocates".

● The Western Cape branch of the Democratic Lawyers' Association declined to comment. ●

Misuse of power by security forces criticised

Retired judge hits out at emergency laws

Pretoria Correspondent

The emergency regulations "drastically curtailed" the fundamental rights to which every South African was entitled, a retired Appeal Court judge, Mr Justice J Trengove, said last night

"I refer specifically to the right of a detained person to be informed as to the reasons of his detention and to be granted access to his legal adviser

"Certain authorities show a surprising lack of understanding and appreciation for the important functions which both the courts and legal practitioners are called to fulfil in these troubled days," he said

He was delivering atribute to Professor Daniel Pont, who retired in 1960 after a 33-year term in the law faculty at the University of Pretoria

"Even when an individual's rights are drastically curtailed by emergency legislation, it remains the duty of the court, within the limits of its jurisdiction and in spite of the state of emergency, to protect the individual against unjustified action on the part of the authorities

"I am firmly opposed to the use of terror, sabotage, arson or any other form of violence committed to the realisation of political aims

"On the other hand, I am equally opposed to all forms of violence, torture or intimidation, which may be used by members of the security forces against detainees, under the cloak of emergency regulations"

Misuse of power

Regarding kwaNdebele, he pointed out that legal practitioners and the court "have had to intervene frequently" to protect individuals against the misuse of power by the security forces

Mr Justice Trengove cited two cases in which the police in kwaNdebele had "flagrantly misused their powers" to intimidate and frustrate legal practitioners in the course of their duties

In one instance, a lawyer was arrested three times under various pretexts and finally informed by the Commissioner that he would not be permitted to visit detainees because he was "disloyal to the government and police force of kwaNdebele"

In the second case, the Supreme Court had to intervene to secure the right of two lawyers to visit a detainee after they had allegedly been refused permission (by the Commissioner) to enter kwaNdebele

The detainee was subsequently found to have 55 scars and contusions on his body

Mr Justice Trengove emphasised, however, that he was not criticising police or SADF units

"I have the greatest appreciation for members of the forces who tend to our safety, often at great danger My criticism is aimed at those who misuse their powers

"They do their colleagues a disservice, undermine the trust of the public in the security forces and even place the legal process under suspicion They are an embarrassment to South Africa

"However unpleasant it may be, we may not close our eyes to instances of force (geweld) on the part of members of the security forces as failure to act strongly and visibly can be interpreted as condonation"

248 18/8/88 BL Day

Professor criticises SA accounting practices

ACCOUNTING practices and the development of sound financial reporting by SA's corporate business sector has been less than satisfactory, UCT Accounting Professor Geoffrey Everingham said in an inaugural address he gave in Cape Town recently.

CHRIS CAIRNCROSS reports

ACCOUNTING practice in SA has escaped from reality, with the inconsistent behaviour of companies in their financial reporting demonstrating the failure by the accounting profession to attain — let alone sustain — the modest concepts or conventions (standards) it has sought to set for itself over the years

This conclusion is arrived at by Geoffrey Everingham, Professor of Accounting at UCT who, in an inaugural address, declared that academia has a responsibility to assist in bringing the accounting profession back to reality and to strive for maturity

He also called on the JSE to intervene and bring its influence to bear on its corporate membership to provide a better portrayal of economic reality in their financial statements

Conventions

Over time the SA Accounting Practices Board (APB) has attempted to set standards for the profession by enunciating a series of statements spelling out certain conventions or concepts purporting to represent the culmination of established wisdom.

Four main concepts underlying these conventions which Everingham focused on are of "going concern", "matching", "prudence", and "consistency"

The goal of the APB by proposing these concepts, according to Everingham, is to seek to narrow down the number of accounting alternatives to achieve comparability — "without attempting rigid uniformity"

"Clearly, the performance of companies cannot be validly compared unless the accounting methods applied are either identical, or differ only insofar as they reflect different circumstances of the enterprises concerned," Everingham stated

Examining the first concept of "consistency", Everingham said this held that there should be consistency of accounting treatment of like items within each accounting period, and from one period to the next.

Everingham pointed out that there has been little consistency between companies For example, the acounting policies of Barlow Rand and SA Breweries he found differences in no less than seven instances

The second concept, "matching", deals with items of revenue and expense which are accrued and matched with one another insofar as a relationship can be established or justifiably assumed

Everingham says the APB appears about to undermine this concept with its proposed treatment of deferred taxation The principle advanced is that where tax allowances or revenue temporarily differ from accounting deductions or income, an adjustment should be made to match the tax charge against the accounting income

The third concept of prudence is really a convention whereby revenue is recognised only when realised in the form of cash or "near cash", but losses are provided for as soon as they become known

Everingham said this concept was undermined during June 1985 in a statement from the APB which permitted the deferral and amortisation of losses on long-term offshore borrowings

Everingham also maintained that further attacks on "prudence" had occurred more recently as a result of the spate of new listings on the JSE.

The past record of group profits reported in prospectuses were frequently arrived at after substantial adjustments, the amount of which were not publicly disclosed, but were added together Further, the results of recently-acquired companies in the group were added together irrespective of whether or not they had been part of the group for the period covered by the report

Everingham said this approach also drew attention to the unsatisfactory accounting procedure of backdating acquisitions and disposals

Sad commentary

The fourth concept of the going concern held that the financial statements are draw up on the assumption that the business will "continue in operational existence for the foreseeable future" Everingham suggested this was the only concept left reasonably intact after the effects of "equivocation in standard setting and bad practice", and thus represented a sad commentary on the state of financial reporting in SA

Everingham agreed with JSE executive president Tony Norton, who said "every effort should be made to do whatever can be done to give the user of accounts a true picture of what is going on, and not a comfortable professional exposition of vastly irrelevant figures"

Support for inflationary accounting in SA firms

ARI JACOBSON

COMPANIES are overlooking the distorting effects of inflation on company results and the value of assets in the balance sheet, says SA Institute of Chartered Accountants (SAICA) technical director Graham Terry.

Terry said the SAICA welcomed the statement by JSE president Tony Norton that muscle would be used to persuade companies to indicate the effects of inflation on their results.

While the importance of inflationary accounting had diminished in the Western world as the need for inflation adjustments diminished, this was not so in SA where inflation was much higher, Terry said.

SAICA, in conjunction with the JSE, would attempt to find a reasonable method of accounting for inflation.

Cash-flow

Ten years ago SAICA published a guideline on "Disclosure of effects of changing prices on financial results". This was followed in 1986 with a draft for the disclosure of effects on the current values of assets.

Terry said the Accounting Practices Board recently issued a statement requiring companies to present cash-flow information in their financial statements. By comparing cash generated from operations with reported income, inflationary effects on businesses could be gauged.

Companies had been reluctant to divulge inflation-adjusted figures because users of financial statements showed a lack of interest. Other reasons were that the information was not required, was costly to prepare and companies did not use these figures in their management accounts.

ACCOUTANTS IN QUEST

MORE than 200 black accountants will converge on the Boulevard Hotel in Pretoria this weekend for a soul-searching exercise that will focus on the acute shortage of black management accountants in the country.

Delegates from the Association of Black Accountants of Southern Africa (Abasa) regions will formulate strategies for survival as well as explore ways and means in which economic advancement and empowerment can be achieved

The conference, whose theme is "Black Economic Empowerment — A challenge", will be addressed by leaders from local and international business, political and trade unions forums

The question of economic empowerment is crucial among blacks today and the concept was analysed by the National African Federated Chamber of Commerce (Nafcoc) at its annual conference recently

Whereas Nafcoc believes all the strategies for participation in the economy have been explored and what was left was action, Abasa contends that there is still a lot of work to be done

Abasa's executive director, Mr Mashudu Ramano, said "Blacks are the least developed and skilled. Only a few are represented in the professions Ownership of property and business is a mere 4 percent of which 80 percent are family owned retail outlets in black townships"

Rule a disadvantage to lawyers

HOSPITALS BAR BLACK TOUTS

(248)

Sowetan 29/8/88

By MZIKAYISE EDOM

BLACK and white lawyers in Johannesburg and Pretoria have been given permission by the Transvaal Law Society to tout third party claims clients at black hospitals, but black lawyers cannot tout at white hospitals

Many lawyers have thriving practices because they deal in these claims, known as Motor Vehicle Assurance claims They affect people who have been injured in hit-and-run accidents and other car accidents Lawyers acting for these people make applications to a central fund in Pretoria on behalf of clients

A number of black lawyers claim they are being disadvantaged by white lawyers who have exclusive rights to tout for black patients involved in car accidents at black hospitals while they cannot go to white hospitals

Black and white lawyers were given permission by the TLS last year to tout for patients at the Kalafong (Pretoria) and Baragwanath hospitals (Johannesburg) but such permission has not been extended to white hospitals in these areas

According to a black lawyer who asked not to be named, black lawyers, both in Johannesburg and Pretoria are not allowed to tout for clients at white hospitals

"When this scheme was introduced last year, we were promised that clients would be shared equally among black and white lawyers but this is not the case Black lawyers have to fight to get their clients," said the lawyer

The lawyer said there was a standing agreement between lawyers

• To Page 2

REPORTS, pictures and comment in this edition may be censored in terms of the Government's state of emergency

Inside today

Death of a detainee
• See page 4

No place like home
• See page 6

Dose of the Monday blues
• See page 12

IN YOUR SOWETAN

Party hopeful gunned down at home

29/8/88 Sowetan

A SOFASONKE Party candidate for the forthcoming October 26 municipal elections was gunned down at his Tshlawelo Extension Three home at the weekend

Mr David Nkomo (45), had five bullets pumped into his body, two of which were lodged in his head Two bullets missed him He was certified dead on arrival at the Baragwanath Hospital, where he was taken by a neighbour after the shooting ordeal on Saturday at 7am

Mr Nkomo's younger brother, Mr Alfred Nkomo, said his brother had told his wife, more than thrice during the past two months, that he feared for his life because there were people who "were out to rub him off"

He said David had said the grudge was becoming more tense due to his increasing "popularity" among residents The late Mr Nkomo was campaigning on a Sofasonke Party ticket for the forthcoming elections

Two young men, who are said to be in their early 20s, who asked to see Mr Nkomo on Saturday

• To Page 2

Lawyers

• From page 1

(black and white) and the Johannesburg Attorneys Association that black lawyers would get their clients from black hospitals and white lawyers from white hospitals.

"But when this scheme was introduced, we thought that the scheme would be introduced in white hospitals We were shocked when we were told later that this would not happen We feel this is unfair since white lawyers have an advantage of getting clients from black and white hospitals," said the lawyer.

Miss Esther Wolkin, secretary of the Johannesburg Attorneys Association (Side Bar) said the association was not in a position to comment on the allegations.

In Pretoria, the scheme is said to be operating perfectly, though at times black lawyers had to struggle to get clients. In Johannesburg, it is a different story

Our sources said black lawyers were left out and did not benefit from the scheme They said only white lawyers were allowed to get clients from Baragwanath Hospital

There are 444 white firms of lawyers and 20 belonging to blacks in Johannesburg

More than half of the white firms deal in Motor Vehicle Assurance (Third Party) cases and only eight firms of black attorneys handle such cases.

The *Sowetan* was told that a sub-committee, headed by Mr R Bobroff (a lawyer), was formed to liaise with Baragwanath Hospital

Their names, the *Sowetan* was told, were then distributed to all lawyers Black lawyers claim that initially, it was agreed that the names should be distributed to all lawyers, black and white, who deal with MVA cases.

Old Mutual

EDGES

SMITH

BEY PHILIPS BURTON MOONEY & PLAYFAIR

Lawyers meet tonight

30/8/88 Sowetan 2

THE Black Lawyers Association meets tonight to discuss the alleged "exclusive" rights given to white lawyers to tout third party claim clients at black hospitals.

Black lawyers claim they are not allowed to tout for clients at white hospitals

Mr Keith Kunene, chairman of the BLA, yesterday said the executive committee of the association will meet in Johannesburg this evening to "sort out things" on the matter.

The Transvaal Law Society yesterday denied that white lawyers were touting at black hospitals. The TLS said that it had introduced a "first interview scheme" to which attorneys charge a nominal fee for advice they give to clients on how they can claim for the Motor Vehicle Assurance (MVA)

A spokesman for Baragwanath Hospital, where the scheme is only operating in Johannesburg, said they give names of accident victims on a daily basis to the society to be rotated to all lawyers (black and white) participating in MVA cases.

"The names of the clients should be distributed equally to all black and white lawyers. The hospital was not aware that only white lawyers were benefiting from the scheme. We are going to investigate the matter," the spokesman said.

The TLS said it introduced this scheme to assist people injured in motor vehicle colisions, obtain compensation and assistance.

"An employee of the society refers MVA cases to the society which in turn refers them to attorneys participating in this scheme on a rotating basis.

"If this scheme is a success, it may be extended to hospitals for whites. The society emphasises that attorneys may not tout for clients at all," said the BLA.

Latin's out, say lawyers. But they're less agreed about why

Most delegates to the Bar Council meeting wanted Latin scrapped — but there was fierce controversy over why, reports CARMEL RICKARD

IF the majority of delegates at this year's General Council of the Bar (society of advocates) meeting have its way, Latin will be scrapped as a requirement for admission to the Bar

However, there is a wide difference of opinion over what this will achieve Some supporters of ditching Latin said they wanted it withdrawn so that more black students could qualify as advocates

They pointed out that since no black school offered Latin as a subject, it was unfair to expect black students to cope with the language.

Opponents of the idea — the Pretoria Bar, supported by Kimberley and the Free State — said such a move would lower standards and be detrimental to the profession

During debate on the issue at the Bar Council meeting, there was concern over how to increase the number of black lawyers, particularly since future black judges would be drawn from this group

However, while they support the move to scrap Latin, a number of black lawyers and law students say dropping this requirement will not suddenly cause an increase in the number of black advocates

"I do not think blacks are kept out of law because of Latin," said the dean of law at the University of Zululand, Professor Charles Dlamini

"There is no evidence that only black students struggle with Latin If the aim is to increase the number of black advocates and attorneys, then what is needed are more bursaries for law students

"Legal studies last many years and this is especially difficult for people from a poor background."

The national secretary of the National Association of Democratic Lawyers, Krish Govender, said to present the issue as a kind of favour to blacks was patronising and "smacks of racism It implies that blacks are unable to pass Latin which is not the case

"Opposition to Latin is not racially-based, and if people are looking at why there are not more black lawyers or any black judges they have to ask more fundamental questions — like what kind of an education system is provided for black people

"They also have to ask whether blacks are prepared to administer the unjust laws of this country."

The Nadel vice-president for the Transvaal and OFS regions, Mathole Motshekga, a senior lecturer in law at Unisa, said there was a need for "affirmative action" by the legal profession

"Scrapping Latin would be just a step in the right direction, although if it is not withdrawn as a requirement, blacks have the ability to pass.

"However, what is needed in addition is a programme to help those disadvantaged through 'bantu education'."

A member of the Transvaal region of the Law Students Inter-Varsity Council, Jacob Malatji, said the move to scrap Latin was not viewed as "relief" to blacks.

"For legal bodies just to remove Latin as a requirement would not get any where in solving the problem of under-representation of black people in law. Other action is also needed"

While law faculties at a number of universities have welcomed the move, saying they hope the government accepts the recommendation and changes the law so that the Latin requirement is finally dropped, members of the classics departments are more critical of the proposal

Classics professor at Natal University, Pietermaritzburg, Geoff Chapman, said their statistics showed that black students fared marginally better in Latin than whites.

"It is not true that blacks do worse than whites at Latin. Generally all intelligent people should have some knowledge of Latin and I do not think lawyers should be excluded"

He warned lawyers could be giving the government an opportunity to improve its image at their expense

Bar speaks with one voice on Emergency

By CARMEL RICKARD, Durban

THE General Council of the Bar's unanimous condemnation of the reimposition of the State of Emergency marks the first time the council has spoken with one voice on the issue

The council, the national body representing advocates, passed a resolution at the weekend condemning the reimposition of the Emergency

Introduced by the Natal bar, the resolution expressed the council's "deepest concern" at the reimposition of the Emergency because it involved a "fundamental interference with the normal processes of law".

The council said it was "strongly of the view" that the proper administration of justice was impeded as long as recourse to the courts was denied to people detained without trial — hardly revolutionary language, but several senior members of the bar council consider it a major step which should send a strong signal to the state

"The bar council represents senior professionals of widely differing political views," said one. "When even they can reach unanimity on a matter with political overtones, then the authorities must take cognisance

"Despite their political differences they reached a common ground of criticism This is very significant and cannot be ignored."

David Gordon, SC, who chairs the Natal bar, said his society of advocates had moved the resolution because "we felt that as representatives of the advocates of South Africa we should express our concern at the continuation of the State of Emergency and the impact on the proper functioning of the principles of justice and fair trial

"We were delighted that it was passed unanimously."

The newly-elected chairman of the bar council, Ralph Zulman, SC, saw it as "tremendously significant" that the resolution was passed unanimously

"Maybe it represents a change in traditional thinking," he said "Up to now the bar council has been very cloistered and people were afraid of speaking out for fear of being accused of touting

"But I think this is the kind of thing we should talking out about in the bar council and its nine member bars"

An official of the National Democratic Lawyers Association (Nadel) said the advocates' society was now joining the growing trend towards lawyers being more actively involved in such issues.

As evidence of this trend he pointed to Nadel's own formation and commitment to becoming part of the "progressive democratic" movement.

Another sign of this trend was the more assertive role being played by Laywers for Human Rights, which has recently offered to organise free legal defence for Group Areas Act victims and for journalists who fall foul of new Emergency regulations requiring "news agencies" to register with the state.

"The advocates in the bar council are certainly late-comers," said the Nadel official. "However, it is a welcome sign that well into the third year of the Emergency they have expressed themselves on the subject.

Asked to comment on the resolution condemning the continued State of Emergency, a prominent Durban advocate said he wondered whether this meant that his colleagues would now refuse to act for the state in legal action brought to challenge Emergency regulations.

STRUCK OFF LAWYER LODGES APPEAL

A FORMER Pietersburg attorney who was struck off the roll in June last year for stealing money from his client's estate has lodged an appeal with the Appelate Division of the Supreme Court in Bloemfontein.

Mr Donald Kgalake Nkadimeng was struck off the roll of attorneys in the Rand Supreme Court on June 6 last year for having stolen more than R2 000 from the estate of the late Mr Charles Mabitsela between May and October 1984

The money was used to pay advocates he had briefed

Nkadimeng was fined R5 000 or two and a half years imprisonment in a Pretoria Regional Court on September 7 this year for stealing the amount

He was also sentenced to 12 months imprisonment, suspended for five years on each of the five counts of theft by Mr M C de Wit He pleaded not guilty and his lawyers intend appealing against both conviction and sentence

Advocate Johan Engelbrecht, who appeared for Mr Nkadimeng, pleaded in mitigation that his client did not use the money for personal gain but to pay counsel He also submitted that Mr Nkadimeng had already paid back the stolen amounts even before the matter was brought to court

By MONK NKOMO

A different drum sounds a new march in Pretoria

Conference catchphrase is economic empowerment



Like a tide, the groundswell of black feeling on economic empowerment is growing in this country ZB MOLEFE reports on some of the waves that lapped at the very edges of South Africa's capital city last week

SOMETHING politically strange happened in Pretoria last weekend The Conservative Party held its Transvaal congress While the National Party held its youth congress

And somewhere in the centre of the city, the Association of Black Accountants of Southern Africa (Abasa) held its annual convention

The three bodies had one thing in common Politics But Abasa was looking at politics via economic strength

Scores of local blacks were joined by their brethren from Lesotho, Swaziland, Zimbabwe Malawi and the United States, to debate and examine probably one of the hottest political questions within black South Africa in the 80s – economic empowerment

And it does not need a genius to know what aspect of the political question the CP and Nat Party congresses were discussing

CLARENCE BUTCH

But it was the Abasa convention which gave a snapshot view of what troubles South Africa It was no wonder journalist-economist Eugene Nyathi clashed with black American Clarence Butch on the question of sanctions

Butch from the United States National Association of Black Accountants had suggested in his address that sanctions cannot work to bring about the necessary change in South Africa

The fire eating Nyathi could not take it Outgoing Abasa president Jeffrey van Rooyen, shot from his chair to protect Butch and chide Nyathi for being personal

That incident was eloquent testimony of how deep the question of sanctions has cut into the soul of black South Africa It must have been an education for the sprinkling of white guests in the convention

EMOTION-CHARGED

But it was in this emotion charged atmosphere that an elderly Afrikaner academic came, saw and conquered Political economist Sampie Terreblanche, with a mischievious twinkle in his eyes mapped out the rocky and bumpy road that lay before black economic empowerment

Ours is a Catch-22 situation, said the Stellenbosch University academic

"Only a transitional government can transform South Africa into a true democracy," said Dr Terreblanche

After this condition had been met it would then that something like a Marshall Plan could be put into operation – pumping billions of rands in aid into the economy – which would lead to a truly black economic empowerment

At the end of his presentation Dr Terreblanche received a standing ovation The man's honesty and bluntness won the day This was very obvious during tea break and later at a braaivleis when the delegates relaxed after the convention's hard sessions

Abasa executive director Mashudu Ramano, had put his finger on the pulse of the problem Whereas blacks comprise 75% of the total population of South Africa they only share 20% of the country's wealth, Ramano said

SUB-HUMAN

"Vast numbers of blacks in South Africa live in filth, squalor and sub-human conditions in shacks and cardboard shelters just a stone's throw away from affluence, and luxury enjoyed by 20% of the population," Ramano said, drawing this bleak picture

Maybe it was a story repeated over and over for the accountants who packed the conference hall But the way Ramano touched the heart strings made the difference

Ramano then urged his audience "This convention must explore and seek to answer these crucial questions if it is going to be meaningful and worthwhile Black economic empowerment is a strategic imperative"

As if lashing out with a whip, unionist Piroshaw Camay was uncompromising Particularly on the black accountants

"Willy nilly accountants amongst the oppressed and exploited have become their masters' voices," Camay charged

He had this advice for black accountants You need to start rediscovering those principles of communalism and consensus decision making and engaging that style as a new management style"

University of the Transkei principal Wiseman Nkuhlu was in a class on his own in his talk on the role of international institutions in the realisation of black economic empowerment dream in South Africa

Professor Nkuhlu did not waste time in nailing his colours to the mast He is a great believer in self reliance "since the 60s when I was studying matric and I became aware of the (economic) position of blacks", he said

"I fight and struggle for success Against all odds If any man puts hurdles in my way, I will fight," said Professor Nkuhlu

Professor Nkuhlu's message was straightforward Black South Africa had to aim at entering the technological age There was undisputable scientific evidence he pointed out which showed that successful countries worldwide had a grip on technology

"I do not mean this in a peronical sense that people must go to technikons as is fashionable" warned Professor Nkuhlu who said recent studies in Zimbabwe had shown that African nations are waking up to the fact that technological excellence is a priority in economic empowerment

INTERVENTIONISM

Another speaker who had the convention listening hard to what he said was Cape educationist Franklin Sonn His arguement for black economic empowerment basically, rested on blacks looking at interventionism

This strategy, argued Sonn, would help a number of black organisation to net work strongly with their counterparts countrywide

For three days the Abasa convention had listened to an array of leading speakers in their fields These included African Bank chief executive officer Gaby Magomola, Swaziland Finance Minister Sibusiso Dlamini and Association of Chambers of Commerce executive Raymond Parsons

But the convention was also an emotional homecoming for Edwin Jenkins, National Association of Black Accountants student affairs director, when he said "I'm the first in my family to return home (to Africa)"

His colleague, the association's executive director Linda Gaston, had a message for black South Africa as it grapples with economic empowerment Black Americans want you to avoid to make the mistakes we did

"We want you to take five years to achieve what took us ten years to achieve"

And this dedication, Ms Gaston reminded her audience, came hours before the United States last Sunday remembered Martin Luther King's great march in Washington, 25 years ago when he made his "I have a dream" speech

A few kilometres away the Conservative Party and the National Party junior congress were also mapping out their destiny

Something politically strange had happened to Pretoria

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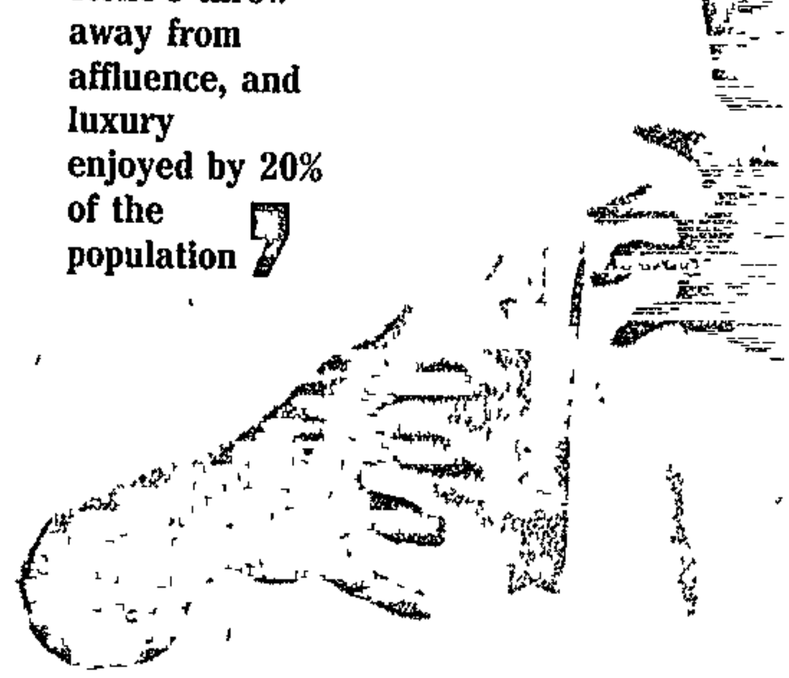



Breathing fire ... Eugene Nyathi added his heated feelings to the

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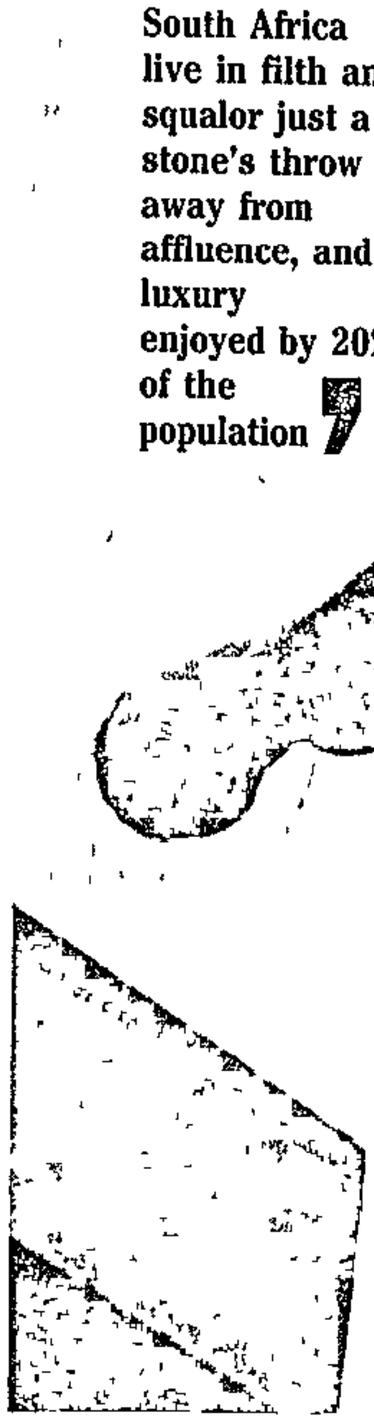



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Wiseman Nkhulu ... academic view.

Row over SA architects at Washington congress

A GROUP of South African architects this week delivered an hour-long paper at an international congress despite vociferous local and overseas opposition.

The paper was delivered in Washington jointly by Mrs Gerda Guillum-Scott, Mrs Ora Joubert, Mrs Mira Fassler-Kamstra and Mrs Ivodia Malofaneat the 1988 congress of the Union of International Woman Architects and Town and Regional Planning (UIFA).

Mrs S S Nation, the vice-chairman of Woman Architects of South Africa (Wasa) said in a statement that the UIFA had

TIM COHEN

"consistently and courageously refused to reject South African architects or take a political stance of any kind".

"In doing so, it has had to forego the moral and financial support of Unesco and to endure much criticism," she says.

But several groups of South African architects have meanwhile written to UFIA saying that Wasa's participation in the event constitutes "a breaking of the cultural and academic boycotts".

The letter says: "We are concerned that the account available to us of the proposed presentation by Wasa to the International Union's congress reflects a distortion of the real situation in South Africa.

"From what we can gather, the ideological position of Wasa stands completely contrary to our own and we, as women planners and architects, wish to disassociate ourselves from it," the group of architects wrote.

The letter was sent by the Development Action Group, (Cape Town), Planact (Johannesburg) and the Built Environment Support Group (Durban).

(248) WMAIL 7-13/10/88

A heavy toll for civil rights cases

Almost every judgement setting aside an Emergency regulation, has been overturned on appeal

CARMEL RICKARD reports

VIRTUALLY every supreme court ruling setting aside all or part of any Emergency regulation has been overturned on appeal, according to human rights lawyers

The Bloemfontein Appeal Court is thus taking a heavy toll on civil rights judgements of the supreme court provincial divisions dealing with Emergency laws

Lawyers have criticised the Appellate Division (AD) for consistently preferring to interpret law and Emergency regulations in a way favouring the state rather than the individual

Delivering his inaugural lecture in Cape Town on Wednesday, Hugh Corder, professor of public law, said there had been a swing back to the hands-off approach of the judiciary in the 1960s, when the bench had abdicateds its role as a source of legal control over executive power.

While there had been a number of succesful challenges to the Emergency and the security situation up to the end of 1986, the balance had swung since then, he said

It appeared the courts were not prepared to perform their common law duty of control in the sphere of what they perceive as "state security".

The message from the highest court was that it was not prepared, and did not regard it as its function, to guard the interests of the individual — at least in the area of state security, he said.

This speech came only one day after a Natal judge broke traditional judicial silence to speak out on the issue

Mr Justice John Didcott, one of the judges whose decisions have been reversed by the AD on several occasions, delivered a hard-hitting paper commenting on the state of the law in this country

Presenting the second Ernie Wentzel Memorial lecture at Wits University, he said the country was in many senses lawless, not just because of rampant violence and crime but also in that power was exercised "lawlessly"

Explaining the origin of this "lawlessness", the judge said, "The legislature, not a democratic one in the first place since it does not represent or speak for the large majority of South Africans, has statutorily delegated to the executive the power to make laws by regulation and decree

"This the executive has done voraciously, intensifying the evil of imprisonment without trial, restricting wholesale our freedom of speech, assembly, movement and association and the freedom of the press and often entrusting to its mere underlings decisions with the same consequences

"Judicial endeavours have been made to keep the process under some sort of control by the law and to harmonise its workings with the law's requirements, as far as that could be managed.

"And this has been attempted by no wild unorthodoxy, by no splurge of adventurism, but by invoking and applying tried and trusted rules of administrative law common to our legal system and others, rules developed with the very object of safeguarding the rule of law in such a situation."

Then, commenting on the role of the Appeal Court, the judge added, "Sad to say, these efforts have proved to be largely in vain, the Appellate Division in its wisdom having decided in case after case that has come before it during the past couple of years that the capacity of the courts to assert and protect the rule of law in that situation is so attenuated as to be, for all practical purposes, insignificant

"The cause of all the trouble, of course, has been the enabling legislation passed in the first place, which according to the construction authoritatively placed on it by the Appellate Division, ousts the jurisdiction of the courts from most of these matters and gives the executive virtual carte-blanche.

"The result is a society where, throughout the areas under discussion, what matters, what counts, is no longer the law, but sheer unbridled power And the outcome must inevitably be abuses of it."

Last month, the AD handed down a ruling on two significant Natal cases, overturning judicial decisions made by three judges, Mr Justice N Page, Mr Justice B Galgut and Mr Justice R Leon, that certain key Emergency regulations were invalid.

The AD ruling, the latest in a succession of pro-executive decisions, was greeted with dismay by laywers. Leading civil rights lawyer Ismail Mahomed SC told the judge in a case heard soon after the ruling was handed down that the AD judgement was "binding even if not persuasive".

And in the first Natal judgement made after these AD decisions, Mr Justice David Friedman spoke of his regret at the effect of the decision — that he could not even consider the application before him challenging other Emergency regulations

He said he used the word "regret" deliberately as it was one of the traditional roles of the court to act as a watchdog against executive excesses in the field of subordinate legislation

In his speech, Corder pointed a finger at both lawyers and the judiciary. The legislature and executive were responsible for many of the shackles on the judicial process, he said, but the bench itself had been too easily prepared to accept these limitations — and add a few of its own making.

In other words, he said, judicial activism and creativity had been used on occasion to further state lawlessness rather than inhibit it.

The unwillingness of judges to question the government had contributed substantially to the devaluation of the court's contribution to the rule of law.

In the past 20 years, he said, mainstream legal practice had become increasingly sophisticated, ludicrously expensive and utterly irrelevant to the man in the street

However, he held out some hope Judges, practitioners, academics and students should exploit to the full the contradiction between the court's obedience to the will of parliament or the executive on the one hand, and to the basic tenets of the common law on the other, he said.

Are magistrates 'political tools of the Government'?

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SME
19/10/88

Magistrates' courts can never claim to be truly independent in dispensing justice until they are placed outside the public service, Mr Justice Hoexter wrote six years ago

Six years since his Commission report on the structure and functions of the courts appeared, magistrates are no closer to true independence

This is at a stage when magistrates and regional magistrates together preside over all the country's criminal trials, barring murder and treason and all civil cases involving sums less than R10 000

As representations to the Commission stated, as public servants magistrates "are exposed to undue influence" And the important fact was not whether this influence actually occurred, but that it was possible

JO-ANNE RICHARDS examines the pressures faced by magistrates as members of the civil service

Removing magistrates

Head Director of Justice Training in the Department of Justice, Dr Nico van der Merwe, said removing magistrates from the civil service had received serious attention, but there were "too many problems with the mechanics and it was not feasible at present"

He stressed, however, that while there could be the perception that magistrates were less than independent, they were in fact "fearlessly independent" in their judicial work "No-one has any say in their judgments, not even a (Government) Minister"

But a retired magistrate, Mr Louis Mostert, disagreed A magistrate wanting to do well in his career "can't afford to be fearlessly independent", he said

His own career, he said, was one long string of examples of interdepartmental victimisation for being just too independent

"It's a sad reflection because people should have the utmost confidence in the courts," said Mr Mostert

His stance in various cases and his interpretation of aspects of the law had been unpopular with his superiors and had led to his being bypassed for promotion and suffering financially, he said

He was once transferred from a small country town after giving an acquittal that was unpopular with important people in the area

His transfer went ahead in spite of his giving reasons for his judgment to the Attorney-General, who could find no fault

On another occasion, he said, he was transferred from his position as Magistrate at Noupoort to Upington after the 1952 general election

Another retired magistrate, Mr P J van der Merwe, commented "How far party politics, or Broederbond affiliation or being a 'ware Afrikaner' affects a magistrate, I would not like to speculate But these things could have played a part in our careers without our knowing it"

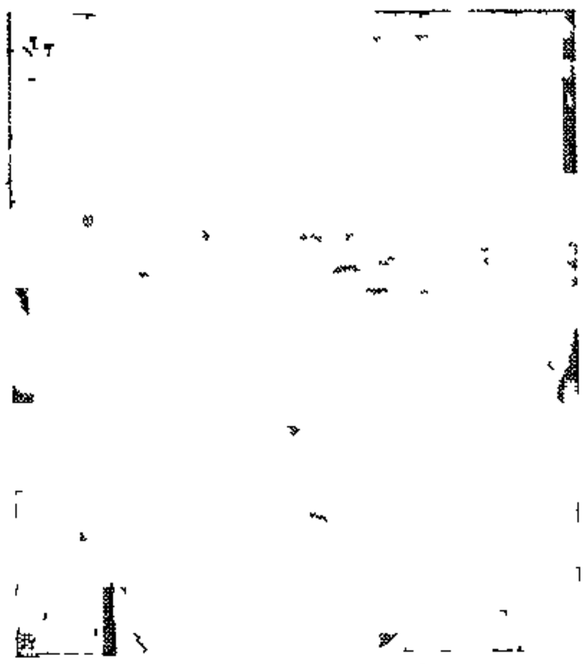
He said it was possible for politicians to try to influence magistrates to make decisions on certain lines because their promotion was decided administratively

"It may have been that a magistrate whose superiors disagreed with his views did not receive promotion But it would have happened on administrative, not Cabinet, level The Minister may not have had knowledge of this and would probably not have allowed it if he did"

Mr Van der Merwe believes that, by virtue of his oath of office, a magistrate should be strong enough to withstand this type of pressure

"I had a case where I convicted a white man of assaulting a black man in a country town

"Certain people, including the Member of Parliament, were aggrieved by my decision to punish the farmer This led to my being transferred to another place



Mr Justice Hoexter . his recommendation has not been implemented

"But years later, I met the then Minister of Justice, who told me he had heard about and agreed with my decision"

The Department of Justice commented that Mr Mostert and Mr Van der Merwe were "speculating as to the reasons behind the course of their careers" To comment on their allegations would disclose information about them and other personnel and would not be public service policy

There were many more magistrates of very high standing who retired without any criticism of the system, the Department said

Mr Jules Browde, national chairman of Lawyers for Human Rights said "I would say it's undesirable that judicial officers, who are not perceived as being completely independent of the legislature, should have a jurisdiction that is too great

"In my experience, in cases with a political slant, the accused often feel justice is not being done because they feel the magistrate is on the same side as the prosecutor"

"You simply can't expect the same degree of independence as you have with judges," said Professor John Dugard of the Centre for Applied Legal Studies at Wits University

"Magistrates have no security of tenure Judges have tenure until the age of 70 and can only be dismissed by motion of Parliament — it's unheard of As a civil servant, a magistrate can be fired, but, more importantly, he can miss out on promotion"

Much criticism has been levelled at the wide variety of administrative tasks expected of magistrates, particularly in country areas

The Hoexter Commission report recommended that magistrates presiding as judicial officers not perform administrative functions which could create the impression "that they were political tools of the Government"

Dr Van der Merwe said magistrates could be subject to control in their administrative work

"While the Hoexter Commission had recommended a complete separation of these tasks from judicial functions, this was easier to say than to implement", he said

Endowed with power

Mr Browde said the fact that magistrates were endowed with the power to ban meetings and marches added to the impression of a lack of independence, particularly where that magistrate might then preside over a political case

Mr Mostert felt that, in their administrative tasks, magistrates were used as a front for the police

So what is the answer?

Most legal experts consulted favoured the Hoexter Commission's recommendations for the removal of magistrates from the public service and separation of administrative and judicial duties

While most felt the high jurisdiction of the magistrates' court was necessary to lessen the burden on the Supreme Court, Mr Browde disagreed

"While one realises that, with the depreciating rand, the jurisdiction must go up in civil cases, there's no reason for it to be so high in criminal cases The answer is more judges in the Supreme Court"

At a sober legal conference, the talk turns to ... going on strike

At a conference on the role of the judiciary in South Africa, the discussion turns to 'moral' judges: should they resign, or should there be more of them? GAYE DAVIS reports

WHEN judges, lawyers and academics discuss going on strike, it surely says volumes about the legal system they are part of.

Not that the issue was canvassed in any great detail at last weekend's Institute for a Democratic Alternative for South Africa (Idasa) conference in Cape Town; it came up during discussion when it was suggested judges suspend their services in protest at the law's erosion.

Earlier, legal academics Professor John Dugard of Wits law school and Mike Robertson of the University of Natal had each spoken strongly against "moral" judges resigning from the South African bench.

Instead, they should make better use of their position and influence and speak out against the unjust laws they were forced to apply, at the same time exploiting what little legal space remained to them.

Dugard said that, depending on one's perspective, judges were seen as tools of the apartheid order, carrying out the wishes of the ruling elite in the name of legality.

Mainstream jurists, however, all saw judges as having some constructive, enlightened role to play. the idea that a judge was required to subordinate his discretion to the ruling elite was "foreign to our law".

Repressive laws that excluded judicial discretion had white-anted this tradition and the South African legal order was "grossly abnormal; one of which I, as a lawyer, am ashamed to be part", said Dugard

But there were still opportunities for judges to advance justice within the law — and as long as there was, they should remain on the bench

Lawyers and academics should remember that, by participating, they also lent the system credibility and legitimacy.

"I really cannot see how we can continue to practice and preach within the system while we call on moral judges to resign."

When the power of the judiciary to do any good within the system was denied by law or the complete overruling by the Appeal Court of progressive decisions, "I hope moral judges will resign But I also hope that progressive lawyers will likewise withdraw from appearances before the courts."

Robertson urged judges to shake off their traditional reserve and follow the example of Mr Justice John Didcott in his outspoken condemnation of the denigration of law.

"Judges cannot be silenced as others can, at least not yet. By communicating their message of disapproval or anger they can make it clear that there is something fundamentally wrong with the legal system, that it cannot last in its present form and that there is a better way that lies ahead."

An "anti-legal culture" was burgeoning, threatening the tragic consequence that "it will be increasingly difficult in later years to convince ordinary people that proper law should possess those intrinsic qualities".

Namibian advocate Anton Lubowski said that in South Africa and Namibia people had lost all respect for a legal system which did not dispense justice but depended on the political whims of a minority.

For any credibility to be restored, the bench should start denouncing the state's increasing role in dictating and interfering in the discretionary power of the judiciary

The Appeal Court had acted "as an arm of the National Party and has become part and parcel of the oppression in this country".

Drawn from an elite and isolated pool, judges were not even representative of white society. For 30 years the Appellate Division was dominated by Afrikaans-speaking Free State-born men who had worked in Pretoria at the Bar or as civil servants

Magistrates emerged from the ranks of Department of Justice public prosecutors — accustomed to looking at things from the state's point of view

In almost 90 percent of criminal cases before magistrate's courts, the accused had no lawyer, Lubowski said

SA-USSR academics to offer perceptions

Star 24/10/88

248

Sue Leeman, The Star Bureau

LEVERKUSEN — An unusual, high-powered political think-tank composed of South African and Soviet academics gets down to business in West Germany this afternoon

Sixteen of South Africa's leading liberal academics, most of them Afrikaners, have come here for an exchange of views and ideas with some of the Soviet Union's foremost Africa experts

They will be seeking a clearer view of Soviet perceptions of southern Africa and its future, and outlining their vision for the resolution of the region's problems.

Also present is a delegation from the ANC, which is expected to table for debate its guidelines for South Africa's constitutional and economic development.

The conference opens officially this afternoon with addresses by Dr Alex Boraine of the Institute for a Democratic Alternative for South Africa (Idasa) and Dr Gerhard Reichler of the liberal Friedrich Naumann Foundation in Munich, which has helped to organise and finance the talks

Prominent in the South African delegation are Idasa founder Dr Frederick van Zyl Slabbert, National Democratic Movement leader Mr Wynand Malan, Dr John Barratt of the Institute for International Affairs, verligte Stellenbosch academics Dr Sampie Terreblanche and Professor Willie Breytenbach, Professor Herman Gilliomee of UCT, Professor Susan Booysen of RAU and Professor Deon Geldenhuys of Unisa Dr Beyers Naude and exiled writer Breyten Breytenbach are also attending

SA-Soviet academics agree on negotiation

By Sue Leeman,
The Star Bureau

LEVERKUSEN — A consensus is emerging from the unprecedented talks in this West German town between leading Soviet and Afrikaner academics Negotiation is the only road to meaningful change

The Soviet academics have been at pains to point out that while they abhor racial discrimination they are not seeking anarchy in South Africa but a "democratic, nonracial future"

In a statement issued before the talks, the Soviet academics stressed they did not view SA "as an arena for confrontation between East and West"

The meeting has been organised by Dr Frederik van Zyl Slabbert's Institute for a Democratic Alternative for South Africa

Dr Irina Filatovafrom Moscow State University said the Soviet Union had been hampered for many years by a lack of facts about South Africa

However, in recent years South Africa had been constantly in the world's headlines and there was a growing Soviet awareness of South African issues

Professor Deon Geldenhuys of the Department of Political Science at Rand Afrikaans University summed up Pretoria's official view of Soviet policy

He said he believed cooler heads in Pretoria had now recognised that the Soviet Union could "play a potentially stabilising and thus beneficial role"

But Professor Geldenhuys stressed that the "Boer-versus-Bear" image was still deeply ingrained

Star 28/10/81

Higher academic standards vital

By Clare Harper

The future success of the engineering profession depended on attracting more students with improved academic and leadership potential

This was said yesterday by Professor A R Kemp, chairman of the education committee of the South African Institution of Civil Engineers (SAICE)

Professor Kemp said a workshop on tertiary education arose from concern over falling student numbers, the viability of seven university departments offering degrees, and the awareness of the pending staff crisis at universities and technikons as subsidy cuts were applied

He said concern existed that some universities were admitting students who were academically sub-standard

The SAICE recommended more attention to admission standards to ensure an absolute minimum "D" symbol in higher grade mathematics and physical science was maintained

Tertiary education in engineering was being deprived of adequate subsidies because of money spent on students in other faculties and universities whose matriculation standard would not gain them admission to university in most other western countries

This, he said, should be the primary focus of rationalisation.

SA must reverse drain of engineers

Sept 28 | 11/81

By Clare Harper

It was likely that less than 40 percent of present university civil engineering graduates would remain active as civil engineers in South Africa until retirement, the South African Institution of Civil Engineers heard yesterday

Professor D Sparks of the University of Cape Town said it was recognised that a developing country required a large group of technicians who could work together with engineers to further the technical expertise of the nation

He was speaking at a workshop on tertiary education in civil engineering attended by about 150 SAICE members yesterday

Professor Sparks said that prior to the introduction of bursaries, which tied a graduate to return to the profession for about three years, civil engineering lost about 50 percent of its graduates to other business enterprises

Recent events, he said, had caused a significant proportion of graduates to emigrate and certain students had avoided taking bursaries in order to facilitate emigration prior to possible military service

The brighter students had also found it easier to enter post-graduate business degrees and to change to other professions, he said

Professor Sparks said there was an urgent need to address the status of the civil engineering field and to assist the status of the professional engineer to avoid the lure of other important professions

Participants also recognised the need to

- Improve the renumeration of lecturers to prevent standards dropping
- Enforce strict standards for entrance requirements
- [illegible]
- Consider the possibility of a single unified institution or engineering school to rationalise tertiary education
- Students from disadvantaged education backgrounds should be provided with opportunities to come into contact with professional enviroments
- It should be easier for students to change from technikons to universities and vice-versa

The participants unanimously agreed that institutions should not be racially orientated

Threat of medical isolation 'now lifted'

8ter 29/10/88

DEBORAH SMITH

PRETORIA — Unanimous acceptance by the World Medical Association (WMA) of a statement rejecting academic sanctions has removed the threat of academic isolation for South Africa's medical profession, says chairman of the Medical Association of South Africa (Masa) Dr Bernard Mandell.

The South African-initiated statement said the WMA was opposed to restrictions and called on all national medical associations to resist the imposition of academic sanctions and boycotts and to adhere to the WMA's Declaration on Human Rights and Individual Freedom of Medical Practitioners.

The statement said restrictions which denied physicians opportunities to exchange information were a protest against the social and political policies of governments.

Such restrictions conflicted with the WMA's objective of achieving the highest international standards of medicine

Sanctions also discriminated between physicians and patients on grounds of the political decisions taken by Government.

Dr Mandell said academic sanctions and boycotts were a serious threat to medicine as interaction with international experts was important to the maintenance of South Africa's high medical standards

He said Masa was prepared to participate in a medical education congress in Johannesburg later this year on condition the National Medical and Dental Association (Namda) repudiated calls for the academic isolation of South African doctors

"We feel we have an advantage over Namda as long as they propagate academic sanctions, especially in light of the internationally accepted statement," said Dr Mandell.

Namda's proposal of two-tiered medical education so as to provide more doctors was unacceptable to Masa because it would lower medical standards, he said.

Calls for academic sanctions were to some extent "immoral and unethical", said Dr Mandell It was important for people to know about the threat and the WMA position

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SA 'needs more black lawyers'

KIMBERLEY — SA had great need of more black lawyers and of national servicemen working as public defenders in the courts, Cape Law Society president Mervyn Smith told the society's annual conference yesterday.

He said students at the University of the Western Cape were mistaken in believing the attorneys' profession tried to limit the number of blacks entering.

"I want to state categorically that we want more black lawyers. Our society does not make any distinction on grounds of race, creed or colour."

The need arose not only because there was a shortage of lawyers. People who had been trained in law would bring to the "negotiating table of the future their skills, their understanding, their appreciation of the role that the law plays in providing justice for all". — Sapa.

Political comment in this issue by Ken Owen Newsbits by Kevin Davie Headlines and sub-editing by Michael Moon All of Times Media Ltd, 11 Diagonal Street, Johannesburg

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'Crisis' on SA campuses discussed

Minister, university academics hold talks

By Claire Robertson,
Pretoria Bureau

An organisation representing academics from universities across the race and language spectrum met Minister of National Education Mr F W de Klerk yesterday to discuss its concern at a "crisis" on South African campuses

Ten members of the Union of Democratic University Staff Associations (Udusa), which has attracted a membership of about 4 500 from 16 universities since its formation in July this year, spent more than an hour with the Minister in Pretoria

The delegation raised a number of issues including the Government's edict that universities must "rationalise" to cope with a subsidy freeze, salaries, conscription and its effects on education, and the presence of police and military on several campuses

MONEY WASTED

On the rationalisation issue, the Udusa members argued that "a significantly large amount of money was wasted" because South Africa had 15 education departments dealing with different race, language and geographical groups

On the question of salaries — believed to have been raised with the Minister in a separate meeting with the Committee of University Principals earlier in the day — Udusa pointed out that although two pay rises had been granted to educationists this year, universities had in the past four years received less than the 80 percent subsidy from the Government

PAY INCREASES

To grant similar pay increases universities would have to draw deeply on their own resources — at a cost to areas such as research and equipment

Udusa also condemned the presence of security forces on campuses

"The invasion of police and military on campuses undermines the autonomy of universities," said Mr B Khotseng of the University of the North

Mr de Klerk was asked to recognise conscription as an issue affecting education, as many men left the country to avoid national service immediately after completing their university degrees

Moot point: Should lawyers advertise services?

Star 2/11/88

248

By Tim Cohen

If South African lawyers were permitted to advertise their services, the public would be able to make more informed choices about who their legal representatives should be and what rights they could enforce, according to renowned marketing consultant, Mr Aubrey Wilson

Mr Wilson, an established British author who has published nine books on marketing, is currently here at the invitation of the Association of Law Societies to present a series of seminars on the subject

Since Britain liberalised it practice rules in 1985, much advertising effort has been spent trying to make solicitors appear "more cuddly" he says

In South Africa lawyers are not permitted to advertise themselves but according to Mr Andre van Vuuren, the director-general of the Association of Law Societies, the trend in South Africa is toward the deregulation of the profession

Mr van Vuuren says the legal profession is under assault from financial institutions and chartered accountants who are now offering services previously only offered by lawyers In addition, our high rate of inflation has meant that an attorney's income has not remained on a par with the long working hours he puts in

Mr Wilson says there are a broad variety of marketing techniques which lawyers could use

"Professionalism is a service as a way of life, business is a means of earning a living The two are not necessarily incompatible"

He added that lawyers did not need to think of marketing their services in the same way as supermarkets marketed their fast moving consumer goods "Lawyers do not need to have cross-word competitions with trips to the Bahamas."

Lawyers would have to look at making brochures and leaflets, distributing news letters especially to established clients, offering sponsorships and advertising in small, local newspapers

South Africans should examine the British experience, where lawyers were first allowed to advertise three years ago, he said Deregulation was followed by a series of high profile and expensive advertising campaigns which, Mr Wilson feels, were not continued long enough to have any effect

Advertising in the classified sections of newspapers had proved successful but had attracted a "low quality client"

Before embarking on a marketing campaign, Mr Wilson said it was important that a legal firm should be sure it had got its management right

It would then have to look at the mix of services it offered and decide on what area of the market to target

The law needs you

CP Reporter

SOUTH Africa had a great need for more black lawyers, the president of the Cape Law Society, Mervyn Smith, told the society's annual conference in Kimberley recently

He emphasised that students at the University of the Western Cape were mistaken in their belief that the law profession was limiting the entry of blacks

"I want to state categorically, so there can be no misunderstanding, that we want more black lawyers in the profession," said Smith "Our society does not make any distinction on grounds of race, creed or colour"

The need arose not only because there was a shortage of lawyers People who had been trained in and practised law would bring to the "negotiating table of the future their skills, their understanding and their appreciation of the role the law plays in providing justice for all"

This year, the legal profession had provided 27 bursaries worth a total of R65 000 for underprivileged students So far, 147 black students had been helped to qualify for the LLB degree, and there were now more than 700 black lawyers in the country, compared with fewer than 300 six years ago

Smith acknowledged the difficulties the students faced The constraints on them studying for five years were enormous, and their efforts came "against a grind of daily life so unlike the happy and carefree student days many of us remember"

He referred to the increase in funding of the Legal Aid Board from R9,5-million to R12,9-million, but said that was still far from adequate He asked whether the Treasury had a proper appreciation of "what the whole system of justice can contribute by way of bringing stability to the country"

Within the attorneys' profession, the greatest dissatisfaction at the moment was the fact that jurisdiction of magistrates' courts had been vastly increased without any increase in fees

"The lawyers of this country simply cannot understand why it takes months and years and, sometimes never, to bring their hard-earned fees onto any kind of realistic level

"I urge the Department of Justice and the Rules Board to place this matter at the top of its agenda," said Smith

Burden of pro deo defence growing

By Cathy Stagg

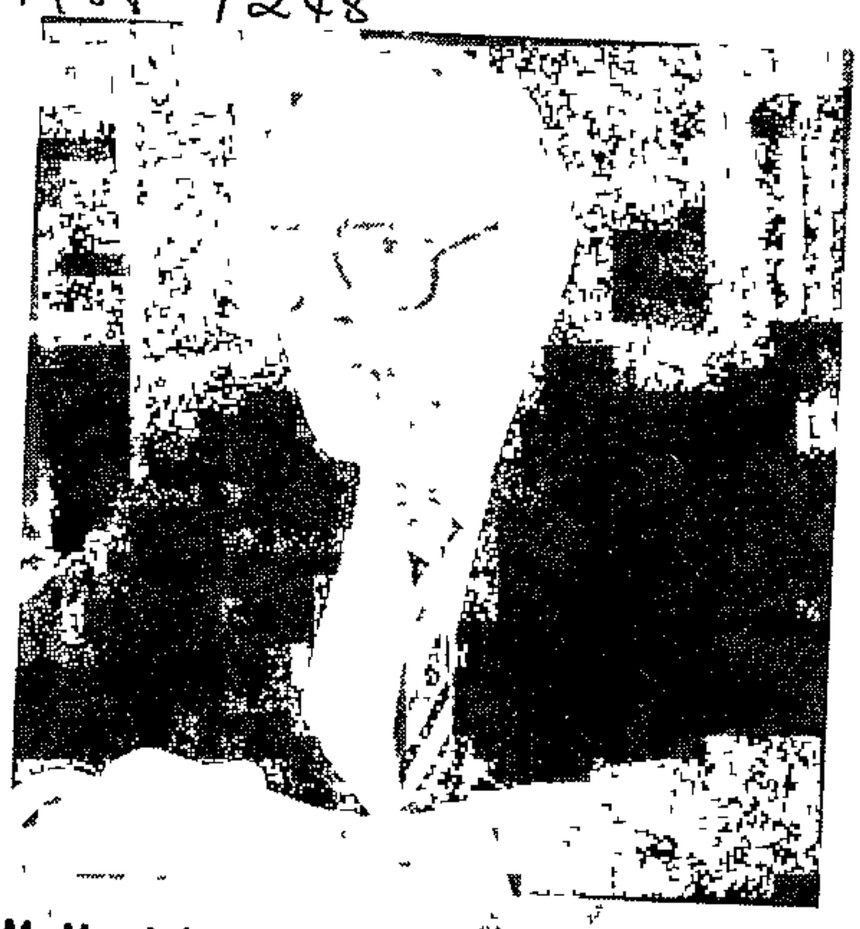
People accused of capital offences have been defended by advocates under the *pro deo* system for many years, but the burden is growing because cases have become more complex

This makes it increasingly difficult for the Bar to render this necessary service

Mr Max Labe, SC, the recently appointed chairman of the Johannesburg Bar Council, feels the solution would be for *pro deo* work to become part of the work done by the Legal Aid Board.

When an advocate defends an accused under the *pro deo* system, he does not have the benefit of an instructing attorney. His fees are paid by the State, as are the fees in legal aid cases, but the amount paid for legal aid work is closer to what an advocate would normally charge

Mr Labe said the opinion that *pro deo* work should become part of the Legal Aid Board's work is one widely shared by people concerned with the proper administration of justice



Mr Max Labe, SC, new chairman of the Bar Council, believes pro deo work should become one of the tasks undertaken by the Legal Aid Board.

Asked about the merits of the death penalty, Mr Labe said "It is important that the efficacy of the death penalty should be re-examined in this country

"It is a difficult question which constantly exercises the minds of jurists throughout the western world"

Regarding Mr Justice Corbett's appointment as Chief Justice, Mr Labe said the Johannesburg Bar had been very pleased

"He is the most senior judge of appeal and the post is rightfully his

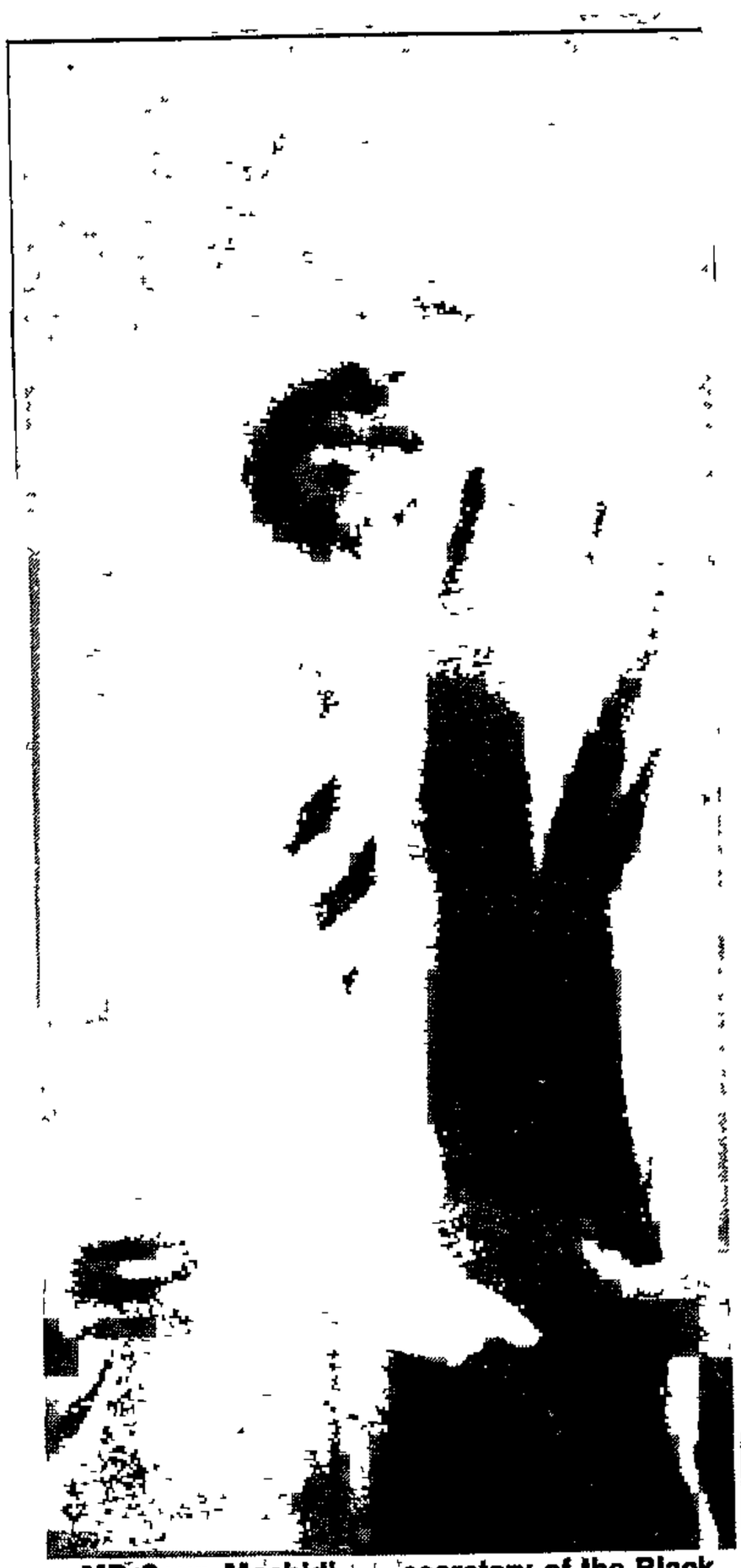
"He is a man devoted to the protection of the rights of the individual and he will continue to make an important contribution to the development of South African law"

As chairman of the Johannesburg Bar Council, Mr Labe hoped his year would contribute to the continued status of the Bar as a separate profession and he intended working closely with attorneys on matters of common interest

Mr Labe was called to the Bar in 1964 and took silk in 1979

The chairman's term of office is from November 1 until October 31 next year Mr L I Goldblatt, SC, is the vice-chairman Other senior counsel elected to the council are Mr S F Burger, Mr M D Kuper, Mr J F Myburgh and Mr W H Trengove.

Junior counsel are Mr B E Doctor, Mr G Farber, Mr M R Hellens, Mr G I Hoffman, Mr G Israel and Mr P Pauw The honorary secretary is Mr Z F Joubert and his assistant is Mr A Kruger



MR Seun Moshidi . . . secretary of the Black Lawyers Association. Sowetan 10/11/88 2K8

RESIGN DEMAND

MEMBERS of the Black Lawyers Association have called on their secretary, Mr Seun Moshidi, to resign from the governing council of the Transvaal Law Society as it was not "serving the interests of blacks"

This was decided at BLA's annual general meeting held in Durban recently. The meeting unanimously resolved that Mr Moshidi either resigned as secretary of the BLA or from the TLS

However, he was not given a deadline for cutting ties with the TLS

Mr Moshidi said yesterday he would abide by the decision of the Durban meeting and resign from the TLS

He said "I would not go against the wishes of the BLA members"

It was argued at the meeting that since it was the BLA's policy not to have its members serving in Government created institutions and those not having the interests of blacks "at heart," Mr Moshidi had no business to serve in such a structure

Mr Moshidi, the first black lawyer to serve in the governing council of the TLS, was appointed to this position last year The committee in which he serves is the policy making body of the organisation

Probe into accountants' advertising

Star 11/11/88 (248)

An investigation into a survey pubished yesterday in the *Financial Mail* by the accounting firm Arthur Young SA is to be established by a committee of the Public Accountants and Auditors Board to see if contraventions of rules governing advertising by professionals has been breached

The chairman of the PAAB, Mr Bev Humphris, confirmed yesterday that at least one complaint had been received regarding the survey

RESPONSE

He said letters to Arthur Young were to be sent today or tomorrow informing them of the complaint The company has 30 days to respond to the letters

The investigation would only commence once the letters had been replied to, he added

In terms of the SA Institute of Chartered Accountants' code of professional conduct it is considered an offence for a member or firm to "unduly bring their name before the public"

The institute recently circulated letters to its members expressing the "tentative view" that the existing practice be relaxed

The executive director of the institute, Mr Tom Mockler, said the codes could be relaxed if there was a a groundswell of support

In the latest issue of the of *Accountancy SA*, the PAAB and the institute published a joint statement warning of an increase in the number of apparent contraventions of the disciplinary rules of the two bodies

SURVEY

Arthur Young's chairman, Mr Tom Wixley, said his company had been approached by the *Financial Mail* for the survey and "I believed in the long run it would be in the best interests of the profession"

He said he was aware that a complaint had been lodged, but many articles relating to the accountancy profession were reported to the PAAB

The senior assistant editor of the *Financial Mail*, Mr Peter Wilhelm, told Sapa that in time professionals would be allowed to advertise and the company could not see why they did not

He confirmed that the *Financial Mail* had approached Arthur Young regarding the survey

Mr Mockler told Sapa the institute was also looking into complaints emanating from the survey and a statement would be released later today — Sapa

Accountants asked for views

(248)

The South African Institute of Chartered Accountants has cautioned its members against adopting a more liberal approach towards self-promotion by way of publicity and advertising, the institute says in a statement Star 15/11/85

The statement follows the publication of a survey in last week's Financial Mail by the accounting firm of Arthur Young SA.

The Public Accountants and Auditors Board has confirmed that it had received at least one complaint concerning the survey and was to conduct an investigation into it.

SAICA's President, Mr John Edwards, said the PAAB should make the results of the investigation public He confirmed that the SAICA had been reviewing the question of marketing, publicity and advertising in the profession for over a year

"It is our view that the time has come for existing constraints on advertising to be relaxed But I must stress it must be done in a professional way and only when members have agreed the the code of conduct be ammended," he said

The SAICA has sent its members a paper setting out the background and making tentative recommendations on the issue

"We want to provide a focus for members so they can comment on our tentative views on the various questions," Mr Edwards said

The SAICA has launched an "Image building campaign" aimed at creating a positive awareness of the chartered accountant, asking the business community to "Talk to their chartered accountant first."

The SAICA felt that the interests of the public could be better served by relaxing restrictions on advertising — "But there must be appropriate safeguards and restrictions"

The paper asks members to submit their views by early in the New Year on the following questions

- Can the profession market itself adequately without relaxing constraints?
- Should the restrictions on advertising be relaxed and if so to what extent?
- Should there be safeguards and if so how should these be enforced?

— Sapa

A MAN FOR THE HOUR

248 ST Times 27/11/88

'In any society a free Press is, in my view, indispensable to the proper administration of justice. Judges cannot arrive at correct judgments unless they are made aware, through the media, of what is happening in society, what people are freely saying and thinking'

READERS of these words who are used to illiberal statements emanating from the wielders of public power in this country and a reticently conservative judiciary may be mildly startled to learn that the speaker is none other than South Africa's future Chief Justice, Michael Corbett

When it is realised that he made that speech in 1979 while formally opening the first international conference on human rights in South Africa at the University of Cape Town, his appointment becomes all the more remarkable

While there tends to be an aura of mystery surrounding the personalities of our judges, it is right and proper that the holders of such public office should be critically appraised by the people whom they are intended to serve What kind of man is our new Chief Justice (from February 1 1989) and how significant is his appointment?

Hugh Corder

Professor of Public Law at the University of Cape Town, assesses South Africa's new Chief Justice

Respected

Mr Justice Corbett was brought up and educated in the southern suburbs of Cape Town He joined up at a young age to fight in the Tank Corps in the Second World War and on his return to civilian life he completed law degrees at both UCT and Cambridge

After practising as an advocate at the Cape Bar for 15 years, he was made a judge in Cape Town in 1963, and was elevated to the Appellate Division in 1974 He is one of the most widely respected and senior judges in the country, extremely conscientious, skilled, courteous and principled

These facts alone point to his suitability for the office of Chief Justice But the South African legal system and judiciary are in a peculiarly difficult, some would say critical, situation today

High-profile political trials constantly bring the courts into the public spotlight — not always to the enhancement of their reputation as agents of justice

While judges are bound to apply some vicious and unjust laws, there is a growing perception among many in this country (and outside it) that the courts have failed to exploit inherent vagueness in the law to protect the individual, particularly in the "state security" and "emergency rule" areas

Many observers might claim that the damage done to civil liberty in such cases over the past 18 months will be difficult to repair To restore public belief in the image of judicial independence is an enormous challenge How, if at all, will the appointment of Judge Corbett as our 18th Chief Justice affect this situation?

Directly, he can do little

The head of this country's judiciary cannot wield the sort of overtly political power such as the Chief Justice of the United States does He performs a largely symbolic role under the Constitution Act, presiding at several important stages in the life of Parliament and the election of the State President

Administratively in the Appellate Division, the Chief Justice is responsible for the allocation of judges of appeal to hear cases There have been times when it has seemed that some judges were not being assigned to certain types of cases

It is now possible that the group of judges which has sat on most appeals arising out of the emergency may find its composition varied from time to time

Indirectly, Judge Corbett's influence is likely to be far greater He will have at least four-and-a-half years as Chief Justice in which he will probably be the dominant figure in the most important appeal cases Through the system of precedent as it operates in our law, the opinions of the Appellate Division bind all other courts

It is important to realise that judges make choices about the meaning of legal rules in the light of social policy and conditions, especially when balancing state and individual interests In doing so they are influenced by their own experiences and perceptions

The significance of Judge Corbett's appointment lies in the type of man he is His participation in the activities of the civil-rights movement known as the Torch Commando in the late 1940s, his educational background, and his consistent and vocal support for the introduction of a Bill of Rights stamp his values as liberal in the South African context

This approach to the inherent importance of civil rights is borne out in several of his judgments, sometimes as a lone dissenter from majority judicial viewpoint in the case

Yet, perhaps Judge Corbett's most important quality is his seriousness of purpose and relatively wide exposure to a diversity of political opinion

His activities off the Bench and the circles in which he moves ensure that he is more in touch with the fears and aspirations of a greater range of South Africans than any other Chief Justice since Henry Fagan in the 1950s

Acceptance

His position is further strengthened by his clear vision of the limits of the judicial role Judges must be, in his words, "persons of the highest calibre, both as jurists and in their capacity to formulate wise decisions on matters of fundamental social policy", yet they must maintain "a fine balance between the need to protect constitutional rights and liberties and the danger of too great an interference in the affairs of the executive and legislative branches of government"

He is also acutely aware that the Supreme Court's effectiveness depends on its legitimacy, its broad acceptance by society

The years which lie ahead will determine whether the judicial system retains (or regains?) legitimacy in the eyes of most South Africans

It will be an uphill battle, given socio-political conditions as they exist

No serving judge is better able to attempt to preserve what is good in our legal system than Michael Corbett (Whether conservative legal structures will adapt sufficiently well to changing demands is another question)

His appointment as Chief Justice, never a foregone conclusion despite his ability and seniority, indicates that a small measure of good sense still survives in the upper echelons of government

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S Times

27/11/88

Stopping the exodus

THE Government is increasing salaries for prosecutors in a bid to slow the pace of resignations that lawyers claim have impoverished the country's lower courts.

Uncertainty surrounds the amount and timing of the increase, which was announced ahead of schedule in a move to placate state legal staff

But it appears the Department of Justice may have misjudged the symptoms of a more intrinsic malady for which the prescription of bigger salaries is not likely to be a lasting remedy

Discontent is high among prosecutors but not, by all accounts, because they are poorly paid

Minister of Justice Mr Kobie Coetsee announed salary increases after learning that 116 prosecutors had resigned by September 30 this year, against 104 resignations during the whole of last year

He hoped "the advanced salary adjustments will bring (legal staff) greater peace of mind in the knowledge that they can proceed with careers giving them job satisfaction without constantly having to think about salaries and possibilities elsewhere"

But a prosecutor who resigned recently says discontent stems from the job itself, rather than the rewards

One of the favourite topics of conversation in the court tearoom, according to lawyers, the staff crisis in the courts was predicted by the Hoexter Commission Report of 1983 which warned of a "collapse in the administration of justice within the foreseeable future" unless changes were made

Among other things, Mr Justice Hoexter found that "presiding judicial officers experience difficulties because of the disturbingly low average level of experience on the part of prosecutors"

The situation appears to have worsened since the Hoexter Report

The former prosecutor, who asked not to be named, left because he had "had enough" He said money was not "an issue"

"A salary increase will bring a temporary stop to the resignations, but within a year or two that effect will wear off

"The question is How much longer can you carry on doing that? Money is not the problem The whole service has to be restructured

"Experienced people are leaving at an alarming rate because of the lack of opportunity, absence of differentiated salaries, threat of transfer, excessive red-tape and the treatment of professionals as if they were clerks"

A sense of insecurity permeated the work environment because of the "inflexibility" of the system of transfers, there was resentment because salaries for prosecutors doing vastly different jobs were not differentiated, and prosecutors also bemoaned the "excessive red tape in the department".

"People get fed up with working really hard, sometimes starting at 6am, and then making some silly administrative blunder or leaving for home five minutes early and getting into trouble for that

"As a general rule, prosecutors were not qualified to do anything else and it seems the Department's attitude has not changed since then Now most prosecutors have an LL B or B Proc degree They are very marketable and can easily move into the private sector but the Department has not faced up to that fact yet"

The result was that the level of experience had dropped drastically

"In the Cape Town regional court, for example, the level of experience is about two years, and that is nothing Cases are being shoddily presented because prosecutors just do not have the experience They do not have anybody to learn from and they do not have time to develop in the lower courts where they should be nurtured and developed before coming up"

He did not believe resignations were having an adverse effect on justice "except in so far as it is possible that people are being acquitted far more regularly because cases are not being properly handled."

A stack of yuppies earn more than R90 000

248

Times 4/12/88

YOUNG upwardly mobile professionals (yuppies) are making a fortune for themselves.

Many responded to an invitation in Manpower Mirror a few weeks ago to people under the age of 30 (or just over) and earning more than R90 000 a year

Up to 30% of the young executives who responded were in the computer industry where they are earning high salaries

One of them established his software company after graduating with a Bachelor of Commerce from the University of Cape Town. At the age of 29, he is earning more than R250 000 a year — and that is from SA sales only

Another is a chartered accountant who became a computer agency salesman in February and will have earned more than R120 000 by the end of the year He is a ripe old 28

One of the biggest money-spinners for young people today appears to be time-sharing Top young earners are generally between the ages of 23 and 28, and many see a great future in the industry

Salaries vary widely, mainly because they are based on commission But most yuppies reported earning R120 000 to R200 000, but said the hours were long — often seven days a week — and the work hard

Two other industries have attracted many upwardly mobile young people

Many are financial directors, stockbrokers, management consultants, dealers and merchant bankers earning between R90 000 and R160 000

The engineering and construction industries have a fair number of young executives earning a whack, from R90 000 to about R150 000

A poll by Research Surveys indicated that yuppies held a predominantly negative and non-committal attitude to SA's economic and political future

Respondents to Manpower Mirror were slightly more optimistic Almost without exception they said they would leave SA if the Conservative Party came to power, but they did not foresee it as a certainty

Most said they would emigrate if the African National Congress (ANC) took over, but about 10% said they would stay regardless because SA offered more opportunities than any country

One respondent said "Reform is not happening fast enough, but at least we are making some sort of progress I would stay in SA whether the CP or ANC came to power because I believe that whatever happens it will only create better opportunities for me — as long as I recognise and utilise them"

Sanctions are seen as a threat to SA, but many believe they will not be implemented in full and that there is always a way to beat them

Public legal service access vital to justice

C/Pres 4/12/88 248

Legal aid clinics can bring the law closer to the people

y KERRY CULLINAN

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tutional future of South Africa

"People need to see the law in action, need to see it work and need to see it work effectively as a protective mechanism," asserts Ackermann

"A society can take away a person's rights by taking away his remedies," he claims in his plea for accessible legal services to be made the highest priority in the administration of justice

Rights can actively be removed by state decree, or simply omitted, he claims.

Arbitrary detention without access to legal representatives is an example of how, through state action, someone's status as a person before the law is removed, says Ackermann

On the other hand, if a society does not provide the means by which people can enforce their rights, they are also rendered helpless

"When people too often observe that wrongs go unredressed, they will ultimately conclude that society sanctions wrongs or, at the very least, that society places no restraint upon wrongdoing," the academic asserts

"No one who has read a review record in which an unrepresented, uneducated and unsophisticated accused has tried to put into practice the art of cross-examination will not realise what a nightmare it must be for such an accused Can one truly imagine that justice has been done in all these cases?"

He praises legal resource centres and legal aid clinics for their efforts to bring the law closer to the people.

"The greater the access to legal services, the greater the access to justice and the greater the inculcation in society generally of a belief in rights and the reality of their enforcement and the affirmation of the dignity of the members of that society."

He calls on leading lawyers to involve themselves in legal aid clinics to show law students that the gap they perceive between theoretical law and its practical application can be addressed

In concluding, Ackermann says making the legal process accessible to people will, in turn, make them believe that a constitution to guide society is workable.

"The sooner people are able to see (the law) in practice, the greater is the chance that they might come to believe that constitutions can be effective"

If a constitution develops as a technological, abstract, legal solution it will not succeed as people will not understand it, let alone subscribe or live by it, he asserts

Thus Ackermann's fundamental assertion is that if people have access to the law, their grievances will be addressed and they will develop faith in a constitutional system

Detainees' lawyers change tactics

Since the 1986 state of emergency, detainees have been held without trial for unprecedented periods. And to help their clients, lawyers find they have to turn away from litigation to look at welfare questions (248)

This changed demand on lawyers was reflected in a recent symposium organised by the National Association of Democratic Lawyers (Nadel) at the Medical University of South Africa. Its theme was "Legal and social services under the state of emergency".

The gathering was attended not only by lawyers, but by medical workers, representatives of community groups and families of detainees

The lawyers concluded that they had an obligation to campaign around conditions of detention and to intercede with the authorities to ensure that the few rights to which detainees were entitled were granted

Problems highlighted were the physical and mental health care of detainees, their educa tional needs and the care of detainees' families.

Other crucial problems related to housing and job security. "It has been noted that detainees who are being held for longer periods or indefinitely tend to lose their houses and jobs Normally this has the adverse effect of disrupting family life," a Nadel statement on the conference read

Decisions taken at the symposium were

- To develop a long-term programme which will draw community groups and professional groups, including lawyers, more closely together to address the problems of those in prison more effectively
- To urge progressive lawyers to bring pressure to bear on the authorities to allow detained students who had missed the year-end exams to write these exams in March
- To urge lawyers to negotiate with headmasters for the readmission of former detainees to schools

Nadel asserts that all detainees should have an automatic right to receive visits "and this should not depend on the discretion of State officials".

The organisation also considered the question of capital punishment and resolved "to set up a special committee in conjunction with community organisations to intensify the campaign for the abolition of the death penalty and to call for the suspension of all further executions"

It saw the necessity of raising funds to attend to the welfare of death row prisoners and their families.

Star 5/12/88 By JO-ANNE COLLINGE (529)

Lawyers of state of emergency detainees find that it is just as important to protect their clients' welfare, both in and out of prison, as it is to fight for their release. (SAB)

What price black judges?

Star 10/12/88

248

PAT DEVEREAUX

EFORE blacks can be appointed as judges or magistrates in South Africa, it may be necessary to overhaul almost ne entire legal system which iscriminates against them

This was the view of legal experts responding to the Minister of ıstice, Mr Kobie Coetsee's, recent nt at the possibility of blacks eing appointed as judges and ıagistrates

At the recent opening of an attor-y s office Mr Coetsee reportedly said icks were increasingly in positions here they had the opportunity to rep-sent their own people

But we must first find avenues to tı oduce more people of colour to the gal profession We need them as dges, magistrates and attorneys," he ıd adding that this is imperative r the continued legitimacy and status the legal profession in the eyes of all uth Africans

Director of the Centre for Applied gal Studies at the University of the ıtwatersrand, Professor John Du-ırd, said 'It would be difficult to ap-ınt black judges immediately as dges are normally appointed from e ranks of senior counsel and profes-ınally there were only two Indian se-or counsel inside the country eligible r such an appointment"

Professor Dugard also said it might difficult for a black person to ac-pt such an appointment as the South rican legal system and the judiciary as questioned by the majority of uth Africans and most foreign gov-nments

Welcoming the possible move to ap-ınt black judges as a positive step, r Peter Leon, Witwatersrand chair-an of Lawyers for Human Rights, ded that it should have been done a ı time

'Law itself needs first be altered'

"Appointments to the Bench used to be the highpoint of a distinguished career at the Bar Now the irony is that many liberal and black senior counsel members would refuse to take appointments because of the way they view the Bench and the enforcement of laws such as the death penalty"

Chairman of the Black Lawyers Association, Mr Keith Kunene, said the question was whether blacks would take appointments as judges and, if they did, whether they would not be viewed as collaborators

"I could not sit on a Bench which enforces laws — the fruit of 40-year-old Nationalist Government policy — which discriminate against me"

In May, Rand Supreme Court Judge, Justice Goldstone said "Black lawyers question the legal system's legitimacy not only because of laws which discriminate on colour but for the reason that blacks have not participated at all in the law-making process"

A former Appeal Court Judge, Mr Justice Trengrove, said judges in South Africa were obliged to apply unjust laws passed by Parliament in which blacks were not represented

Namibian advocate and Swapo member, Mr Anton Lubowski, pointed out recently that approximately 90 percent of all criminal cases involve blacks but white judges and magistrates sat in judgment on them and

248 Star 12/12/87

Stellenbosch group backs new alliance

Political Staff

Influential academics and professional people in Stellenbosch, describing themselves as an "unaligned group", last week formed a committee and decided to throw their weight behind the efforts to form a new political party to the left of the National Party.

Academics and other prominent people in the Transvaal who are not at present in any political party will also be drawn in.

Prime movers behind the group are Professor Sampie Terblanche, professor in economics at the university, and Mr Piet Geustyn, a retired engineer. The meeting held by the group to discuss their strategy was also attended by Dr Danie Craven and by academics and prominent people from Stellenbosch and surroundings

Some of them have had discussions with the leaders of the parties involved in the efforts to form a new party — Dr Zach de Beer of the Progressive Federal Party, Dr Denis Worrall of the Independent Party and Mr Wynand Malan of the National Democratic Movement.

NEW FORM OF POLITICS

Professor Terblanche said the group would like to see not only a merger of political groups but a new political party involved in a new form of politics.

The new approach would emphasise the inevitability of non-racial politics in South Africa.

In the process, the continuing racism of other parties in white politics had to be exposed as well as the vulnerability of the National Party in a number of areas.

Dr Willem de Klerk, former editor of *Rapport* and now at Rand Afrikaans University, said there were also academics and professional people in the Transvaal who were unaligned or who had left the National Party

They could play a role and at a later stage, and efforts would be made to bring them into contact with the new party, he said.



THE Rev Frank Chikane — human rights is not an issue in South Africa as Africans are treated as less than human beings.

Human rights chiefs urge a stand for truth

Sowetan 13/12/88

SOUTH Africa's violation of human rights was put under the spotlight at the 40th anniversary of the Universal Declaration for Human Rights commemoration at the Central Methodist Church on Saturday

The audience, largely made up of lawyers and activists, was urged to campaign and to stand up for the truth and to fight the atrocities and horrendous wars which are perpetrated in a professional way and by statute laws in this country.

"In this country there is no respect of either rule of law or of the fundamental freedoms enshrined in the declaration," said Mr Peter Leon, Chairman of Lawyers for Human Rights, Witwatersrand region

"What we have seen is an assault on human rights initially by statute and now, in our fifth state of emergency since 1960, by decree."

The Rev Frank Chikane, the general secretary of the South African Council of Churches, said the violation of human rights was a direct negation of Christianity, which preaches love

He attacked the "civilised, developed and Christian countries abroad" who still support South Africa while it grossly violates human rights

"The South African issue is not just to fight the violation of human rights, it is more than that as the Africans are treated less than human beings," said Mr Chikane.

Apathetic lawyers challenged

WMMC 9-15/12/88

By CARMEL RICKARD, Durban

LAWYERS for Human Rights claim they offer free legal services to those in need. They often don't

In his annual report, the director of LHR, Brian Currin, says the number of lawyers offering free service was promising but many are "simply not available" when approached.

He said the project had been difficult to implement because "the vast majority of practitioners have shown no inclination to take up the challenge.

"Even in regard to a non-political issue such as child abuse which has been the subject of public outcry throughout the year, practitioners have failed to respond to a plea that they represent *pro bono*, defenceless children whose future lives are being determined daily by children's courts.

"I am also disappointed at the level of apathy among many members of Lawyers for Human Rights who seem to merely appease their conscience by being members. A comparison of the number of members with the number of *pro bono* participants proves this."

Commenting yesterday, Currin said that against this disappointment there were a number of lawyers who had been generous with their time, "helping more than their fair share

"I believe there has not been a 'service ethos' in many members of the profession but it is developing and people are beginning to become accustomed to the idea"

LHR began its *pro bono* legal services scheme in February this year and approached practising lawyers to do voluntary legal work in cases where the state is a party.

Since the launch of the project, the need for an accused to be properly represented was highlighted by a Natal Supreme Court judgement in which the judges concerned found a trial "palpably and grossly unfair" because the accused were not represented, and set aside both conviction and sentence.

Five good reasons why Latin shouldn't be compulsory

BY R H ZULMAN, chairman of the General Council of the Bar of South Africa.

Star 16/12/85

Considerable misunderstanding exists concerning the recent decision of the General Council of the Bar of South Africa to recommend to the Minister of Justice that Latin should cease to be a compulsory subject for admission as an advocate In the ensuing furore the polemics have tended to obscure the real issues

The following points may prove helpful in putting the GCB's decision into proper perspective

(1) At no time has it been proposed that Latin should be abolished as a school or university subject *per se* The GCB is mindful of the cultural and academic value of Latin and the formative role it can play in the general education of law students as well as students from other disciplines

(2) For those who have the opportunity to take Latin, the GCB would happily recommend that they do so and favours its retention as a subject of choice

However, the GCB's decision to recommend its abolition as a prerequisite to admission to the Bar took into account the sober fact that Latin is not available as a school subject in the vast majority of schools in this country

(3) It is unfortunate that so much emphasis has been placed on the difficulties experienced by blacks in fulfilling the Latin requirement This was undoubtedly a factor in the decision, having regard to the paucity of black schools which are able to offer Latin to their scholars

There can be no doubt that the Latin requirement does not distort equality of opportunity and access to practice at the Bar It should be noted that Latin is not a prerequisite to practising as an attorney

The racial argument has, however, been exaggerated and it has been taken out of context, leading to the ludicrous suggestion that the GCB is either "racist" or "paternalistic" or both

(4) Despite dire predictions that the abolition of Latin as a compulsory subject for admission to the Bar will mean that advocates will no longer have the ability to research the old Roman and Roman-Dutch authorities, the truth is that a single year's study in Latin 1 or Latin Special hardly qualifies the advocate to do so

It is only the real Latin scholars who are able to read the old authorities in their original Latin and will continue to do so in the future The average practitioner must content himself with widely available translations of the leading works

(5) Almost all of the developed legal systems of the Western world do not require Latin as a prerequisite to practise at the Bar, despite the fact that most also have a classical tradition

It can surely not be suggested that the legal practitioners in these advanced countries are in any way inferior to ours because they have not had to pass a course in university Latin

No passports for two lawyers

The State's refusal to issue passports to two South African lawyers to travel abroad is "deplorable and is a violation of human rights", said Mr Brian Currin, national director of Lawyers for Human Rights.

Pretoria advocate Mr Mathole Motshekga, a Unisa law lecturer, and Mr Dullah Omar, a Cape Town attorney, were refused passports by the Department of Home Affairs this week

Mr Motshekga is vice-president of the National Association of Democratic Lawyers (Nadel) Mr Omar is regional chairman of the same organisation in Cape Town

Mr Motshekga was scheduled to give a series of lectures on international law in America, Mr Omar was to attend a conference in Cairo

In a statement released yesterday, the Pretoria and district branch of Nadel said "We see this as an attempt to reduce the exposure of members of the oppressed majority and to retard their intellectual development by denying them academic and cultural exchange with the international academic community."

Sowetan 23/12/88 (248)

BAN SLAMMED

THE State's refusal to issue passports to two South Africa lawyers to travel abroad "is deplorable and a violation of human rights," according to Mr Brian Currin, national director of Lawyers for Human Rights.

By MONK NKOMO

Pretoria advocate Mathole Motshekga, a law lecturer at the University of South Africa and Mr Dullah Omar, a Cape Town attorney, were this week refused passports by the Department of Home Affairs to travel to the United States and Israel respectively

Mr Motshekga is vice-president of the National Association of Democratic Lawyers (Nadel) and Mr Omar is regional chairman of the same organisation in Cape Town Mr Motshekga was scheduled to give a series of lectures on international law in America and Mr Omar was to attend an international conference in Cairo.

In a statement released yesterday, the Pretoria and district branch of Nadel condemned the Government's action and said "We see this as an attempt to reduce the exposure of members of the oppressed majority and to retard their intellectual development by denying them academic and cultural exchange with the international academic community"

Mr Motshekga yesterday said his work would be negatively affected as he specialised in international and comparative law

Mr Carrin, in a statement released yesterday, said "The State's refusal to issue passports to Mr Omar and Mr Motshekga is a further example of widespread human rights violations by the South African state The Universal Declaration of Human Rights protects freedom of movement both nationally and internationally

"Both Mr Omar and Mr Motshekga are well respected Human Rights lawyers in South Africa The fact that the South African Government refused them their rights to travel abroad is deplorable," the statement said

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Stockbrokers earn top salaries among the self-employed

Star 27/12/88

(248)

By Carina le Grange

Stockbrokers are the highest earners among all the self-employed graduates in South Africa

They bring in an average of R210 000 a year for working an average 45-hour week

The average incomes for the 41 top-earning professions among graduates range from R210 000 down to R50 000 for people such as architects, chemists and city planners These figures include only self-employed men

These are the findings of a survey done by the Human Sciences Research Council (HSRC) on the salary structure of graduate males who are self-employed

ARTICLE

There are about 180 000 white male graduates in South Africa and Namibia

The findings were published in the latest issue of the law journal *De Rebus*, in an article examining the earnings of attorneys

It was found that attorneys earned an average of R64 000, in comparison to the average of R60 000 found among all self-employed people

The average number of hours worked per week by all the respondents was 47 for the average earning of R60 000

The 17,65 percent of respondents to the questionnaire classified themselves under 682 occupational names, which were narrowed down to 282 by the researchers

AGE

The average income of all self-employed men was found to be R60 000 a year, and the average working week was found to be 47 hours

The average age of those questioned was 44 years

It was found that there was an increase of income with an increase in age up to 50, after which there was usually a decline in income

The longest hours — 58 a week — were worked by paediatricians

After the stockbrokers' average of R210 000, radiologists were found to earn and average of R120 000 (working 45 hours a week) orthodontists R102 700, and anaesthetists, chairmen of companies and gynaecologists earning R100 000

How much they earned

This table indicates the profession, the average number of hours worked, the average income of the bottom 10 percent in each group the bottom 25 percent, the average of the total group, the top 25 percent and the top 10 percent (where available)

Table the salary structure of self employed professions with an average income of R50 000 a year or more in descending order

Occupation	Hours	10	25	50	75 90
1 Stockbroker	45		117 500	210 000	400 000
2 Radiologist	45	57 600	76 000	120 000	145 000192 000
3 Orthodontist	42		75 600	102 700	140 000
4 Anaesthetist	53	35 800	700 000	100 000	120 000139 200
5 Chairman of companies	43		63 000	100 000	164 000
6 Gynaecologist	57	51 100	64 610	100 000	120 000149 820
7 Surgeon	55	41 450	70 000	96 800	144 500200 000
8 Advocate	52	41 950	58 000	95 500	140 000225 000
9 Pathologist	54		77 000	94 000	150 000
10 Psychiatrist	45		50 000	84 000	120 000
11 Paediatrician	58	42 000	66 750	83 000	115 000120 880
12 Medical specialist	53	35 600	51 430	80 000	130 000176 400
13 Physician	55	36 930	60 500	80 000	100 000150 000
14 Financial director	47		57 000	76 000	106 250
15 Accountant	42	36 000	50 000	72 000	100 000128 000
16 Auditor	42	40 000	52 500	72 000	90 000120 000
17 Civil engineer	44	30 000	44 500	65 000	90 000124 400
18 Electrical engineer	45	30 000	39 000	65 000	96 000115 000
19 Electronics engineer	49			65 000	85 900
20 Property developer	47		48 500	65 000	105 000
21 Attorney	46	31 160	45 000	64 000	90 920130 000
22 Medical doctor	57	30 800	48 000	62 600	84 000109 000
23 Company director	50	20 000	36 750	62 000	86 830125 100
24 Engineer	42	25 000	46 000	62 000	80 000116 000
25 Managing director	49	30 000	45 000	60 360	91 000127 400
26 Director	46	14 000	32 650	60 000	85 000115 000
27 Financial consultant	42	19 500	26 250	60 000	71 500145 000
28 Land surveyor	45	36 000	45 000	60 000	94 500113 200
29 Managing consultant	44	15 400	40 000	60 000	75 000131 000
30 Mechanical engineer	46	16 000	32 000	60 000	70 000100 000
31 City and regional planner	47		45 250	60 000	78 750
32 Quantity surveyor	42	30 000	42 250	59 000	80 000110 000
33 Director of company	38	12 670	40 000	58 500	104 250146 470
34 Computer consultant	43		42 000	56 500	80 000
35 Insurance broker	45	30 000	40 000	55 000	82 00098 000
36 Chemical engineer	43		21 500	52 000	63 000
37 Structural engineer	42		38 750	50 500	80 000
38 Architect	43	23 470	35 580	50 000	72 400102 400
39 Chemist	51	26 980	36 000	50 000	70 00095 220
40 Tax consultant	40		24 000	50 000	120 000
41 City planner	46	31 200	45 000	50 000	60 00092 000
Total	47	24 000	40 000	60 000	85 000120 000

PROFESSIONS

1989

JULY — DEC.

...leaders are asked to consider whether a race-based constitution will be acceptable nationally and internationally.

WEBSTER WATCH

The Anthropology Department at the University of the Witwatersrand have expressed dissatisfaction with the lack of progress in the investigation into the assassination of Dr David Webster 62 days ago.

"We contemplate the lack of success on the part of the police with anger, but not with surprise. The similarities between the Webster case and that of (University of Natal lecturer) Dr Rick Turner are strong," Professor W Hammond-Tooke, the departmental head said yesterday. Star 11/7/87

Colonel Floris Mostert, head of the Brixton Murder and Robbery Squad said police made no breakthroughs this week. 248

20 000 CAs needed by the year 2000

By Robyn Chalmers

SOUTH Africa will need 20 000 chartered accountants by the turn of the century, which means it will have to expand greatly on the 11 500 active last year

CA Education Endowment (Eden) Trust chairman Henri de Villiers says in the 1988 report that the number of active CAs continues to be eroded by emigration

"In recent years, there has also been a decline in both the numbers entering the CA profession, and in the number of registered members. In addition, the number of members from the black sector has been minimal.

"At least 10% of the 20 000 CAs needed should emanate from the black sector. Furthermore, if these numbers are to be achieved, it is necessary to ensure that accounting departments at universities are well staffed with capable people and remunerated on a competitive basis."

The Eden Trust was established in 1986 by the SA Institute of CAs, the Public Accountants and Auditors Board and the Association of Black Accountants of SA.

The original target of the trust was to establish an endowment fund of R20-million in five years to achieve an annual income of R1,6-million to fund these objectives.

Mr De Villiers reports that the trust has received more than R1,3-million from accounting practitioners and other donors. He believes the target will be achieved this year.

ately ing for themselves, police fired shots,
rs of killing two civilians and wounding a
few others before police regrouped
of and moved in to restore order.

Pay hikes welcomed

TIM COHEN

GENERAL Council of the Bar chairman Ralph Zulman yesterday welcomed judges' 50% salary increases.

The new salaries were commensurate with judges' responsibilities, he said.

He rejected a claim made by Association of Law Societies head Andries Geyser that judges were getting such a large salary increase because the country was having trouble attracting advocates to accept appointments to the Bench.

Geyser had also suggested that attorneys be appointed to the Bench as a solution.

Star 7/7/89 248

Seminar to debate issue of Latin and legal training

By Norman Chandler, Pretoria Bureau

Lawyers will again debate whether or not Latin should be part of legal proceedings

The controversial issue has been simmering in the legal world since March 1986 when the Appellate Division ruled that Latin should be a precondition for admission to the Bar

The Government a year later declared a moratorium on the issue, which has been in force ever since

Unisa announced yesterday that lawyers would have an opportunity to debate the issue again on July 21 and 22 at a special Latin and Legal Training Seminar, hosted by the Classical Association of South Africa.

A Unisa spokesman said a panel of five jurists will discuss "What does the legal profn require?" Two professors of Latin will talk on "What do the classicists offer"

The spokesman said yesterday "It is hoped that session will bring greater clarity on the reasons why some members of the legal profession want to abolish Latin as a prerequisite for law while others are adamant it should be retained"

After the seminar on July 21 a "colloquium didacticum" (teaching seminar) will take place the following day to discuss the implications that the findings of the seminar may have had

Mr Justice P J Rabie will deliver the opening address. The panel discussion will be led by Mr Justice P J J Olivier. Other members of the panel are Professor W J Hosten of Unisa, Professor A H van Wyk of the University of Stellenbosch, Advocate E Moseneke of the University of Pretoria, Advocate P Blieden SC of the Johannesburg Bar and Professor T J Scott of the University of Pretoria

Counter-argument from the classicists will be given by Professor K Matier (chairman), UCT Professor R Whittaker and Unisa's Professor D M Kriel.

Accounting firms discuss a possible worldwide merger

BDay 7/7/88 ZILLA EFRAT 248

INTERNATIONAL accountancy and consulting firms Price Waterhouse and Arthur Andersen have started formal discussions to consider a possible merger of their worldwide practices

The move follows the recent merger between Ernst & Whinney and Arthur Young — now Ernst & Young — which made it the largest accountancy firm in the world in terms of fee income

However, a tie-up between Chicago-based Arthur Andersen and London-based Price Waterhouse would place the combined group ahead of Ernst & Young, with a fee income in 1988 at about $5bn against Ernst & Young's reported $4,2bn

In a joint statement, the companies said confidentiality agreements have been signed to protect proprietary information and there will be no public comment during the 60-day period of discussion

Resources

They say the talks are being undertaken "to benefit from the continuing rapid globalisation of world economies, the accelerating pace of technological change, and the broad-based need for new services and investments"

These developments were creating a demand for increased worldwide professional and financial resources with which to service clients' needs

The new firm will have about 83 000 professional staff members — 46 000 from Arthur Andersen and 37 000 from Price Waterhouse

Arthur Andersen is the larger of the two firms, with fee income of $2,8bn in 1988 compared with Price Waterhouse's $2,1bn

Arthur Andersen has 231 offices spread over 49 countries, while Price Waterhouse has 422 offices in 103 countries

New profits forecast

(248) Fmail 7/7/89.

The role of the professional accountant in profit forecasting is about to enter a new era with a new Audit & Accounting Guide (AAG) Due for release next month, it is 39 pages long and replaces a seven-page guide issued in 1971

This has become a controversial issue after the rash of new listings that did not meet prospectus forecasts

Is failure surprising in itself? Nobody, professional or otherwise, can guarantee *any* forecast

But in profit forecasting, investors can expect some accuracy from professionals involved in preparation of a prospectus, the directors, reporting accountants (usually also the auditors), merchant bankers and stockbrokers

In practice, the reporting accountant, above all others, acquires the most intimate knowledge of a company, and is therefore the cornerstone of the profit forecast Again, it can be argued that the real issue is whether a CA can be held responsible if a profit forecast in a prospectus goes horribly wrong

The answer appears to be no, even after the new AAG For Disciplinary Rule 2 (1)(k) of the Public Accountants' & Auditors' Board (PAAB) states " any accountant and auditor registered under the Act shall be guilty of improper conduct if he. . permits his name to be used in connection with any estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the estimate "

The rule appears to exclude from liability any CA who has anything to do with a profit forecast, regardless of how it turns out Neither the SA Institute of CAs (Saica) nor other bodies involved indirectly in the AAG's formulation — notably the JSE — were prepared to accept the rule on its face value

Accordingly, the new AAG puts a new requirement on the CA (a "reporting accountant" in the context) to "audit" the *assumptions* underlying the profit forecast If a profit forecast turns out to be a disaster, the CA can be called to book

Says the new document. "Though AAGs do not have the authority of Statements on Auditing Standards or Statements of Generally Accepted Accounting Practice, in the event of a significant deviation from the guidance given, a member may be required to demonstrate that such deviation did not result in failure to comply with appropriate professional requirements "

The AAG says that in conducting the examination, the reporting accountant must "(check) calculations used in the profit forecast, and (confirm) that information has been presented on a basis normally adopted by the entity "

Moreover, in the letter to directors, the reporting accountant must also state "We consider that our procedures were appropriate in the circumstances to enable us to express our opinion presented below.

"In our opinion

☐ The assumptions provided a reasonable basis for preparation of the profit forecast, and

☐ The forecast has been properly compiled on the basis of the assumptions "

The new requirements are far more onerous Howard Turner, chairman of Saica's Auditing Standards Committee, says the AAG details for CA and layman alike exactly what must be done before the final forecast is posted He confirms that in appropriate cases, the CA could be taken to book for professional negligence

This would be so, for example, where the CA fails to show that the assumptions underlying the forecast were properly "audited " The reporting accountant's statement to the directors must say that "Since the forecast is based on assumptions concerning future events, actual results may vary from the forecast which has been presented

"Accordingly, we express no opinion on whether or not the forecast will be achieved " Turner explains that this apparent cop-out is nothing more than a reminder that nobody can guarantee forecasts "The whole profession," he says, "is working on closing the so-called 'expectation gap ' "

For example, the committee is also reassessing Statement B2 dealing with duties of CAs in public practice regarding clients' illegal acts Despite its great stride forward, the AAG addresses just one area of prospectuses, the future Another thorny area, historical profit reviews, sometimes heavily manipulated, is under review by the JSE

The JSE intends to issue new requirements on prospectuses, which will include much stricter parameters for compiling historical results Meanwhile, the accountancy profession should be congratulated for addressing the profits forecast, so often the figure that the investing public most relies on before handing money over

Afrikaner academics cautious on 'Die Stem'

8/4/87

PAT DEVEREAUX

LEADING Afrikaner academics this week admitted that the present national anthem "Die Stem" does not express the sentiments of all the people of South Africa and that perhaps a more "relevant" anthem could be found

Former head of the Federasie van Afrikaanse Kuultuurvereenigings (FAK), Professor Gawie Cilliе, said "The furore over 'Die Stem' is unnecessary Some Afrikaners feel strongly that Die Stem is a symbol and others feel indifferently"

Reacting to the recent decision by the provincial synod of the Anglican Church in Southern Africa, which passed a motion calling Die Stem unsuitable and unacceptable, Prof Cillie said· "A national anthem shouldn't hurt anyone's feelings.

"Any South African can sing verses one and four of Die Stem without problems," he said, but he added that the two middle verses should be scrapped "because it makes the anthem too long and the verses are unsuitable"

Asked whether he thought Die Stem should be scrapped in favour of the Xhosa hymn "Nkosi Sikelel'iAfrika" (God Bless Africa), he argued. "Anyone can sing Nkosi Sikelel'iAfrika if they want to, but it is not a national anthem, it is a prayer to bless the continent of Africa

Head of the University of South Africa's Afrikaans department, Professor H J Schutte, agreed that there were problems with "Die Stem".

"We have one group of people wanting to sing Die Stem and others who want to sing Nkosi Sikelel'iAfrika I don't know what the solution is

"The ideal solution would be to come up with a new anthem, which has emotional and sentimental values which are dear to all South Africans But I don't know if the time is yet ripe for that," he said

SA writers meet exiled counterparts

By Robin Drew,
The Star's Africa News Service

HARARE — White and black writers from South Africa are holding a three-day get-together in Zimbabwe with their counterparts in exile and with African National Congress activists

The exchange of views by the 60 authors, including such personalities as Andre Brink, Breyten Breytenbach and Wally Serote, is taking place at the Victoria Falls

In Harare, 27 businessmen, academics and local government officials from South Africa are gaining first-hand knowledge of current conditions in Zimbabwe before going on later this week to Zambia to meet the ANC

Both gatherings have been arranged by the Institute for a Democratic Alternative for South Africa

At the Victoria Falls yesterday, an ANC spokesman told the writers that the organisation was not fighting for negotiations but for the eradication of apartheid

The ANC would need clear-cut signals from the South African Government that it was interested in genuine negotiations, he said

He appealed to whites in South Africa not to remain in the pavilion but to become involved in creating a new society

Accounting firms look at local merger

B Day 10/7/89

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KAY TURVEY

DELOITTE Haskins & Sells and Pim Goldby, Touche Ross's SA practice, are exploring a local tie-up following agreement in principle by the two firms to merge worldwide

Pim Goldby managing partner Colin Brayshaw and Deloitte senior partner Tim Curtis agreed that although potential synergies might benefit clients and staff, there were many areas to explore before a local merger could be formally considered

A decision will have to be taken by the two firms' 200 partners A big advantage of a merger will be a rationalisation of costs and expertise in Deloitte's substantial training department

The talks follow hard on the heels of the creation of Ernst & Young — the merger of Arthur Young and Ernst & Whinney, which was finalised locally two weeks ago

If successful, the Deloitte and Touche firm in SA is expected to have an annual fee income well above Ernst & Young's R100m, pipping the newly-formed firm as number one locally The combined Deloitte and Touche worldwide would generate revenue of more than $4bn

In another possible link-up of the big eight accounting firms, Arthur Andersen and Co and Price Waterhouse in New York confirmed reports that they had begun talks about a possible merger of their worldwide operations

If completed, an Andersen-Waterhouse merger would create the world's largest accounting firm, reaping $5bn a year in worldwide revenue, and eclipsing Ernst & Young's $4,2bn fee income

SAPA reports that although Deloitte and Touche Ross are the smallest of the big eight, they have posted the most rapid growth in recent years Between 1985 and 1988, their individual worldwide revenue jumped more than 88%, according to Bowman's Accounting Report

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Star 12/7/89

Bill of Rights: ANC's ideas are revealed

There is a definite similarity between the SA Law Commission's proposed Bill of Rights and the ANC's legal ideas on the subject, Lawyers for Human Rights said at a press conference in Johannesburg yesterday.

LHR met ANC officials in Lusaka at the weekend for talks on protection of human rights in a post-apartheid SA, with special reference to the Law Commission's working paper.

The Law Commission's document had not been rejected by the ANC, LHR said, and the ANC had no difficulty with the proposition that the linguistic, cultural and religious rights of groups should be respected. But the ANC was opposed to group political rights and to a constitution structured on ethnicity.

RACIALLY EXCLUSIVE

LHR said the Law Commission's paper in some respects seemed to be intended to entrench white privilege Clauses discussed in depth in this regard included article 10, which "seems to envisage retention of racially exclusive schools".

A clause relating to capitalist enterprise, it was felt, had no place in a Bill or Rights as it sought to restrict the government to the pursuit of a particular economic policy.

Article 17 also presented difficulty, LHR said, because "it seems to allow the perpetuation of racially exclusive enterprises, provided no public or State funds are involved".

"Right to life" discussions on the death penalty revealed that all the ANC delegates were against the death penalty, and LHR welcomed this opinion.

That such discussions on a Bill of Rights might influence the ANC's constitutional guidelines seems quite possible, as the already published guidelines are understood to be only a working blueprint

LHR added "We hope that as a result of our debate, the ANC will issue a fuller statement on its attitude towards a Bill or Rights for SA." — Sapa

Lift ban on ANC – writers

By Robin Drew,
The Star's Africa
News Service

HARARE — Afrikaans writers have agreed with the African National Congress that apartheid must be rejected, the ban on the ANC lifted, the state of emergency ended, political prisoners released, troops removed from the townships and laws which ban legitimate political activity abrogated

The writers committed themselves to work for these objectives after a four-day meeting with an ANC delegation at the Victoria Falls

Forty-five South Africans, mostly Afrikaans writers, met an ANC delegation that included cultural representatives and writers

Among those who attended the conference were Andre Brink, Breyten Breytenbach, Etienne van Heerden, Antjie Krog, John Miles, Ampie Coetzee, Gerrit Olivier, Hein Wilhemse and Jeannette Ferreira

The writers said they wanted to see a united, non-racial, non-sexist and democratic South Africa

A communique said they committed themselves to work for the objectives outlined

The gathering spoke of finding a truly representative South African literature, in which Afrikaans, freed of its racist connotations, would naturally find its place

It agreed to encourage the creation of national literature departments at universities

Afrikaans writers say unban ANC

AFRIKAANS writers have agreed with the ANC that apartheid must be rejected, the ANC ban lifted, the state of emergency ended, political prisoners released, troops removed from the townships and laws that ban legitimate political activity abrogated.

The 45 South African writers committed themselves to these objectives after a four day meeting with an ANC delegation at the Victoria Falls, Zimbabwe.

A communique stated: "The conference expressed its total rejection of apartheid as writers together from both inside and outside South Africa, intensely aware of our shared concerns and deploring the way in which our culture is impoverished by our enforced separation, we commit ourselves to work for the objectives outlined."

Aims

The communique spoke of aims of finding a truly representative South African literature in which Afrikaans, freed of its racist connotations, would naturally find its place

The communique concluded "We recognise that an organisation such as the Congress of South African Writers (Cosaw) is a legitimate representative of the sentiments expressed over days together at the Victoria Falls

"Entering the struggle is the means of beginning to be a South African. It is not heroic to oppose apartheid - it is normal."

Meanwhile at ANC headquarters in Lusaka the protection of human rights in a post apartheid South Africa was discussed between the ANC and a delegation of Lawyers for Human Rights.

Fmail 14/8/89

About the audit?

The recent spate of accounting mega-mergers (**see next story**) has some businessmen worried, especially as an increasing number of accountants are hyped up with a new competitive fervour Bigger firms will give them more resources with which to hone their competitive skills.

One issue that appears to have been sidelined by accountants' aggressive behaviour is the quality of audits This is an ongoing international concern, in the aftermath of massive professional negligence lawsuits that peppered the Seventies and did the accounting profession enormous harm

"We learnt a lot from that," says a top SA CA, "and we have recovered " But SA still awaits its first really big professional negligence case getting to court One clear result of the new mega-mergers will be to increase competition One consequence, which has already been documented in the US, is "low balling," for example, offering the first years' audit free It is not known if such marketing techniques are being used in SA

The SA audit market differs from the world market mainly in that it shares with the rest of this economy a general lack of skills One result is that SA CAs become partners quicker than in other countries The result is that while SA partners are well trained, they too often lack a depth of experience The skills shortage could aggravate the *potential* decline of audit quality brought on by the new mega-mergers

Yet another factor influencing audit quality is the ongoing attempt by SA companies to save costs Many companies have formed audit committees which review audits And such companies are not averse to hearing presentations from competing auditors, sometimes while their auditors are performing the audit

Moreover, since audits are compulsory by law, some businessmen view auditors as a necessary and costly evil Some financial directors, having been auditors themselves, too often zero in on the audit fee as a cost that can be easily cut Progressive auditors see this as destructive They argue that since they spent so much time getting to know the company, the management should be looking at how auditors can add value to the company

One of the main reasons given for the accounting mega-mergers is "rationalisation." This, explains a top SA CA, means the ability to share the benefits of enormous investments in infotech One spin-off is that auditors can share better resources to retrain quicker, and, so the argument continues, perform an even higher quality audit

At the end of the day, says a senior audit partner, auditors expect a return on their time, skills and experience "Our margins are under increasing pressure from clients, inflation, CAs leaving for commerce and industry or distant shores, and increasing internal training costs to keep pace with modern technologies."

And it is common cause that, on a long-term view, SA is not producing enough CAs, which means that either costs will rise or quality decline

In the final analysis, the question of audit costs should rest with shareholders and not managers. A 10%-15% reduction in audit costs could mean a disproportionate decline in quality, which in turn could prejudice shareholders ■

Fmail 14/7/89

No lawyer, so not guilty

By CARMEL RICKARD

THE insistence by the supreme court that an accused must be allowed legal representation was clearly illustrated last week when the conviction of Durban workshop assistant Sidney Zikali was overturned.

In 1987 Zikali, who works for the University of Natal in Durban, was charged with assault and a university law lecturer agreed to appear for him.

The lawyer phoned the prosecutor to inform her he would be unable to appear for Zikali on the set date, and they arranged a mutually convenient postponement.

However, when Zikali arrived in court, believing he would simply be given formal notification of the postponement, he was told the case was proceeding.

The court record shows he was not asked whether he wanted legal representation and at the end of the trial, in which he conducted his own defence, he was convicted.

When Zikali next appeared, this time for sentencing, his lawyer was present and informed the court that the case would be taken on review as Zikali believed the trial should not have gone ahead.

The case was postponed for two months for sentence, but once again the lawyer was unable to be present on the set date and phoned the prosecutor to arrange another date.

When Zikali appeared on the original date, expecting the matter to be formally postponed, there was a repeat of his earlier problem.

Once more the magistrate went ahead with proceedings and Zikali had to argue on his own behalf on mitigation and a suitable sentence. He was fined R150 or 50 days suspended for five years.

With the sponsorship of Lawyers for Human Rights, Zikali appealed against his conviction and sentence.

He argued both were irregular because the prosecuting staff failed to keep their side of agreements they had made with Zikali's lawyers

He also challenged the fact that when he was tried, the magistrate did not ask whether he had legal representation. And on the day he was sentenced, the magistrate went ahead with the matter even though he knew Zikali had legal representation but his counsel was not in court.

Zikali's appeal was heard last week by two Natal Supreme Court judges They overturned the conviction and sentence, remarking that it was a fundamental right established through a long series of cases for an accused to have representation.

Lawyers commented that the case was not an isolated example, and that it was "still happening every day".

Lawyers urge reveal findings of probe into woman prisoner's death

CAPE TOWN — Lawyers for Human Rights has sent a letter to the officer commanding Pollsmoor Prison requesting that the findings of an investigation into the death of a 20-year-old prisoner be revealed to the public

Debbie Meyer, of Parkwood, who was serving a two-year prison term at Pollsmoor after she was found guilty of crimen injuria, resisting arrest and robbery, died at Groote Schuur hospital on July 2

She was admitted to Victoria Hospital on July 1 and was taken to Groote Schuur in a weak and deteriorating condition the next day

Lawyers for Human Rights regional director Mr S D Raubenheimer said in his letter to Brigadier Booysen, the officer commanding Pollsmoor, that it was alleged Meyer was kept in a straitjacket at the prison before her admission to hospital.

"The precise nature of this straitjacket is not known at this stage," Mr Raubenheimer wrote.

He said he understood that the Prisons Service was conducting an independent inquiry into the circumstances of Meyer's death and that her family had instructed attorneys to represent them

OWN CORRESPONDENT

A private pathologist instructed by the family was finalising a post-mortem investigation.

"While at this stage it is not clear whether there is any link between the alleged use of the straitjacket and Debbie Meyer's death, the implications that might be drawn are, to say the least, disturbing," Mr Raubenheimer said

"With this issue already in the public eye, we trust that all the authorities involved are fully committed to the principle that a full public inquiry in this matter is not only desirable, but essential"

Mr Raubenheimer asked if the use of straitjackets on inmates at the prison was a practice and how it was regulated

He said the death of Meyer might raise fears among other prisoners and their families

"Our respectful view is that a moratorium should be declared by the prison regarding the use of straitjackets, if indeed the practice exists, until a full public inquiry has been concluded

"We believe as well that it is in the public interest to disclose the prison's internal investigation."

In response to questions last week, the Prisons Service said it could not disclose details about the circumstances of Meyer's death as it was "subject to an investigation"

THE NEW MARKET COLLECTION BY

Wits honours Fugard, Chaskalson

By Sue Valentine

Playwright Athol Fugard and lawyer, Professor Arthur Chaskalson are among four recipients of honorary degrees from the University of the Witwatersrand.

Others on the honours list are Gerard Sekoto, a pioneer of black urban art in South Africa, and Mr Hugh Goyns, a forerunner in pre-retirement education in this country.

Professor Chaskalson, who was appointed an honorary professor in 1982, will receive an honorary Doctor of Law degree. This is to honour his public service in his leadership of the Legal Resources Centre.

Sekoto's paintings from 1939 to 1947 have particular significance as a record of communities, such as Sophiatown and District Six. He will receive an honorary Doctor of Literature degree. However, he has lived abroad for many years and will be unable to attend the graduation ceremony.

Mr Goyns will be awarded an honorary Master of Science in Medicine for his work, which led to the establishment of the Witwatersrand Retirement Council.

He has also started a non-profit employment bureau for older workers.

Fugard's degree is in recognition of his achievements as a writer and his contribution to theatre.

BARRY ADAMS, PADDY CUNNINGHAM, COLIN BRAYSHAW, TIM CURTIS

Adding new dimensions

248 Fmail 21/7/89

Do they all drink Hansa? Are they the kind of accountants who believe that if you put two greys together you get either black or white?

These are just some of the questions being asked about the chiefs of four SA accounting firms whose head offices are involved in international mega-mergers

Barry Adams of Arthur Andersen (AA) and Paddy Cunningham (Price Waterhouse) may soon be parking next to each other The other potential comrades in arms are Colin Brayshaw of Pim Goldby (Touche Ross) and Deloitte Haskins & Sells's Tim Curtis If the mergers come to pass, the latter would form SA's biggest accountancy practice

Details of negotiations, however, remain secret Arthur Andersen and Price Waterhouse are now subject to a 60-day confidentiality period while the deal is discussed Deloittes and Pim Goldby's merger, on the other hand, has been approved in principle, but the SA firm is reluctant to provide details

If the mergers succeed, these four accountants will be responsible for professionals in SA generating a fee income of more than R250m in calendar 1989 Even though it's not a two-way split, handling such money needs dynamic leadership — someone far removed from the widely held perception of accountants as grey "nine-to-five" men

Anyone at Price Waterhouse, for example, will testify to this Cunningham (52), is a huge man who towers some 1,9 m He has a distinct "touch of Africa" about him Born in Bulawayo and educated at Beaumont College in the UK, he worked for Dunlop in London But he couldn't shake the dust of Africa and he returned in 1961 to join Price Waterhouse in Zimbabwe

He moved to SA in 1985 as senior deputy partner and was appointed to the top job the following year Nobody is prepared to say whether or not his size has anything to do with his success But nobody doubts that Cunningham, who drives an S-Class Mercedes, is a fine leader who runs Price Waterhouse SA on an international basis Since his posting, he has revolutionised the firm by concentrating on non-audit areas, not least by taking international tax expert Chris Frame (a member of the *FM* Tax Panel) out of Anglo American

AA's Adams (53), has been managing partner of the SA practice since 1972 A product of Durban High School, Adams was recommended to AA in the US by a US subsidiary operating here He was invited to the US to work and train, with a view to returning to SA

Adams represents a firm that is unabashedly aggressive, expensive and international One of the highlights in his career, 20 years ago, was starting the first consultancy division in an accountancy firm

Adams, who drives a 450 SL Mercedes, was also responsible for forming the first in-house specialist tax division He hired Pierre du Toit (now chairman of the *FM*'s Tax Panel), who stood unsuccessfully against Dawie de Villiers in Westdene in 1973



Brayshaw, Curtis, Cunningham and Adams

Deloitte's Curtis (57), was also born in Durban and attended Hilton College Deloittes was the first large SA firm to move into its own premises in Sandton Curtis is known to be extremely happy with the "11(g)" lease the prestigious buildings are subject to Such leases, now no longer possible, are, to put it mildly, very tax-efficient

Approaching retirement regardless of the outcome of the potential merger, Curtis is close to many multinationals and is expected to become a director of some He drives a 911 Porsche and is regarded as a man of great vision One of his main aims has been to achieve a 50 50 split between Deloitte's auditing and consultancy income

Pim Goldby's publicity-shy, almost secretive Brayshaw (54), was born in Johannesburg and attended St John's College and St Andrews in Grahamstown, completing his education at Wits University

He has been at the forefront of many past mergers, the most recent being the merger of several firms in 1982 to form Pim Goldby, which, at the time, was the largest accounting firm in SA From the start Brayshaw worked for firms that eventually ended up, one way or another, merged into the Pim Goldby stable He has skippered Pim Goldby since 1982

Pim Goldby is renowned for being one of the fastest-growing firms in SA, though no longer the largest

It has been dethroned by other international mergers, which have had an impact on SA too Among them are Ernst & Young and, before that, KPMG Aiken & Peat

Since 1952, Brayshaw has been internationally known for his professional relationship with Anglo, and De Beers in particular Though conservative, he's regarded as a shrewd negotiator It will be interesting to see the result of the mooted merger with Deloittes Like others in his profession, Brayshaw displays a penchant for colourful shirts

The four accountants, who have 13 children between them, each list tennis as a recreational interest In the accounting world, golf (played by Adams and Curtis) is for business and tennis for recreation Brayshaw also plays squash, while Cunningham's upbringing in great African fishing waters led to a lifelong interest in the sport

Curtis, with his schooling on Natal's green and lush fields (and perhaps, his penchant for tax efficiency), also counts farming among his interests And on the question of tax efficiency, club subs are free Not surprisingly, all four can be found, at any particular time, in any number of clubs, including the Rand, Riverclub, Bryanston, Johannesburg Country, Durban Country, Kimberly, Jesters and Stellenbosch

It was this colourful collection of accountants who woke up one morning and found themselves involved in international merger negotiations The process will affect the lives of some 130 000 professionals around the world For the four, right now, the unknown outcome forms the bottom line ■

Chance for retired to earn cash

Staff Reporter

An enterprising retired professional is offering other retired professionals assistance with finding a means to supplement their incomes

"I have set up an organisation which has as its major purpose the creation of a vehicle by means of which the talents of retired people can be available to society and, in particular, to industry," said Mr M Milner of Weltevreden Park

"The aim is to offer activity to retired professional people who are also seeking a way to supplement their income. I will collect curricula vitae (CVs) from them, and I will look for consulting work for them"

Mr Milner said many active and mentally alert professional men are forced to retire because of their age

"They then find reluctance on the part of employers to engage them — except under disadvantageous conditions

Any retired professional who would like to be part of Mr Milner's project can contact him on (011) 679-3867

Call for death penalty probe

CAPE TOWN — The General Bar Council of South Africa has decided to ask the South African Law Commission to urgently investigate all aspects of the imposition of the death penalty.

At its annual meeting in Cape Town on Saturday the Bar Council further decided to investigate improvements to the *pro deo* system as well as the appointment of attorneys to assist counsel with *pro deo* affairs.

The Council welcomed the Law Commission's report on group and human rights and was in favour of a charter of human rights for South Africa — Sapa.

Reward is now R85 000

248

The amount of money pledged by the public for a reward for information leading to the arrest and conviction of the murderers of David Webster has now risen to R85 000.

Organisers of the campaign believe it is clear that the sums pledged will now top R100 000 - the largest single reward offered in South African history

By ALI MPHAKI

David Webster, an activist and academic, was shot dead outside his home on May 1.

His assailants are still at large

The response to the appeal from members of the public has been remarkable for its diversity and range, according to the organisers.

Large sums of money have been pledged by academics from Wits, University of Cape Town, Durban and Rhodes Wits head the list with over 200 individual pledges

Staff from virtually all South Africa's universities have also made substantial contributions notably Unisa, Stellenbosch, RAU, Durban-Westville, University of the Western Cape, Turfloop, Qwaqwa, Unibo, Unitra, Khanya and Pretoria

A great deal of support has been forthcoming from most other sectors of public life - from the legal and medicine professions, from business people, bankers, journalists, architects and MPs

Contributions from overseas are also starting to filter in - at this stage from the USA, UK, Australia, Sweden and Italy. The contributions vary from the standard R100 to R2 000

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"There is nothing to prevent Image Enterprises or any other interested

Academics accuse govt of legislative cynicism

B Day 27/7/87 248

TWO legal academics have claimed the recently published Alteration of Boundaries of Self-Governing Territories Bill was intended to interfere directly with the judicial process

UCT's H Corder and C Murray added the Bill also reflected government cynicism towards the courts

In this month's issue of the de Rebus law journal they said the Bill provided further proof of government's determination to push ahead with grand apartheid

The Bill empowers the State President to include or excise any homeland area "if he deems it expedient and after consultation by the Minister of Constitutional Development and Planning with the Cabinet of a self-governing territory"

The authors said the Bill sought to validate incorporation of Botshabelo township into QwaQwa

Bothshabelo was proclaimed part of QwaQwa in December 1987, but last August the proclamation was declared invalid by the Provincial Division of the OFS Supreme Court

An appeal by government against the court's finding has been lodged

"The Bill indicates this action (the appeal), and its possible outcome, is not taken very seriously," said Corder and Murray

SUSAN RUSSELL

They added in the Botshabelo case the Supreme Court had examined the core of homelands policy

A full bench found the enabling Act, which empowered incorporation, was to be read in conjunction with other statutes implementing homeland policy and, in this context, Parliament intended to advance the political development of ethnic groups

Murray and Corder said the Bill also sought to legalise any previous illegal action which the State President may have under the National States Constitution Act

"If enacted this Bill would mark another highpoint in legislative and executive disregard for judicial processes both in its attack on a particular case and in its attempt, under section 3 (of the Bill), to oust the jurisdiction of the courts," said Corder and Murray

They pointed out proposed legislation like this Bill belied government's ostensible commitment to an independent judiciary

"The judiciary is reduced to a tool, useful on occasion, dispensible on others," they said.

Kodak argued, however, that while the company's products were not sold

ıished

"There is nothing to prevent Image Enterprises or any other interested

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Webster reward now R85 000

The largest single reward in South Africa's history — R85 000 — has been collected by the David Webster Pledge Campaign, the Wits branch of the Union of Democratic University Staff Associations (Udusa) has announced

Udusa executive member and chairman of the Wits Academic Staff Association Professor John Pettifor said R85 000 had been pledged for information leading to the arrest and conviction of the murderers of Professor David Webster

This amount includes two sums of R10 000 put up by the University of the Witwatersrand and the Commissioner of Police and donations from universities around the country and overseas — Education Reporter

Drum editor's funeral

WORLD renowned journalist Mr Stan Motjuwadi will be buried at Mohlakeng cemetery tomorrow.

The 59-year-old Drum magazine editor died at his home after undergoing an operation for lung cancer.

The funeral service starts at his No 3194 Mokate Street, Mohlakeng home at 10:30am and proceeds to Ramosa Hall at 1.30 pm.

Among the speakers will be his school mate, Anglican Archbishop Desmond Tutu, former colleagues Mr Joe Thloloe, Sowetan deputy editor, Mr Khulu Sibiya, editor of City Press, and Mrs Juby Mayet.

Lawyer Mr Godfrey Pitje, Mr Barney Cohen and Mr Herman Mogatusi will also speak.

Born in Randfontein on January 10, 1930, Motjuwadi taught in the Eastern Transvaal and at Krugersdorp where he and Tutu resigned, in 1954 in protest against Bantu Education.

He worked as a journalist on the World, now banned, and the now defunct Rand Daily Mail.

Motjuwadi also worked on the Golden City Post. He is survived by his wife, Mono, three children and his father, Joshua (99).

Who audits auditors?

Auditors are capitalism's handmaidens. Unless they provide, and are seen to provide, accurate, honest and impartial information on companies, the whole structure of competitive market economies will be threatened.

There is therefore a strong public interest in ensuring that accountancy firms themselves are in good health. Unfortunately, they are intent on merging into ever larger, fewer Leviathans.

Before the process goes any further, trustbusters should satisfy themselves that the public interest will be preserved And companies and their shareholders should insist they will not let a cartelising profession charge them cartelised fees

The "Big Eight" firms will become the Big Five if proposed mergers such as that between Arthur Andersen and Price Waterhouse go ahead They will audit 95 percent of the firms listed on US markets, 70 percent of quoted companies in Britain and over 50 percent of those listed on European bourses

In Australia, Canada and South Africa, the equivalent figure is 70 percent All of which adds up to fee income of $20 billion a year.

Do not blame accountants entirely for their lucrative grip on auditing. Their hands were placed there by governments and stock exchanges that demand (rightly) that companies be audited by professionals.

Nor damn them for wanting to grow. But is there any advantage, beyond kudos, in being even bigger? Will the merged firms be more efficient? Will there be more choice for clients? To each of those questions, the answer is no

Any economies of scale were there ten years ago, when much the same eight firms dominated the field. Then, any one of them could audit the books of any multinational. A widget-market in Kent or Kentucky might ditch its local auditor when it expanded abroad; but will Megacorp Inc really dump one of the big eight just because another has more offices in Pango-Pango? Mergers may even lose clients when KMPG was formed from Peat Marwick and KMG in 1987, the new firm lost 10 percent of the business of its constituent parts

Synergy may be just as elusive. On the face of it, Arthur Young's strong European practice should enhance Ernst & Whinney's weaker one; brash Arthur Andersen is strong in consulting, straitlaced Price Waterhouse in auditing But such seemingly natural fits have a history of going wrong

What of the clients? Until five years ago, there was a rule in Britain which stopped an auditor that was taking over a new account from charging less than the previous firm The spirit of that price-fixing still lingers

So, too, does the peculiar notion that auditorsneed not publish figures of their own If their clients could see how much the auditors were making, they would surely insist on lower fees

It is not as though auditors are doing everything right. In both Britain and America, more and more negligence cases against auditors are getting into the courts British accountants have been criticised in trade-department reports and in inquiries at the Lloyd's insurance market.

But when was a big firm of accountants last censured, let alone fined, by one of the profession's self-governing bodies? Like doctors and lawyers, most accountants have been free to carry on with no more than a nod and a wink from regulators

Now, as accountants get involved in businesses far away from auditing, they should be trusted less and regulated more.

As a minimum, partnerships should be required to give details of where their profit is earned. Better, they should scrap their partnerships and incorporate instead.

The partnership system was designed for that Puritan breed, nineteenth-century Scottish auditors. Incorporation would require accountancy firms to publish the same financial information about themselves as other businesses do

Next, eliminate conflicts of interest. An account-consultant may be asked to pick holes in accounts which another member of his firm has prepared. Can he do so impartially?

And should accountancy firms be advising on takeovers? These problems will increase as the merger-made Leviathans persuade customers to use more than one of their services.

The key is to separate the professional service that accountants provide — auditing — from their other financial businesses. — *The Economist*

SOWETAN MON

Women assert their presence in the legal profession

Sowetan 31/7/84

(248)

WOMEN in the legal profession have come a long way in South Africa since 1909 when the Incorporated Law Society of the Transvaal refused to register Sonya Schlesin as an articled clerk because she was a woman.

In 1923 an Act was passed allowing women to practice and Constance Mary Hall became the first woman attorney in South Africa in 1926

Barbara Lucatti records this in the July issue of *De Rebus*, the Association of Law Societies' (ALS) journal

The writer refers to the "glass ceiling", a term used extensively in American legal journals when dealing with the position of women in the legal profession

It is the invisible barrier which prevents women from achieving as much as men do in the field of law, inspite of academic performance, ability and experience

It still seems that some women in the legal profession have to contend with discrimination and bias from clients and colleagues, both in the office and in court.

In South Africa women constituted 31 percent of all new admissions for 1988, with the Law Society of the Transvaal registering an above-average proportion of 35 percent of newly admitted women.

But when compared with the new admissions in England of which the women made up 45 percent in 1988, the number of South African women being admitted into the profession seems low.

Total

Of the total number of practising attorneys, 450 (6 percent) are women and of the articled clerks, 454 (22,5 percent) are women.

However, more and more firms are employing female articled clerks and professional assistants because the young male attorneys or candidate attorneys are being forced to interrupt their careers to do national service.

The so-called "brain drain" which has seen many South Africans emigrating for various reasons, has also offered women the chance of establishing themselves in the legal profession.

In addition, many of the top legal graduates today are women.

It is clear that definite cracks have been - and are being - made in the glass ceiling

It remains to be seen to what extent the present generation of women attorneys will be able to demolish the ceiling



Linda Mokoena of Orlando West, Soweto, is making inroads in a profession men have kept to themselves for a long time - business. She is studying computers, business and administration at Norite Educational Systems College in Johannesburg.

(248) Fmail 11/8/89.

ACCOUNTANCY

World first for inflation

With SA's high inflation rate, reading the average balance sheet and income statement has become like piloting a Concorde with all instruments down Not adjusting for inflation inevitably boosts profits artificially and this filters through into earnings, yields and the counter's rating, if it's listed

Unless users (investors, creditors, analysts and bankers) make considerable mental adjustments to financial statements, they get anything but the truth

This is amazing in a financial market which prides itself on being disclosure-based There is no legal obligation on companies to disclose the impact of inflation on their accounts, though it could be argued that this is covered in the general stewardship concept of being a director or corporate officer

The problem may be on its way out In a world first, SA is set to have obligatory inflation accounting, within a year

The issue has been downgraded in the West, this decade, as inflation dropped and remained low But, with inflation now up to 8%-9% in the UK, it is resuming its deserved place "Standard setters in the UK," says Graham Terry of the SA Institute of CAs (Saica), "are scurrying around like a nest of ants invaded by an anteater"

The winds blow stronger here With CPI inflation of 16% (and rising), the effects become exponential in a few years Inflation accounting will revolutionise behaviour in boardrooms across commerce and industry

The eyes of users of financial statements will be opened wider than by any other accounting standard And corporate raiders will have ready, accurate access to the failings of weak management Unproductive assets will be helplessly exposed as management buyouts become more common

Support for Exposure Draft (ED) 77 is strong Says the JSE's Tony Norton "If ED77 is adopted, it will probably be made compulsory for listed companies"

Inflation accounting will change the face of financial statements more significantly than any other advance in accounting standards For a host of reasons, it is imperative that ED77 is adopted and becomes law

ED77 has emerged from Saica's Accounting Practices Committee, under Rob Barrow of Coopers & Lybrand It is seen as the brainchild of Twins Pharmaceuticals' Bob Garnett Though ingenious, the ED's technical workings are anything but complicated. It addresses three main areas

☐ Balance sheet All items must be revalued, using appropriate measures for current value,



Norton

☐ Income Statement ED77 introduces the concept of comprehensive income, the "recognised change in equity during a period except for investments by owners and distributions to owners," and

☐ Maintenance of capital A deduction from comprehensive income, calculated by multiplying owners' equity by the CPI, is transferred to a capital maintenance reserve (This ensures that the purchasing power of owners' equity is maintained and dividends are not paid out of capital)

The central mechanism in computing inflation accounts is present value (PV) Says the ED "Present value of an asset or liability is determined by discounting estimated future cash flows using (an appropriate) rate" The PV concept is already widely used in commerce, industry and banking

PV is ED77's preferred treatment for all balance sheet items Other methods of computing inflation accounts relate to market value, replacement cost, indexed historical cost and recent transaction value

The profession has been trying for years to produce a comprehensive, meaningful standard on inflation accounting Even today, little international guidance is available Supplementary statements required by the US Securities & Exchange Commission, for example, steer clear of the big issues

SA's first attempt was made in 1978 with AC201, *Disclosure of Effects of Changing Prices* This was a complex and costly exercise In many cases, only the negative effects of inflation were shown "AC201's not dead, but it smells funny," says a wag

In 1986, ED66 on Current Value Accounting was issued Addressing only the balance sheet, it did not find much favour, and was seen as not going far enough Those involved in formulating ED77 — particularly Saica and the JSE — reckon they've come up with the goodies this time

Unfortunately, the biggest likely obstacle is management Directors and corporate officers are wary of learning new things ED77 will certainly need a learning process But it may become essential learning if SA goes into hyperinflation The International Accounting Standards Board's IAS 29, *Financial Reporting in Hyperinflationary Economies*, became effective last month

SA, a member of the board, should note that hyperinflation is defined as where "cu-

RESERVES: BRIGHTER IN DOLLARS

Publication this week of Reserve Bank end-July holdings of gold and foreign exchange confirms what the healthier rand has been signalling for a while. the surplus on the current account has improved and capital outflows could be subsiding for the moment.

The improvement is masked by the lower value of gold holdings — due mainly to a cut in valuation as the gold price dipped to R886,11/oz from R936,76 the previous month. While the value of gold holdings fell to R3,4bn from R3,6bn, physical holdings eased only marginally — to 3,8m oz from 3,9m oz in June.

The non-gold component, on the other hand, improved by R200m to R1,8bn

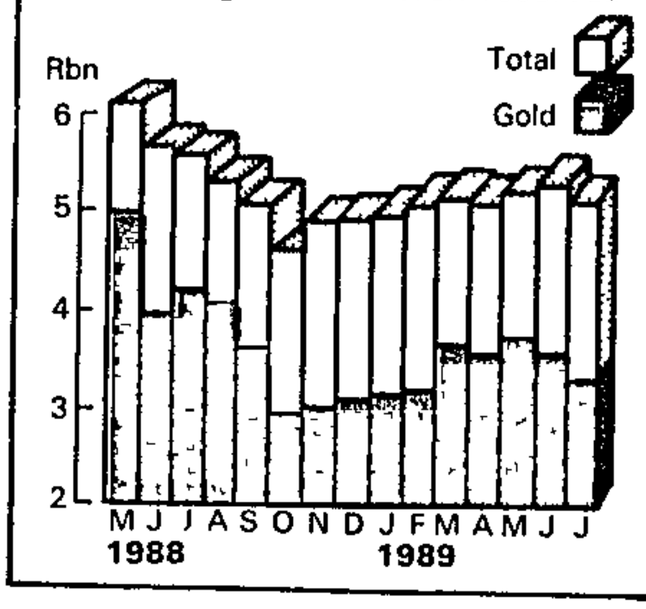
Total reserves declined to R5,1bn from R5,2bn But, in a welcome change, conversion to dollars presents a more favourable picture

☐ Gold US$1,28bn ($1,29bn in June),
☐ Non-gold $679,1m ($573,9m), and
☐ Total $1,9bn ($1,8bn)

Even more important is an entry on the other side of the balance sheet — a fall in *other liabilities* to R7,7bn from R8,4bn in June These include the Bank's foreign liabilities If the reduction is due to a drop in these, then the rise in net reserves (gross reserves minus foreign liabilities) in dollar terms is even more promising.

Up or down

Value of gold and forex reserves



Public pressure could decide the legal aid dispute

HUGH CORDER in Cape Town

SHOULD all those facing serious criminal charges in this country be represented by legal counsel? Almost exactly two years ago, Judges Didcott and Friedman of the Natal Division of the Supreme Court ordered the quashing of the convictions and sentences of two men accused of housebreaking and theft in the Khanyile case. They held that absence of defence counsel for accused facing criminal charges, merely on account of their being unable to afford such services, could be so "palpably and grossly unfair" as to result in such proceedings being set aside.

While the judges proposed this as a general principle of our legal system (as a logical conclusion of the basic rule that all persons are equal before the law), they recognised realistically that there would be too few lawyers available to render such a scheme practicable. They therefore suggested the following guidelines for the application of the Khanyile principle. It would depend on the inherent simplicity or complexity and gravity of the case and the accused's general ability to manage his/her defence.

The implications for the administration of the courts were obviously great, and some argued the scheme would be unworkable On the other hand, Khanyile was widely welcomed by human rights lawyers and many others who felt this was a necessary and timely step to ensure greater substantive justice, and to restore a measure of public confidence in the criminal justice system. Reaction from judicial quarters has, however, been less than enthusiastic.

Decisions in the Eastern Cape Division and the Ciskei earlier this year, while affirming the accused's right to legal representation and to be informed of the existence of legal aid, declined to follow Khanyile in their jurisdictions. At the same time, it remained valid law in Natal, being confirmed in early June by a majority of a three-judge Bench, after extensive argument on the jurisprudential basis and workability of the decision.

This case (Davids and Dladla) gave Mr Justice Didcott the opportunity further to expand on and reinforce some of his arguments, and to deal with the criticisms from the other courts and the Attorney-General's office.

On July 28, however, a different three-judge Bench in Natal effectively overruled the Khanyile principle in the Mthwana case Judge President Howard, who delivered the judgment for the court in a case whose facts were very similar to Khanyile, agreed with the approach of the eastern Cape courts and Mr Justice Nienaber, who dissented from the majority in the Davids and Dladla decision

The effect of this overruling is to emphasise procedural and not substantive justice. the accused must be "appraised of his right to procure legal representation and of his right to apply for legal aid" if he cannot afford to pay for a lawyer. The corresponding duty on the judicial officer is not to interfere with the exercise of that right.

Implementation of Khanyile would have required a further obligation the taking of steps to procure some form of legal representation and the postponement of the trial until such was achieved, without which there might be an irregularity sufficient to nullify the proceedings as "intolerably unfair".

There are many aspects of this fascinating dispute that cannot be dealt with here (among them, the confirmation in Mthwana of the principle that *pro deo* counsel for those accused of capital offences, while observed in practice, is not a legal requirement)

What is most striking, however, is the remarkable difference in style of judicial argument between the Khanyile and Mthwana decisions. The great American legal realist Karl Llewellyn spoke of the grand and formal styles of judicial reasoning, and there is no doubt that the contrast between the two is amply and vividly to be seen here.

Mr Justice Didcott, an exponent of the grand style, and two judges who share his views, use legal precedent and theory inventively, and make a judicial plea to the legal profession for a vast enlargement of the legal services made available as a public duty to people who were criminally charged but too poor to pay for them (Davids and Dladla) The judge is refreshingly open about this aim, which he quite correctly states "is hardly novel", and argues in a characteristically forthright but quite logical, legal and sensible manner for this vital step in the development of practical rather than theoretical justice in our criminal courts.

There is no doubt that the Khanyile initiative would have tested the mettle, as well as the public-spiritedness, of our legal profession, but there is equally no doubt that the rudiments of such a system are already in place through a combination of the services of the state and private legal aid, the legal centres and Lawyers for Human Rights, among others There is also doubt that our criminal justice system desperately needs such an injection of substantive fair play.

Mr Justice Howard's approach, as shared by the eastern Cape and three Natal judges, is typical of the formal style that characterises mainstream judicial thought in SA. It is marked by a cautious reliance on precedent, an unwillingness to venture beyond the traditional formulations of the trial process, a negative view of the State's obligations to ensure the basic conditions of social justice, and a lack of awareness of the critical condition in which the legal system finds itself in the eyes of most South Africans.

All is not lost. Several other provincial divisions and the Appellate Division of the Supreme Court still have to pronounce on this dispute. It is to be hoped that, when doing so, it will be borne in mind that one of the national goals listed in the 1983 constitution is "the equality of all under the law" Ultimately, however, public pressure will determine the issue. In the words of Mr Justice Didcott in Khanyile

'Yet the public conscience of this country, the conscience of its people as a whole, can scarcely rest with any comfort on the thought of thousands standing trial in our courts daily who have no legal assistance because they are too poor to bear the costs"

☐ Prof Hugh Corder is with the Department of Public Law, University of Cape Town.

S/Times 13/8/89. (248)

At last! 20 years on they're lawyers

By CHARIS PERKINS

TWENTY-FOUR years ago a gardener toiled in a Johannesburg suburb and dreamt of becoming a famous defence lawyer

Three years later, an ice-cream vendor sat ringing his bell in the hot sun and dreamt the same dream

This week, the Johannesburg Bar Council will honour Mr Nkola John Motata and Mr Mlamli Mncedi Matyumsa — the gardener and ice-cream vendor who, after two decades of struggling, have achieved their dreams

"There were moments when I thought I would never make it," 42-year-old Mr Motata said this week "At times I nearly gave in But I am glad I persevered It has been worth it"

Mr Matyumsa and Mr Motata come from humble beginnings Mr Motata was born two years after the end of the Second World War, the eldest of six children His father was a bricklayer, his mother a washerwoman

Mr Matyumsa was born in the rural district of Tsolo in the Transkei in 1951. His father was a migrant labourer who died just after little Mlamli turned nine

Both Mr Motata and Mr Matyumsa had to fight discrimination and poverty to get ahead

Mr Motata was forced to leave school in the middle of his matric year to support his family. He battled to make ends meet, doing all kinds of odd jobs

"I spent four years as a gardener in a Lower Houghton home, a year as a messenger for United Press International For a while I was a para-legal clerk," he said

"Throughout that time I would study whenever I could afford to pay school and university fees"

Mr Matyumsa's path to success was similarly fraught with difficulties

In 1968 he was forced to leave school and find work He worked for Iscor as a contract labourer and for an ice-cream factory in Alberton selling their wares

Proud

He joined the Transkei Government as a clerk with the Department of Justice, but — unable to survive on the mingy salary — was forced to join SA Railways as a bus driver

Now the two men are among the 20 black advocates who have worked their way into a field dominated by nearly 1 000 white men

And they are the first successful recipients of the Bar Bursary Fund, which was established to assist members of the underprivileged sections of South African society

"Their achievements have been remarkable and we are very proud to have been of assistance to them," said bursary committee member Mr Percy Blieden SC



STRUGGLE OVER: newly gowned advocate Nkola John Motata

Not easy

Mr Motata told of the role he saw himself playing in South African law

"I am here to provide assistance to my own people I know them and I understand their languages

"Being a black advocate in an apartheid society is not easy Many of the laws in this country are unjust

"Also, I am relegated to dealing with black clients only

"Experience has taught me that a white man will never approach a black man for advice

"But I am not bitter If I can protect the few rights black people have, or if I can fight for further justice, I am doing my duty"

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From rebel to advocate

Motata fought for his education and came out a winner

By CHARLES MOGALE

NKOLA John Motata is a wonder-boy – but refuses to believe it

Today an advocate of the Supreme Court, the former administrative secretary of the Soweto Committee of Ten, says his was "no achievement"

Among his experiences, Motata has been thrown out of three schools and threatened with expulsion at a fourth He was then forced to leave school after his father's death, worked for three years as a gardener in Johannesburg and worked as a messenger-cum-clerk

Motata says "If we had a fair system of education under one umbrella body, anybody who wanted to become an attorney could"

The eldest child of six, Motata was born in February 1947 in Alexandra His father was a bricklayer and his mother a washerwoman

He was expelled from higher primary school for being "recalcitrant" – a word whose meaning he only understood years later

The second time he was expelled, he was doing his junior certificate at Madibane Secondary School

"There was a teacher who was always late for class One day I walked out of class when he did not arrive I was expelled for that, but the principal later changed his mind," Motata said

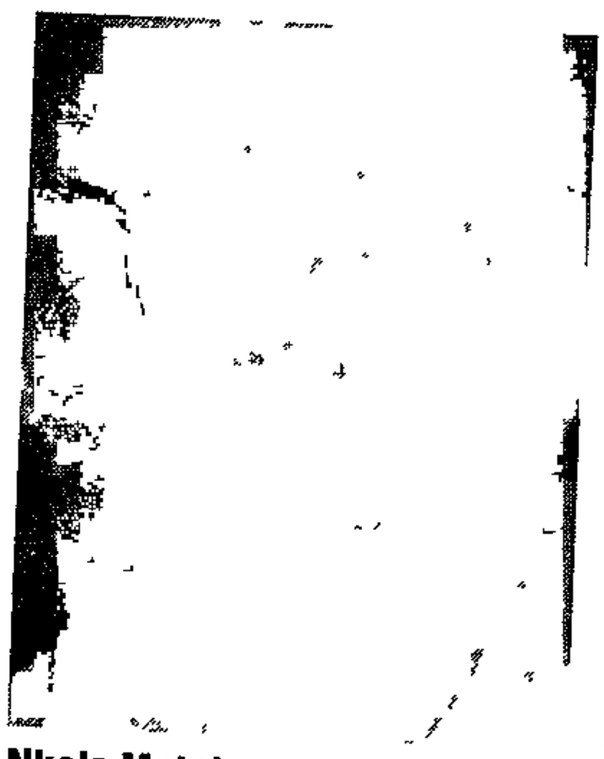
"I was encouraged throughout by my father's words that I should always stick by what I believed in 'Never give in or sacrifice your rights, or you won't become a man'"

In 1965, Motata's father, Peter, died, leaving his wife as the sole breadwinner for their six children

"My brother Patrick and I had to leave school and help out"

The following year a cousin undertook to pay for Motata's education and he finished his matric.

For three years after matric he worked as a gardener for his father's former employers in Houghton, Johannesburg and in 1970 he joined a news agency as a messenger-cum-clerk



Nkola Motata . . . thrown out of school, but now an advocate.

He then met the Black Sash's Joyce Harris and her husband, Nathan, who sent him to Fort Hare University

There he became vice-chairman of the now banned SA Students Organisation Student unrest at Turfloop University spread to Fort Hare, and after an argument with the rector, Motata was thrown out of college

He enrolled with Unisa but was deregistered when it was discovered he had been "black-listed" by Fort Hare

"The year 1975 was most frustrating There seemed no light at the end of the tunnel

"I worked as a para-legal clerk for a firm in Johannesburg, but they said they could not keep me if I could not study further I was unemployable and I even ran around trying to get a heavy-duty licence so I could drive a lorry, just to survive," he said

At the same time, he was constantly hounded by the security police for his activities at Fort Hare

Joyce Harris then introduced him to Houghton MP, Helen Suzman, who intervened on his behalf

"Two days before the registration deadline at Unisa, I received a letter stating that there was a 'clearance' letter for me to pick up at Fort Hare I was living in Soweto then Nathan Harris came to the rescue again and arranged an air-ticket for me to fly down for the letter I just made the registration deadline at Unisa," Motata said

After obtaining his B Juris degree in 1979, Motata worked as an articled clerk in Johannesburg

In 1985 he registered at Wits University and obtained his LLB degree in 1986

He then worked as a legal adviser for an oil company in 1987 and has now been accepted into the Johannesburg Bar Council

Speaking from his executive chambers in Pritchard Street, Motata admits he was not born with a silver spoon in his mouth

"It was rough, but people must not feel that I have achieved something that nobody else can achieve I implore my brothers and sisters that while continuing with the struggle, let us go out to achieve whatever we want"

Direct talks urged on bill of rights

The most significant phase of negotiations on a new political dispensation would be opened up through direct discussions between the South African Law Commission and the African National Congress on a bill of rights, it was said at the weekend.

At the Idasa conference in Johannesburg, Mr Rory Riordan, director of the Human Rights Trust, urged the Law Commission, which under the chairmanship of Mr Justice Pierre Olivier recently presented its proposals on a bill of rights, and the outlawed ANC, which made its proposals in a document drawn up by Mr Albie Sachs, to accept each other's position as being both legitimate and powerful and get together.

"I fail to see any irreconcilable, non-negotiable differences Sadly, both parties feel they cannot communicate directly

"The Law Commission feels it cannot communicate with a banned organisation, and the ANC feels they cannot be seen to respond to a government body

"From a distance, both positions, while justified, appear capable of negotiated resolution It would thus seem a tragic lost opportunity were they not to be resolved," Mr Riordan said.

Turf lecturers held

By MATHATHA TSEDU

TWO lecturers and a former librarian of the University of the North were detained by security police on Tuesday night, relatives said yesterday.

They are Mr Lewis Mnguni, Mr Seth Nthai and Mrs Joyce Mabudafhasi.

Mnguni and Mabudafhasi were released earlier this year at the height of the detainees hunger strike that engulfed the country's detention centres

The police directorate of public relations in Pretoria yesterday said confirmation of the detentions could only be made today.

The detention came as students at Turfloop were on a class and food boycott over a security police visit on Thursday during which SRC members were allegedly assaulted.

Students are demanding that the authorities guarantee the safety of SRC members and all students from police harrassment.

Students at the University of Venda, who returned to campus on Tuesday following the closure of the university more than two week's ago, yesterdasy continued with the class boycott to demand the release of detained students arrested for opposing "independence" celebrations.

A march to the local police station to demand the immediate release of the detainees, which had been intended to include lecturers, had not yet materialised at the time of going to press but students held a mass meeting.

LHR to attend Ghana meeting

(852) (248) Star 17/8/89

Lawyers for Human Rights has been invited to attend a law conference in Ghana next month

The organisation will send two delegates to the sixth biennial conference of the African Bar Association from September 17 to 22

LHR says it regards the invitation as a significant breakthrough in becoming part of the African and international human rights movement

Conference topics will include human rights under the African Charter on Human and People's Rights, human rights and freedom of speech, as well as human rights and the liberty of the individual — Pretoria Correspondent

Lawyers invited

TWO lawyers for Human Rights' delegates will attend the sixth biennial conference of the African Bar Association in Ghana during September.

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Black CA's are needed

SOUTH Africa is going through a major transformation and change has become inevitable The accounting profession either had to adapt or find itself irrelevant to a changing country

This was the message of the president of the Association of Black Accountants of Southern Africa, Mr Israel Skosana at the organisation's fourth conference held in Sandton at the weekend

"It should be clear that for the profession to survive it must be capable of adapting its expertise to the service of the public interest," Skosana said

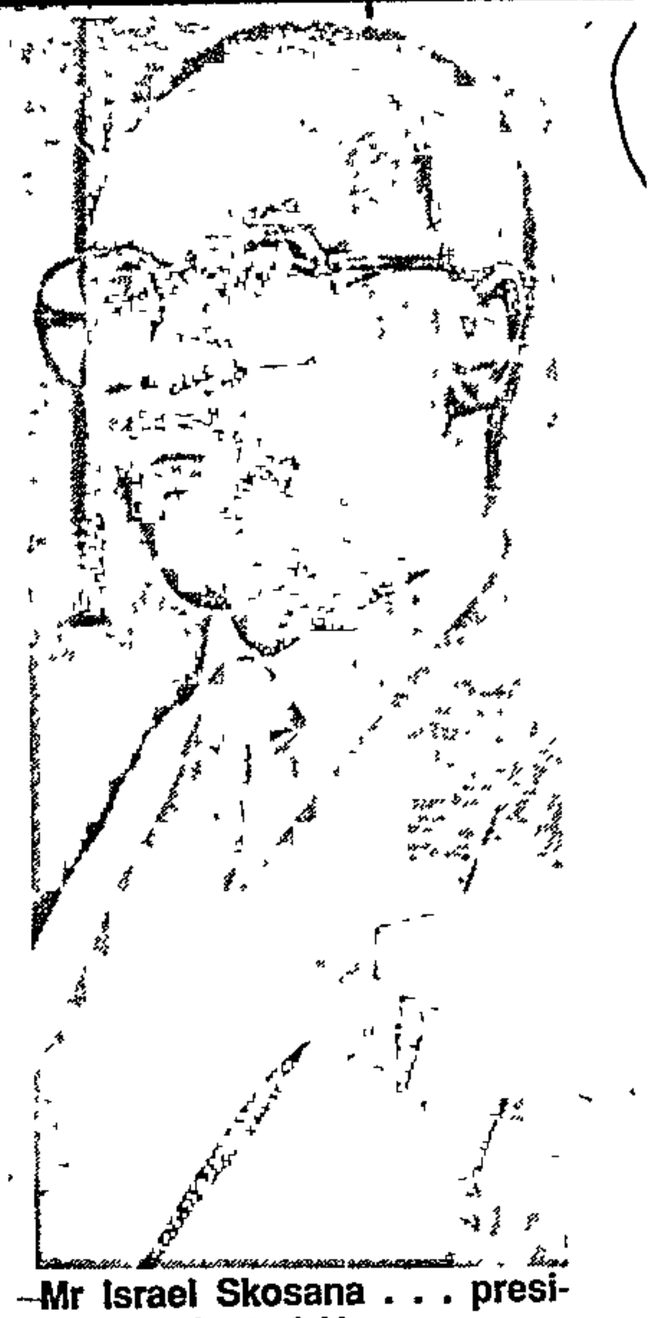
Addressing about 200 delegates he said there was a need to review the profession which was rooted within the context of the British imperialist and colonial tradition and was created in a rigid self-perpetratuating manner resistant to the needs of a changing economy.

The profession in the country also reflected the apartheid society, being dominated by white males and the professional structures run by "establishment" members

"There is virtual absence of blacks in the current structures A review of this is essential and necessary to ensure that meaningful participation is assured "

The recent establishment of the Female Accountants Bursary scheme - with which Abasa hoped to help about 20 female students to become chartered accountants in the next five years - and a R1-million project to improve financial capabilities of community based organisations served to ensure that Abasa enhanced grass roots development in the community it represented instead of being inaccessible to it

Skosana said Abasa welcomed and was part of the current drive by all South Africans concerned to find an acceptable solution to the country's problems



Mr Israel Skosana . . . president of Abasa.

SHORT-TERM INSURANCE

New standards

A Special Interest Group (SIG) of the SA Institute of Chartered Accountants has produced exposure draft ED76, containing a proposed guideline for short-term insurers Intended to be read with the generally accepted accounting practices, ED76 was prepared in close collaboration with the short-term insurance industry and the Financial Institutions Office

SA Eagle MD Peter Martin, a member of both SIG and the Insurance Act Committee of the SA Insurance Association (Saia), says most of ED76 is already being applied, except that certain transfers to secret reserves are still being made in terms of the concessions of the 4th Schedule of the Companies Act He considers acceptance of ED76 will make little significant difference

The influence of the AA Mutual collapse can be seen in some requirements for separate disclosure under ED76 — notably of amounts due both in foreign currency and in rands of all uncovered foreign exchange assets and liabilities.

Also relevant is the recent amendment to the Insurance Act, requiring insurers to place 2% of premium income to a "contingency reserve" for five successive years ED76 does not address the accounting treatment of this reserve Should it be regarded as an underwriting expense "above the line," or as an appropriation "below the line," in which event it would not be a provision in the accounting sense?

Martin says it might be argued that once the reserve has been built up, it will reduce the need for reinsurances If an untoward event like a flood or earthquake occurs, it might be reasonable for an insurer instead to "go to the registrar" for permission to release funds from the reserve.

But this is a debating point, he concedes SA Eagle will not reduce reinsurances despite the building up of the reserve

Another unresolved issue is the circumstance in which the registrar (whose consent is required) will permit the release of funds from the contingency reserve

Roger Schooling, GM finance at Commercial Union, chairman of the association's Insurance Act Committee and also a SIG member, draws attention to a one-day workshop to be held by the institute in conjunction with the registrar on November 8 to discuss ED76, which will then have had two months' exposure Other important issues will also be discussed, including proposed new forms under the Act, which the registrar's office has been considering

Lastly, if the amendment to the Insurance Act and ED76 are seen in the context of AA Mutual, a further point needs to be made There can be no substitute for either adequate supervision by the registrar's office or proper care by an insurer's auditors.

SIG chairman Roy Tiffin, a partner in Deloitte, Haskins & Sells, notes that, since creation of SIG, co-operation between auditors of short-term insurers and the registrar's office has been greatly enhanced ■

248 wmail 1-7/9/89.

Rectify training imbalances, urge black accountants

By MZIMKULU MALUNGA

NONE of South Africa's black universities is accredited to train accountants — and the Association of Black Accountants of Southern Africa is being urged to address the problem

The issue came under the spotlight at Abasa's fourth annual conference, held in Johannesburg at the weekend

Accreditation is granted by the education committee of the Public Accountants and Auditors Board (PAAB) Only students at an accredited institution can write the board's examination

Addressing about 200 delegates from South Africa and some neighbouring states, Abasa's president, Israel Skosana, said "The question of black universities not being accredited has been very much at the core of Abasa's interests"

Most delegates voiced their concern that no black university in South Africa was accredited and urged Abasa to look into the issue. Skosana said investigations into the matter were underway.

He added that the accounting profession itself needed to be reviewed It was dominated by white men and was far from being representative of the population structure of the country

He said there was no organisation which considered accountancy from a broad integrative viewpoint and served the interests of all accountants for the benefit of South Africa.

"What we have is a very fragmented profession with individual institutions in fierce competition against each other and jealously guarding their world class reputation and specialist interests," Skosana said.

The accountants' ratio in this country was 90 percent white and 10 percent black, the University of the Western Cape's dean of Economics and Management Sciences, Professor DS Albertyn, pointed out

He said universities would have to broaden the base from which students were being drawn "if they want to educate the future leadership of South Africa"

Advocate Dikgang Moseneke warned accountants to strike a balance between individual excellence and broad commitment to the process of transformation which South Africa was undergoing

While he warned accountants against co-option Moseneke advised them not to overlook the issue of professional development He urged them to equip themselves with skills so they could occupy their "rightful positions in the near future"

PAAB Education Committee chairman Pat Dickson said there was a conflict of interests between the practising profession and accounting departments at universities.

The present educational requirements were too narrow "The challenge is to design the courses of study and, if necessary, to introduce specific courses to cover the communication, intellectual and interpersonal skills," said Dickson.

The conference, which had as its theme "Accounting for excellence in changing South Africa", was also addressed by representatives of Abasa's sister organisation in the United States, the National Association of Black Accountants

Abasa is to launch a R1-million project to help improve the administrative and financial management capabilities of community-based non-profit organisations

And it has announced a bursary scheme for women accountants which will start next year. Its objective is to produce 20 women chartered accountants within five years.

Star 6/9/89 (248)

Findings to be published every year

Lawyers monitor prejudiced justice

By Kaizer Nyatsumba

Lawyers for Human Rights (LHR) national director Mr Brian Currin yesterday announced the launch of a programme to monitor racial discrimination in the application of justice in South Africa

Mr Currin told a press conference in Johannesburg that the programme, to be known as LHR Project Article 7, will closely monitor prosecutions, convictions and sentences and highlight cases where there was discrimination

Article 7 of the Universal Declaration of Human Rights holds that all people are equal before the law and are consequently entitled to equal protection of the law.

Conclusive proof

Mr Currin said in the past 12 months the organisation's attention had been drawn to a number of cases which proved "conclusively" that there was no equality before the law

The LHR, he said, was "particularly distressed" by the following trends

- Where a group of black people were involved in a killing, "as many as can be identified" were charged with murder based on the common purpose doctrine and "vigorously prosecuted"
- Where a group of white people — "particularly farmers and policemen" — were involved in the killing of a black person, "invariably only the main perpetrator is charged with murder" while the others were charged with offences ranging from culpable homicide to assault The prosecution also "proceeds apologetically"
- Blacks convicted of murder, particularly when a white person was a victim, were sentenced to death "in disproportionately high percentages"
- Whites convicted of murder, particularly when a black person was a victim, were sentenced to death "in disproportionately minute percentages"

Mr Currin said of the 21 whites convicted of the murder of blacks in 1983, not one was sent to the gallows Mass murderer and self-styled "Wit Wolwe" chief Barend Strydom was "one of the very few exceptions".

The establishment of the LHR Project Article 7 was a result of "blatant racial discrimination" in the administration of justice in this country.

Equal before law

"In making this allegation about discrimination in the administration of justice, we are mindful of the fact that there are many judges and magistrates who dispense justice fairly

"For the sake of civilised standards this programme is aimed at eliminating racial discrimination in the administration of justice so that all citizens can be equal before the law," he said

The LHR will compile data and publish an annual report of cases where discrimination was a factor, and make the report "widely available" here and abroad

Star 6/9/89.

(248)

You may advertise, law firms told

Law firms will be allowed to advertise, the Association of Law Societies (ALS) decided this week

The president of ALS, Mr Andries Geyser, said in a statement that the decision had been reached after careful consideration, and stressed that misleading publicity would still be punishable under the Law Societies' disciplinary rules

Developments within the legal profession abroad and within other professions in South Africa had been taken into account, as well as pressures from the attorneys' profession itself, before recommending that regulations against advertising be relaxed.

The society decided that touting for work by attorneys would still be regarded as unprofessional conduct

Star 6/9/89 (248)

LHR gets another director

Lawyers for Human Rights (LHR) yesterday announced the appointment of a new director, Mr Ahmed C Motala, to be in charge of national litigation

Introducing Mr Motala at a press conference in Johannesburg yesterday, LHR national director Mr Brian Currin said there was a great increase in the number of litigation cases handled by the LHR, either through its *pro bono* scheme or its Litigation Trust Fund, in the past 12 months

The LHR, Mr Currin said, had registered more than 1 000 such cases nationally in the past 12 months, and it had now become necessary to appoint a full-time litigation director to oversee the cases

Mr Currin said Mr Motala was a man of immense experience in the field of human rights and would be an asset to the LHR Although he was part of the LHR National Directorate, he would be based in the Johannesburg office

Mr Motala holds a B A degree from the University of Durban-Westville, an LL B degree from Wits University and an LL M degree from an American University based in Washington, DC

B/Day 7/9/89

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Move to turn SA accounting on its head

THE SA Institute of Chartered Accountants (SAICA) is about to start its biggest education drive on inflation accounting

Exposure Draft 77 has just been released and may be binding within a year It represents the most advanced attempt to produce an accounting standard that calls for relevance and reality in recognising inflation The importance of ED 77 is, simply, that it will have a more dramatic effect on financial statements than any other accounting standard

Inflation accounting has been controversial since it was first discussed in the 1930s The problem was that it was impossible to reach agreement on how to recognise inflation in accounts In practice, historic accounting, deriving from bookkeeping expenditures and receipts, remained by far the favourite

The problem with historic accounts is that with accounting over 12 months, financial statements would often show anything but the truth It seemed accountants preferred to be precisely incorrect than substantially correct

Revaluation

Management preferred historic accounts for many reasons In the worst examples, they would conceal dividend payments out of capital when profits had been wiped out by inflation, and because inflation accounts inevitably reduce declared profits, weak management was also concealed

Enlightened discussion on inflation accounting produced current cost accounting (CCA), which retains money as the reporting unit CCA uses revaluation to adjust assets and liabilities, and

BARRY SERGEANT

profits In SA, CCA is the rationale behind AC 201, an accounting guideline that applies only to the income statement, and which does not have the same power as a generally accepted accounting practice (GAAP) It is intended that ED 77 will become a GAAP

Today only 10 of some 800 companies on the JSE apply AC 201 Adcock Ingram, Associated Furniture, Afrox, Anglo Alpha, Chemical Services, Premier Group, Putco, SA Breweries, Seardel Investment Co and York Timber

The resistance to recognising inflation was well explained by Barlows in an annual report "The group recognises that financial statements prepared on an historical cost basis do not disclose true profits, as they are unable to reflect the impact of inflation

"However, conventionally prepared financial statements still form the basis on which business decisions are made and the yardstick by which companies are judged Until a method of accounting for the effect of changing prices is developed that is meaningful, standardised, generally accepted and of benefit to users of financial statements, the group prefers to refrain from any attempt to disclose such effect"

Deduction

ED 77 is an answer to that. The central adjusting mechanism is present value or PV, already widely used in financial circles for other reasons ED 77 explains that PV is determined by discounting estimated future cashflows using an appropriate rate, for example, the CPI

All items in the balance sheet must be revalued using PVs, or other allowable methods such as market value, replacement cost, indexed historical cost or recent transaction value In the income statement, "comprehensive income" is introduced to recognise the change in equity

Finally and crucially, a deduction from compehensive income, calculated by multiplying owners' equity by the CPI, must be posted

Ironically, as SAICA prepares for a national education programme on inflation accounting, Iscor is undergoing the reverse process

It has long used inflation-adjusted accounts, but is preparing for listing on the JSE with a set of historic accounts, alongside its traditional accounts

Move to check race bias in courts

Sowetan 7/9/89

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By ISMAIL LAGARDIEN

THE Lawyers for Human Rights (LHR) has resolved to establish a special portfolio to monitor prosecutions, convictions and sentences in appropriate cases.

The programme will be referred to as *Lawyers for Human Rights Project Article 7*. The programme was borne out of the dire need to monitor "blatant racial discrimination in the administration of justice in this country," the LHR said

"In making this allegation about discrimination in the administration of the fact that there are many judges and magistrates who dispense justice fairly without considering the race of the accused

"Those judicial officers who are racist in their application of the law discredit the entire judiciary and legal system in South Africa," the LHR said.

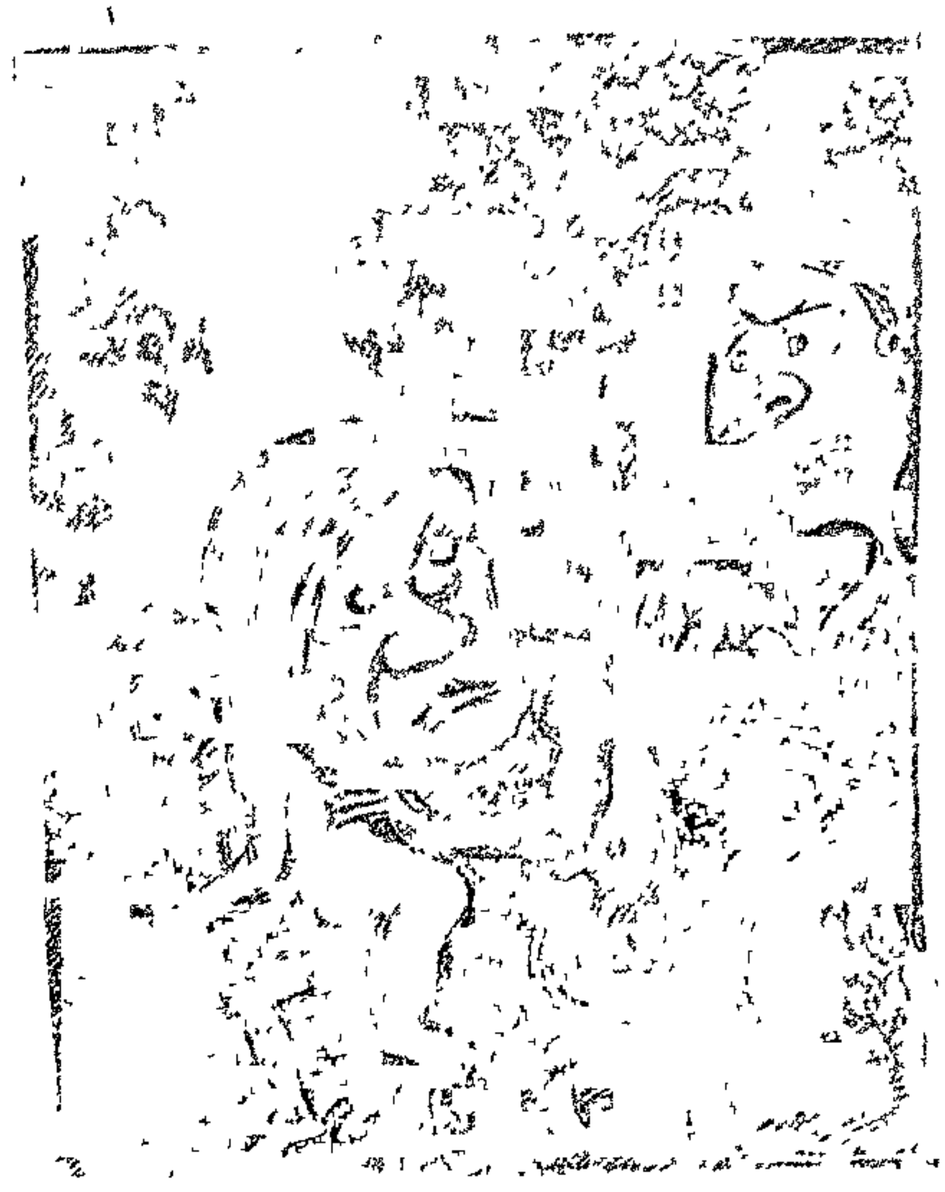
The LHR said the move was made for the sake of civilised standards and a future democratic South Africa. The programme "seeks to eliminate racial discrimination in the administration of justice so that all citizens can be equal to the law," the LHR said.

Examples

The LHR cited various examples of discrimination Among them were the common purpose trials and the farmers who were charged with the murder of labourers.

The LHR also announced the appointment of Mr Ahmed A Motala as a director. Motala's portfolio will be litigation on a national level. He will be based in Johannesburg and is said to have "immense experience in the field of human rights and will be an asset to the organisation."

The only way to cure an unfaithful husband is to sue his pants off.



VARICE, REED, RASPER & ASSOCIATES

Don't hesitate, litigate.

Jonanna McDowell and the advertising we WON'T be seeing Picture HORACE POTTER

10/09/89

Showtime at the Bar

Move over LA Law, it's time you all got to know SA Law!

WE'VE had LA Law. Now for SA Law. And although you won't be seeing our legal eagles in courtroom dramas, you *will* be seeing dozens of charismatic lawyers vying for the privilege of handling your divorce, lawsuit or unfortunate "misunderstanding" with the police.

After decades of hiding its light under a bushel, the Association of Law Societies announced this week that lawyers are to be allowed to advertise

But would-be legal-eagle celebrities will have to wait a few months for the provincial law societies to amend their rules

Said Mr David Hoffe, a partner in the law firm Bell, Dewar & Hall. "We won't be able to advertise like LA Law's Arnie Becker, but people will be able to see us and we will be able to develop a more personal relationship with the public."

There were suggestions this week that after seeing attorneys on the box and in newspaper ads, "court watching" could beat the soaps into second place as South Africa's favourite armchair entertainment

"It will be fantastic," said Johannesburg lawyer Charles Mendelow "There are already some lawyers who are real showmen and I think the limelight will encourage others to

By ANDREW GILLINGHAM

develop similar flair "It's a good idea to introduce some fun into what is considered a very dowdy profession

The higher profile lawyers can now enjoy other benefits Lawyers will be encouraged to take on social responsibility cases as they will get a return on their time in the form of publicity

Costs

"A lawyer has a product range like any other business Consumers will benefit because they can shop around

"Lawyers often specialise in particular areas and advertising will help to direct the work to the right people, preventing bottlenecks

"Another important aspect is availability Attorneys would be silly to advertise if they are snowed under with work.

"The advertising will also give the customer some idea of the costs involved"

A top Johannesburg lawyer, Mr Errol Knowles, of Edward Nathan & Friedland, said the man-in-the-street could save as a result of price cutting by smaller firms

"Advertising is not likely to have any great impact on the larger firms who cater for the corporate client," he said

And lawyers will not have a free advertising hand

ALS president Andries Geyser said "Misleading publicity will still be punishable under the law societies' disciplinary rules" All publicity must be "informative and not promotional and must be in good taste" Also prohibited is active "touting" for work — including direct soliciting and unrequested visits, telephone calls or letters

Surprise

Advertising agency Grey, Phillips, Bunton, Mundel and Blake — Generation Two designed the humorous advert on this page for the Sunday Times

But, warned managing director Johanna McDowell, this is just the type of advertising which the Law Societies will **NOT** allow

On the other hand if you are expecting lawyers' advertising to be boring, you are in for a surprise.

"Advertising can be very exciting and still not cost a million When lawyers started advertising in the UK they surprised everyone," said Mrs McDowell.

"They went for bold, large-space adverts

"South African lawyers can be expected to adopt a similar approach Attorneys are likely to avoid TV marketing because of the costs involved

Smaller

"The larger firms will tend to advertise in the specialist press such as the financial journals

"The smaller firms are likely to use the smaller local newspapers"

Mrs McDowell added "We expect to attract business from the larger firms They will have less idea of what they want and how to achieve it and will require a range of services, such as marketing strategy and public relations

"The smaller firms tend to know the market they are working in and have a clearer idea of their objectives," she said

Stayaways cost R250m

S/Times 10/9/89

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By Robyn Chalmers

THIS week's two-day stayaway, heeded by up to 3-million workers, is estimated to have cost the economy almost R250-million.

The stayaway was called by the mass democratic movement (MDM) in protest against Wednesday's general elections

Depending on regions, between 22% and 100% of workers stayed at home on Tuesday and Wednesday, the metal, motor, engineering, textile and chemical industries believed to be the hardest hit

Turnaround

Workers lost millions of rands in wages as employers tended to adopt a disciplinary policy of no work, no pay A few small companies sacked workers. This was a surprising turnaround from last year's three-day stayaway in June when employers reacted with widespread dismissals

Assocom manpower secretary Vincent Brett believes bosses were more sympathetic to workers this year because the protest was aimed at the election more than the Labour Relations Amendment Act (LRAA)

"In a way, management is getting used to this form of industrial action, it has become a factor of life

"On the other hand, businessmen in general are anxious to see constitutional reform and are prepared to be a little more relaxed about a national protest by the voteless"

Mr Brett says a conservative estimate of what the stayaway cost the economy in lost production is about R120-million a day

Hampered

However, estimates from other monitoring groups and companies put the loss at about R250-million for the two days

The Labour Monitoring Group conducted a survey of how effective the stayaway was in various regions, but Unions (Cosatu) and the National Council of Trade Unions (Nactu) say the stayaway proves that workers will never accept the present Government.

Perhaps the most surprising support came from mineworkers, who traditionally do not join protest action of this nature

Production at several mines was hard hit, the National Union of Mineworkers estimating that about 80 000 miners refused to go underground on Tuesday

In the Eastern Cape, Port Elizabeth appeared to be worst hit Bus terminals, taxi ranks and schools in black townships were almost deserted for the two days

Employer reports on Friday indicated that all was back to normal

was hampered by employer reluctance to supply information

The LMG believes that in the Pretoria-Witwatersrand-Vereeniging area, about 72% of workers took part in protest action on Wednesday compared with 39% on Tuesday In Durban, the figures were 68% and 80% respectively, 24% to 41% in the Western Cape and 90% in the Eastern Cape on both days

A spokesman for LMG says, however, that figures could have been much higher than these estimates

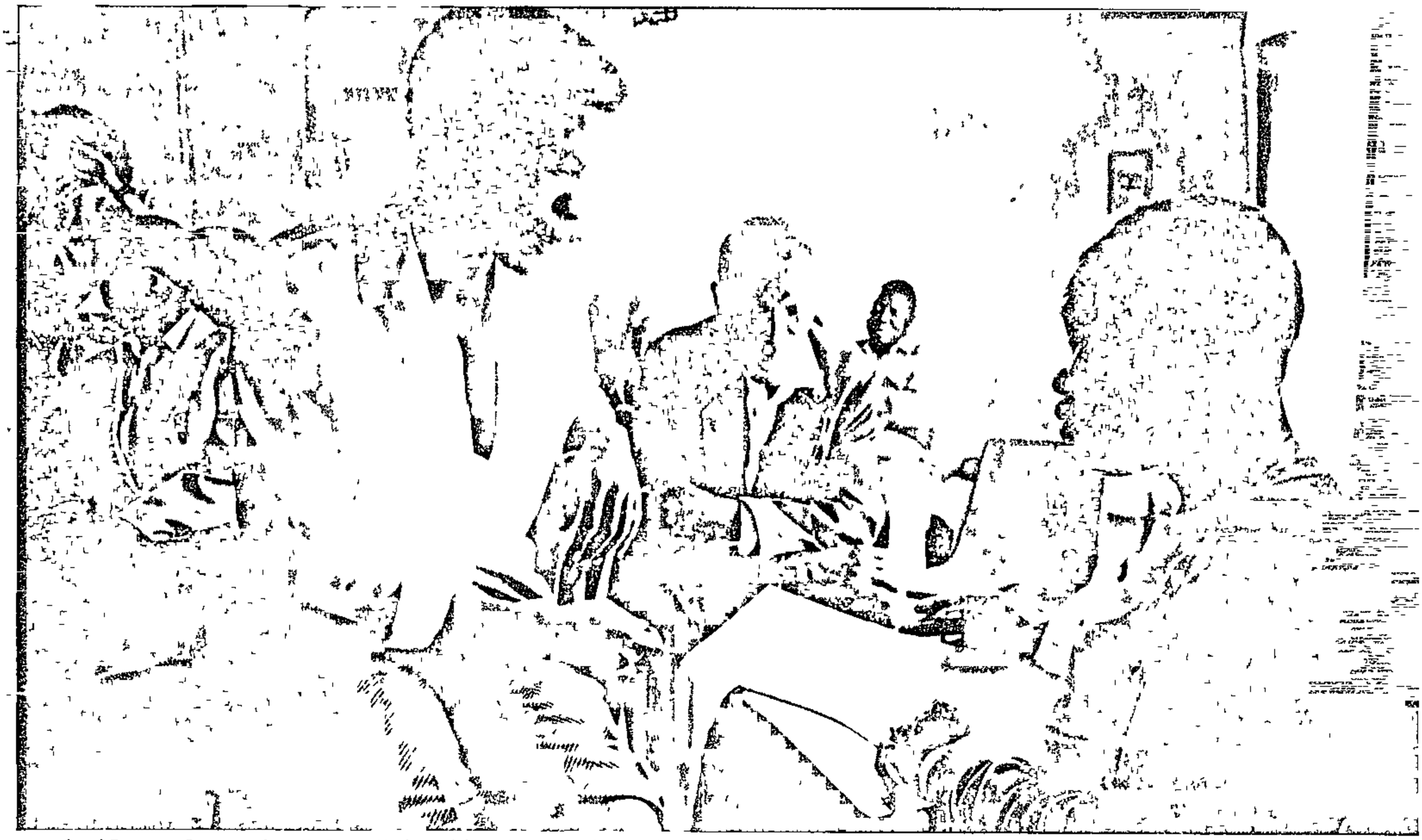
"Employers were reluctant to divulge information and some were actually hostile Several big factories were closed, particularly in the chemical sector Some firms closed early and were unavailable for comment"

Confusion

The MDM has expressed its satisfaction with the support of workers It says the low turnout on Tuesday was largely because of confusion about whether the protest call was for one or two days

The Congress of SA Trade

33 centres in Transvaal help make justice available to the poor



Legal Resources Centre workers Mr Signet Mashego (left) and Mr Richard Mojapelo discuss a client's grievances Their work is conducted in humble settings as in this garage unable to rent an office in the area because of resistance from the authorities

Legal advice a boon to rural dwellers

Stw 11/9/87

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The Legal Resources Centre set itself the task of making justice available to the poor when it opened its first office in Johannesburg in 1979, with only two lawyers and a part time director Ten years later, the centre has expanded and ot now services 33 advice centres in the Transvaal alone — but the work to be done is endless in a country governed by a system firmly swayed in favour of the ruling class **HELEN GRANGE** accompanied a team from the LRC to look at the work they do

In a ramshackle garage in a remote eastern Transvaal village a group of about 25 people, mostly old folk, sit patiently on chairs facing a crudely crafted crucifix swaying on the end of a rope

Outside, a scrawny dog sniffles in in the dirt

The people have made an effort to look presentable, although one old woman draped in layers of material has no shoes on her mud crusted feet

Most of them know little about the law but they know they have been wronged in some way That is why they are there — in a garage belonging to a "sympathetic" homeland politician living in Acornhoek, down in the bushveld from Bosbokrand in the self-governing territory of Lebowa

Team of lawyers

They are there to see a team of lawyers from the Legal Resources Centre (LRC), a foreign funded legal aid organisation based in Johannesburg The lawyers have travelled several hours to hear grievances

This was the scenario the team encountered last week on one of their working trips into rural Transvaal, where the practice of law is somewhat of an anomoly for rural folk unused to seeing justice done so formally

The grievances in Acornhoek are simple, stemming from poverty, illiteracy, unemployment, labour exploitation and the apparent negligence of the Lebowa government in caring for the elderly — the result of what many claim to be top-level corruption

An elderly woman, her face wrinkled, tells advocate Ms Penny Andrews how her inheritance was "taken" by a man She had inherited the estate of her late husband, but when she collected R1 000 from the bank se was forced to hand over R700 to an insurance company worker who drove her from the bank He left her stranded on the roadside to walk home

Scores of elderly clients complain they are unable to get their pension money from the Lebowa pension office This is a common problem in the area, says Black Sash worker, Mrs Honey Paules, who helps collate clients files for the LRC lawyers

'Many of the elderly don t know when they were born When it came to discarding the old reference books and applying for the new ID documents, clerks at the magistrate s offices in Lebowa would write any birth date, often making applicants far younger than they are This means many of them cannot claim a State pension, because according to their ID number, they are not the eligible age

Problems with pensions are compounded by the Lebowa government's depleted funds, Mrs Paules adds

Ms Andrews explains that in many cases illiteracy is responsible for people being cheated out of Workman's Compensation, pension and leave pay

An employer gets a worker to sign a document or cheque knowing his employee cannot read This presents a major headache for us, because legally we have no grounds to take action '

Because of the number of people needing assistance and the tedious homeland bureaucracy in a place such as Bosbokrand, cases can often take months — even years — to be resolved

Bosbokrand is one of 33 centres in the Transvaal serviced by the LRC s legal team, which works through church sponsored advice centres employing fieldworkers representing organisations concerned with rural advancement

"The work is not at all glamorous It is very often frustrating because we are not dealing with a balanced system Many of our problems arise as a result of the social and political conditions brought about by apartheid These conditions make it easy for those who have rights to exploit them — knowing that the chances of a comeback are slim, says Ms Andrews

Our main problem is the crippling effect of ignorance People are unaware of their rights and our first task is to inform them of these "

Ms Andrews is one of 10 lawyers working at the LRC who have chosen the path of civil rights law

This path is not easy — even if it is challenging

For Mr Signet Mashego, a para legal (lawyer in training) based at Bosbokrand, spreading the word that legal assistance is available in his area is a dangerous task "I encountered a lot of animosity from Lebowa government officials and on one occasion I was detained for two weeks In e[illegible] years I have been here, I have still been unable to acquire proper offi[illegible] because of resistance to my work. Y[illegible] the need is great here," he says

Against this hostile backdrop, encountered by South African civil lawyers countrywide, even small [illegible] are greatly appreciated

In the 10 years since the LRC's inception, great inroads have been in legal aid to blacks

Network

The LRC's success has spawned network of allied organisations, [illegible] them the Pretoria-based Lawyers for Human Rights, which pressurises private law firms to take public-[illegible] cases, the Black Lawyers' Asso[illegible] and its off shoot, the Legal [illegible] Centre in Johannesburg and the Institute for Applied Legal Studies at University of the Witwatersrand

Anti-apartheid activists are convinced the increase in legal [illegible] has changed public perceptions laid a basis for the government appointed law commission's white paper on a South African Bill Rights

The final report will be presented Parliament early next year and, [illegible] there is no guarantee the G[illegible] will embrace the paper, it is hoped debate will give new legitimacy civil rights workers

Star 13/9/89

Legal meeting set for Pretoria

(248)

By Norman Chandler,
Pretoria Bureau

A conference on "Jurisprudence in a future South Africa" is planned by the University of Pretoria's Centre for Human Rights Studies (CHRS) and the Pretoria branch of Lawyers for Human Rights.

CHRS director Professor Johann van der Westhuizen said yesterday that there had in recent years been several conferences and seminars on the role of the law in South African society.

There had also been the publication of the South African Law Commission's working paper on human rights and the African National Congress's constitutional guidelines

"These documents have given rise to considerable discussion and debates have taken place on the question of whether the emphasis should be on a changing or on a changed South Africa," Professor van der Westhuizen said

He said the purpose of the conference from October 24 to 26 "is to build on some of the discussions which have taken place, inside and outside the country, and to introduce a new perspective by looking at the future".

"Therefore, the emphasis will be on a 'post-apartheid' society and on the legal issues and problems that may be expected in such a situation".

Will you hang? It all depends on which judge you get

Some judges are more likely to impose the death penalty than others, the latest research suggests. By CARMEL RICKARD

THE stereotype of a "hanging judge" might be a reality. some judges are far more likely to impose the death sentence than others, according to new research.

Of 32 Cape judges who heard possible death penalty cases from 1986 to 1988, just three of the judges accounted for more than half of all those sent to death row. While some judges did not pass the death penalty at all, one judge imposed it in 44 percent of the cases he heard.

The research, published in the latest edition of the *South African Journal on Human Rights*, examines the imposition of the death penalty in the Cape Provincial Division from 1986 to 1988.

The authors, Christina Murray, Julia Sloth-Nielse and Colin Tredoux, all from the University of Cape Town, list the 32 judges who heard cases which involved the death penalty during that period.

They then tabulate the number of death penalties imposed by each. Taking into account that the judges might have had differing work loads, the researchers worked out the percentage of the total number of cases heard by each judge and the proportion of death penalties these cases could be expected to involve.

However, some judges passed the death penalty far more often than might have been expected.

The five who passed the death penalty most often were judges PWE Baker, AJ Lategan, HC Nel, L van den Heever and DM Williamson.

One of the most startling results to emerge is that judges Baker, Lategan and Williamson, who heard only 15 percent of the cases among them, sentenced to death 51 percent of the accused during the two-year period.

By contrast, another group of three judges all of whom passed the death penalty at least once, heard 32 percent of the cases, but sentenced only 12 percent of all those condemned.

Sixteen of the 32 judges did not pass the death penalty during the two-year period, although some of these 16 were acting during the time, and were not given permanent appointments.

Other findings included:

- Mr Justice Baker heard 2,24 percent of all the cases but was responsible for 10 percent of the death penalties passed.
- Mr Justice Lategan heard 8,09 percent of the cases but was responsible for 21,25 percent of the death penalties.
- Mr Justice Williamson heard 4,98 percent of the cases, while handing down 13,75 percent of the death penalties.
- Mr Justice L Rose-Innes who heard 10,40 percent of the cases, passed 1,25 percent of the death penalties.
- Mr Justice EL King who heard 3,99 percent of cases, sentenced no-one to death.

The researchers say they believe that a judge's "personal predisposition to the imposition of capital punishment" plays a crucial role in explaining the statistics they unearthed.

However, another possible way of explaining the fact that some judges impose the death penalty so often is that they are "allocated" such cases more often. The researchers say they cannot discount such a possibility, but that it would in any case be unacceptable if this were so.

They found that in 18 cases, judges imposed the death sentence even where there was no obligation to do so. Sometimes these were linked to "mandatory death sentences" — in other words, where someone found guilty of murder with no extenuation and therefore "automatically" sentenced to death, was also sentenced to death on other counts like rape.

However, 11 of these "non-compulsory" death sentences were not linked to "mandatory death sentences", and of these 11, five were passed by Mr Justice Lategan and four by Judge President G Munnik.

The research also showed that chances are strong an accused, once sentenced to death, will be refused leave to appeal: of the 120 people condemned by the Cape judges, leave was granted in 40 cases.

One of the alarming claims to emerge in the paper, is a reported interview by researcher David Bruck.

A Durban judge told Bruck he had sometimes imposed the death sentence "merely to frighten local criminals". The unnamed judge said that in such cases he imposed the death penalty "while fully intending to write to the Ministry of Justice to recommend clemency".

This judge said he did not know whether these death sentences had actually been commuted as he had never inquired. He claimed the state president commuted about 80 percent of death sentences every year. However, the actual rate the year before the interview was 15 percent

Director of Lawyers for Human Rights Brian Currin said the findings highlighted the "question of inequality before the law" and said it strengthened the argument for abolition.

"Surely the life or death of someone should not depend on which judge is allocated the case."

Month-long bus strike may end

By CARMEL RICKARD, Durban

ABOUT 200 000 people in Durban have been without bus transport for exactly a month.

Thirty-one days ago some 900 drivers stopped work over a number of issues including wages.

Last week it appeared the strike was over and union officials signed an agreement with the Durban Transport Management Board Workers were expected to return immediately

However, after only a few dozen signed up early on Monday, there was a walk-out in protest over the way management was handling the re-employment procedure Talks have continued all week to sort out these problems.

The strike has left some 200 000 commuters a day having to find alternative transport. It has also cost the city millions of rands in lost revenue.

Under tough labour laws it has been an illegal strike since passenger transport is classified as an "essential service" and employees are prohibited from striking at all.

The irony, according to some labour lawyers, is that the classification of passenger transport as an "essential service" could be seen as indirectly having provoked the strike.

He said collective bargaining could not occur properly where there was no pressure of possible industrial action. In the case of the Durban bus drivers and management, he claimed their bargaining relationship could have "atrophied" over the years.

"It is quite possible that if the drivers had had the right to strike, they would not have needed to do so."

Late yesterday talks were continuing after all-day discussions on Wednesday between management, union officials and lawyers.

After these talks, officials said they were "very promising" and that an end to the stoppage could be close.

They said the discussions were not about the settlement of the strike reached last week-end, but over the way it should be implemented.

In terms of the settlement workers will be re-employed rather than reinstated, but all workers will be rehired and they will not lose out on benefits accrued before the strike.

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Legal ads won't be lucrati

Smaller agencies likely to benefit most from new rules

MALCOLM FOTHERGILL

SMALLER agencies are likely o be the ones to benefit most vhen legal firms start advertis- ng, as they are now allowed to o, say ad industry insiders

Most of the bigger agencies say hey wouldn't turn legal business way, but don't expect it to be par- icularly lucrative

Few are considering advertising heir services in the hope of attracting usiness from legal firms

One exception is McCann, which will e running an ad in a legal journal as- uring prospective clients "We are so- citing "

McCann's Tim Bester believes the ad ill bring in business, as did a previous IcCann pitch to brokers, which as- ired the world "We're going for bro- ers "

However, Mr Bester expects no sud- en rush "Legal firms are likely to be autious at first You take tentative eps the first time round "

Leon Dempers of Lindsay Smithers-CB agrees "There will probably be a ir amount of introspection in the gal firms before they take the unge "

After the introspection, says Mr empers, legal firms "would be unlike- to come to a major ad agency like irselves who deal with fast-moving onsumer goods and huge budgets

"But there would seem to be an opportunity for the smaller, more specialised type of advertising consultant "

Because the market for legal firms is small, conventional advertising might not be the best route for those firms to take, Mr Dempers believes "Direct mail might be better "

As for the size of the legal profession's adspend, Willie Sonnenberg of D'Arcy Masius Benton & Bowles says his gut feeling is that it won't amount to much and will therefore not be tempting for the bigger agencies

"The turnover of legal firms is unlikely to warrant spending half a million rand a year on advertising

"And big agencies are not likely to want small accounts, since they're often as labour-intensive as the big ones

"However, from a novelty point of view the work would probably be quite interesting "

Haken Sjogren of Lintas says legal business could offer considerable scope for creativity

"Many legal firms specialise, in international law or other areas, so their advertising could concentrate on bring ing out their strengths "

The change to the legal profession's no-advertising rules, which came last week via the Association of Law Societies, is not a blanket permission to seek business

Attorneys who tout for business will still be regarded as acting unprofessionally . which might put paid to some forms of direct advertising such as face-to-face pitches

the mechanisms

As for accountants, that will allow them to advertise are in place, but a change is said to be still some way down the track — 18 months or so



STRONG CHARM OF THE LAW South Africa's legal profession is now allowed to advertise its services

New leaf for SA author

By JAYNE LAMONT
London

SOUTH AFRICAN writer Wilbur Smith has left publishers Heinemann after 25 years and 21 best-selling novels

Leading UK publishing house MacMillan has secured the hardback rights, which includes Mr Smith's next book

MacMillan would not confirm rumours in London literary circles that the deal offered to Mr Smith — hugely popular in Britain and regularly top of the list of authors most sought after in libraries — included a R4-million-plus advance

The exact reasons for Cape-Town-based Mr Smith's decision to change publishers are not known

It is understood money is not the main reason

Mr Smith's latest offering, A Time To Die, is still riding high on the best-seller lists in Britain, 14 weeks after release

Lawyer's plea fails

THE appeal of Mr Donald Kgalake Nkadimeng, of Pietersburg, against the striking of his name from the Roll of Attorneys was dismissed, with costs, by the Appeal Court in Bloemfontein last week.

His name was struck from the roll by the Transvaal Supreme Court on June 4 1987 in an application by the Law Society of the Transvaal.

Mr Justice F H Grosskopf said that Nkadimeng did not succeed in showing that the Transvaal court misdirected itself in any respect when it decided to strike his name off the roll.

Conference on the law in future SA

Star 28/9/87

(248)

Pretoria Bureau

International legal experts are to attend a major conference in Pretoria soon on jurisprudence in post-apartheid South Africa

Speakers include leading judges, professors at South African and Bophuthatswana universities, the South African Law Commission, members of the Johannesburg, Cape Town and Pretoria Bar, Cosatu, Black Lawyers Association, as well as from the United States, Australia and Zimbabwe

The conference takes place on October 24 to 26.

B/Day 4/10/87. (248)



● VENTER ● LUYT

Doctors become a multiplying breed in business world

ROBERT GREIG

ON THE face of it, the business world is on the brink of a takeover by the medical profession. Doctors are popping up in all sorts of high places Equally remarkable is the number of corporate doctors coyly going as "mister"

There's Dr Johan Maree of Eskom, Dr Bill Venter of Altech, Dr Louis Luyt (who is also working for a proper doctorate) and Dr Brand Fourie, formerly of Foreign Affairs and the SABC

But for every Dr Maree, Venter, Luyt or Fourie in business there is a Mr Rosholt (Barlows chairman and chancellor of Wits University), Mr Clive Corder (ex-Syfrets) or Mr Frank Robb

Mrs Helen Suzman has an academic doctorate as well as innumerable honorary doctorates — not to mention the newly bestowed honorary title of Dame Commander of the British Empire Mr P W Botha, Athol Fugard and the late B J Vorster were all recipients of honorary doctorates, waiving them in their daily lives

If you address someone who does not use the honorary title as Dr, you are unlikely to be corrected and if you are, it will be with diffidence

But if you telephone one of the recipients of the honorary title and refer to him as Mr, you are likely to be politely but firmly corrected, usually by an employee But the doctors themselves are fairly relaxed about it

Clearly, titles, as one might expect in a newish African republic, still have some importance, when the source is academic Not that staff are necessarily instructed by recipients to call them doctors

Honorary doctorates are intangible tokens of recognition, thanks or admiration given by an institution to an individual, like the DBE awarded by Queen Elizabeth to Suzman

Confusion

The admiration may or may not be generally shared, and depending on the prominence of the institution and of the individual, the acknowledgment may spill over into the public world, becoming a perception that the recipient's actual social status has changed

Conflicting judgments of appropriateness cause some of the confusion about honorary doctorates They are awarded, usually annually, for services to knowledge, the community or the university The rituals surrounding these are complicated and secretive because they involve agreement between the university's academic community, represented by the senate, and its governing body, the council, dominated by the laity Both bodies are jealous of their privileges and status

To ensure no hairline cracks in the university's structure over honorary degrees, which are based on subjective judgments about social or academic worth, most universities insist on an absolute majority in favour of a candidate by both senate and council

One belief about honorary degrees to businessmen, is that they are honorific payments for donations received — or to come The universities predictably reject this view

By and large, the SA English-language universities follow the English and Scots custom that honorary doctorates operate within academic precincts only The Afrikaans universities and their recipients follow the continental, especially German and Dutch, approach of condoning the use of titles in everyday life

The prevailing view at English-language universities is that it is not wrong to use honorary titles outside academia Nevertheless, this is accompanied by the faint [illegible] that to do so is bad form or inappropriate

Lecturers protest to Vlok about police action

By Mckeed Kotlolo
Pretoria Bureau

The United Democratic University Staff Association (Udusa) has written to the Minister of Law and Order, Mr Adriaan Vlok, expressing its deep concern at what it felt was antagonistic police action during last month's protest march by women in Pretoria.

The letter, signed by 60 Udusa members at the University of South Africa (Unisa), refers specifically to an incident at the Park Street Art Museum in which police allegedly arrested a group of marchers before the expiry of the time given to disperse.

Udusa said police gave the women who had gathered there five minutes to disperse, but they "antagonistically rushed in" before the five minutes had expired to make arrests.

"This to us indicates the non-supportive hostility of a police force who appear to act without assessing and allowing for the possibility for peaceful dispersing".

SUGGESTED

Taking into consideration the recent promises of Mr F W de Klerk to promote a climate for negotiations, Udusa suggested to Mr Vlok that his police force should consider negotiating a peaceful solution to such marches

The organisation stressed that the display by the police on September 23 was not in keeping with the new commitment promised to the nation by the State President

The march was described by Udusa as no threat to law and order since it was "symbolic of a peaceful protest and at no stage did the protesters provoke disorder".

Some of the 60 signatories were at the scene of the arrests by police in Pretoria.

On that day, police arrested more than 130 people for unlawful gatherings

They appeared in the Pretoria Magistrate's Court on the Monday after their arrests.

Their cases were postponed to November 30.

All of them were released on warning until their next appearance.

Spotlight needed on new legal system

248 252

CATHY STAGG

THE time is right for lawyers to start focusing on a new legal order, Mr P Langer, the president of the National Association of Democratic Lawyers, said last night.

He was addressing the annual law dinner of the Law Students Council of Wits University.

Mr Langer said the country was moving through a period of transition but a new legal order would not automatically follow the demise of apartheid; it needed a conscious process

This required the correct vision, not only to adapt to the new world, but to help shape it with the community at large.

There should be no suggestion of laws being imposed on anyone who had no representation in making them, which would remove the high moral ground of those who fall foul of the law and say they did not make them, he said

Mr Langer said, while law societies and Bar Councils had made bold statements condemning aspects of apartheid legislation, governments do not listen to "once-off statements". Star 23/9/89

He said that many of the banned and restricted people were the "cream of our citizenry"

He paid tribute to those unable to address the students, although eminently qualified to do so, because they had waged a campaign against apartheid

And he asked if they would continue to have men like Chief Albert Luthuli die in a "world of silence" and be forgotten.

New law will reflect the needs of the people

Sowetan 27/10/89

Own Correspondent

THE chairman of the Law Commission, Mr Justice Olivier, has outlined his expectations of a legal order for a post-apartheid South Africa

Addressing a conference yesterday on a new jurisprudence for a future South Africa, organised by the Centre for Human Rights Studies at the University of Pretoria, Olivier said the way a post-apartheid society was achieved would profoundly influence the legal order

Olivier told delegates a new South Africa would probably be achieved through an evolutionary process "within the present order which will change and be moulded until we one day reach a point when we can say 'Now we have a post apartheid South Africa', where race or ethnicity as a discriminatory factor are not allowed by law"

He listed several laws and statutes which would have to be repealed or drastically amended to abolish apartheid

Olivier said a future legal order would be "more fair and just" because of the abolition of discriminatory legislation

Outlining his views on a future legal order, the director of the Legal Resources Centre, Mr Arthur Chaskalson SC, agreed with Olivier that "it was neither desirable nor feasible to throw everything overboard and to start anew"

He said an acceptable legal order should reflect the needs of the people who are to be subjected to it

"The only possible way forward, as I see it, is to address particular aspects of the legal order that call for attention and to retain the rest, moulding it gradually into a coherent system reflecting the aspirations of the majority of the people," Chaskalson said

Chaskalson said "huge" issues which would lead to fundamental changes in the legal order were the limitation of State power and "the protection of fundamental rights, with the approach to social and economic rights and the abrogation of discrimination on the grounds of race or sex"

The implementation of State policies designed to advance the interests of those who have been the victims of the ideology of apartheid, also needed attention

He stressed, however, that other aspects of the present legal system - the criminal justice system, the system of administrative law and the lack of access to the legal profession by the great majority of the population - were also unsatisfactory and demanded attention

Chaskalson said the present legal order was weighted heavily in favour of the state and those who have wealth and power.

"If the new legal order cannot do better than the old in dealing with these matters it will have little to commend itself to ordinary people, and will fail to gain acceptance as an instrument of justice," he said



At the *Sowetan* Woman of the Year occasion held at Caesars Palace Mrs Doris Nkwe, singer Yvonne Chaka Chaka and Mrs Pam Mgulwa were captured sharing a joke.

B1Dam 24/11/89 248

Accountants vote today on whether or not to advertise

TODAY thousands of chartered accountants (CAs) will be given the opportunity to decide on whether or not to advertise The answer will be known after a vote at special meetings to be held at 11am

The Council of the SA Institute of Chartered Accountants (Saica) has already come out strongly in favour of changing appropriate by-laws But the decision has to be ratified by individual members voting in their respective provinces

Saica president Paul Dreyer said last night "We need a 75% majority in the Cape and two-thirds majority in the other provinces to vote in favour of this issue, either in person or by proxy"

After years of controversy regarding the advertising issue among CAs, today's meetings have been convened by the Societies of Chartered Accountants in the four provinces The profession has come under pressure to make a decision from both commercial and governmental quarters

Auditing — the mainstay of the accountant's income — has progressively produced less proportionate income as accountants have expanded into other areas, particularly tax advice and management consultancy These areas of endeavour have non-accountant competitors who have long been free to advertise

Governmental pressure follows in the wake of the policy decision to deregulate the economy The professions are under

BARRY SERGEANT

pressure because of their "closed shops" — barriers to entry, fixed fees and exclusive rights to do certain kinds of work.

Leaders among CAs perceive that unless the profession takes steps to liberalise advertising rules, government may step in unilaterally and unban advertising This would mean that the decision would come from outside the profession, and that the profession would then lack power over the nature of the advertising

The international consensus among CAs is that advertising should be in "good taste" When accountancy advertising was allowed in Australia an advertisement using Tarzan caused consternation Roger Sinclair, of Wits' Department of Business Economics, says that advertising could dramatically change the profile of CAs

"If CAs are to spend money on advertising," said Sinclair, "it is important to understand the limits of the medium"

Said Dreyer "We are concerned that many of our members will not bother to attend today's special meetings since they believe the decision in favour of advertising is a foregone conclusion

"We want every one of our members to vote so that we can ascertain the true view of our membership as a whole"

Afrikaans writers split over boycott

By Carina le Grange

BROEDERSTROOM — There was a role for Afrikaans writers in the "struggle", poet Achmat Dangor told members of the Afrikaanse Skrywersgilde (Afrikaans Writers Guild) here yesterday.

Mr Dangor, chairman of the Congress of South African Writers in the Transvaal, was speaking at the ASG's annual meeting on the theme "Is is possible for a writer from the hegemony to take part in the struggle?" (248)

He said Afrikaans writers brought an open "hybrid tongue" to the craft of writing. Star 11/12/89

On the same topic, Professor Fanie Olivier, defended the autonomy of writers, but ended his address by raising his fist and shouting "Amandla".

In discussion time it seemed clear the support of some ASG members for a qualified cultural boycott — agreed upon at a meeting with ANC leaders this year — cast a pall over a divided membership.

Censorship has been the ASG's central issue since its inception 13 years ago. Many members said there was no difference between a cultural boycott and censorship.

'Afrikaans writers play vital role'

By Carina le Grange

BROEDERSTROOM — Afrikaans writers and poets have a much greater influence on Afrikaners than the church with regard to preparation for a new South Africa, Dr Beyers Naude said here today.

He was delivering the keynote address at the annual general meeting of the Afrikaanse Skrywersgilde (ASG — Afrikaans Writers' Guild). The theme for this year's meeting is "The Writer's Role in Democratisation"

Dr Naudé declined to attend the Paris conference organised by Mrs Danielle Mitterand in order to attend the ASG's meeting.

He said that South Africa was in a process of fundamental political and social change.

"The role and contribution that the Afrikaans churches should have played in preparing Afrikaners for this change has been seriously neglected, creating severe problems" This gap was being filled by Afrikaans writers.

BUSINESS SCENE

by HAROLD FRIDJHON

Lawyers test the not-so-public water

B/Day 1/12/89

LAWYERS, awaiting the Law Society's guidelines governing their advertising in the various media, are testing the water of professional de-regulation

Many firms, including some of the very large and even the not-so-large ones, have started to send newsletters to their clients, informing them about the services they offer and the people providing these services

Woe and betide

Some of these "newsletters" are glossy publications, professionally produced, others are simple, duplicated letters consisting of a few pages Some are couched in formal language — as befits the toffee-nosed — others are chatty, informal without any of the legalese which obfuscates and confuses

These news letters are strictly for clients and woe and betide the partners-/directors of legal entities if by chance they should fall into the hands of Press persons who might quote the contents and name the authors.

Disbarment, de-frocking or striking-off could be the penalty until the law lords have codified — in proper legalese — the do's and don'ts governing advertising and public relations.

This harks back to the JSE regulations of many years ago when stockbrokers issued for-your-eyes-only circulars to clients advising them what and what-not shares to buy and sell.

In the early days financial journalists who managed to get these "Top Secret" odcuments "leaked" to them pubished the information without acknowledgment. Then authors' names crept into the copy — by arrangement of course.

This practice was frowned upon by the JSE committee who tried to stamp it out, warning brokers to desist. It died down for a while, only to be revived again. And gradually "What the Brokers Say" became standard newspaper copy.

And today ... ?

Lawyers are unlikely to emulate stockbrokers; they are selling different services. But shrewd practitioners have often been able to induce court reporters to add footnotes to their copy "Mr So-and-so, instructed by Delict & Damages, appeared for the defendant/plaintive", having warned reporters of dates of trial.

The next step, when lawyers are permitted to enjoy the freedom of the Press, will be to advertise their successes (even doctors bury their failures) and to issue fancy brochures containing the court record.

248 Jungle

Meanwhile, one modest-sized firm has circularised its clients advising them which partner specialises in a particular pathway through the legal jungle, concluding its maiden essay into the field of not-so-public relations by publishing some recent interest-tickling judgments which might be of value to readers whose litigious inclinations might even be aroused.

S Thurs 3/12/84

Lawyer is first black Senior Counsel

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By MEGAN POWER

A DURBAN human rights lawyer has become the first black in the country to become a Senior Counsel

Mr Thembile Lewis Skweyiya, who has run his own practice in Durban since 1971, was working on an ANC trial in Cape Town when he heard the news

"My secretary phoned me in Cape Town, where I'm doing two political cases, and told me to contact the secretary of the Bar Council," said Mr Skweyiya on his return to Durban this week

"It's the highest one can go in the legal profession besides judge"

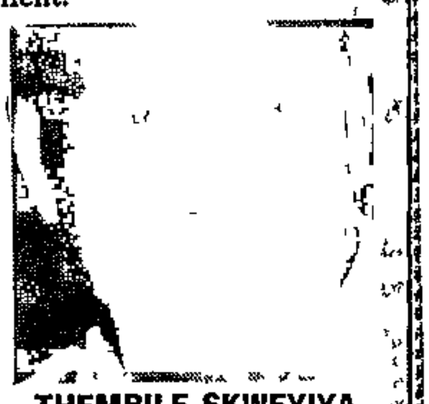
Mr Skweyiya was born and educated in the Cape before completing his LLB at the University of Natal in 1968.

He served his articles with two Durban firms and in 1970 was admitted to the Bar as an advocate

A year later, he successfully opened his own practice in Durban

"There's not a single province in the country where I've not appeared I've also done work in the Transkei and Ciskei," he said

Mr Skweyiya was detained in the Transkei in 1983 under the Internal Security Act while working on a political case He later successfully sued the Transkei Government.



THEMBILE SKWEYIYA

He said his two biggest trials were the Bethal PAC trial of 1978 and the Oscar Mpetha trial of 1981-1983

His instructing attorney in the Bethal trial was Mr Griffiths Mxenge, whose violent death in 1981 has been blamed on an alleged police hit squad.

"We met at university and were close friends He was like my elder brother He had the utmost confidence in me and I owe much of my success to him," said Mr Skweyiya

Although he now deals mainly with civil liberty and human rights cases, Mr Skweyiya used to do a lot of commercial work

He was actively involved in the formation of the Release Mandela Committee and is still involved with this organisation and various other professional and community organisations

He is married with three children

● Mr Skweyiya was part of the Natal delegation which met Mr Nelson Mandela in Cape Town this week.

SA lawyers for constitution

KEVIN JACOBS

WINDHOEK — Bridging decades of ideological hostility, Namibia's fledgling parliament has agreed on constitutional principles and is assigning three top South African lawyers the complex task of transforming them into the new nation's first founding law

Swapo, once feared as the sharp edge of a Marxist wedge in the region, lauded the multi-party system entrenched in the principles and voiced the hope that open democracy would take root.

"Democracy has passed its second test, the election being the first," opposition DTA leader Dirk Mudge told the 72-seat Constituent Assembly yesterday.

"The people of this country can have no fear for the future ... for democracy, it is a good start."

Lawmakers hope to have a draft constitution — projecting a multi-party system tightly wrapped in democratic principles — tabled for debate by January 12, firing expectations of independence by the end of March

Swift agreement reported yesterday on fundamental democratic pillars of the nation's constitution came after barely a week of closed-door argument in an all-party committee

Assembly members hailed it as a triumph for national unity and reconciliation in a country torn by decades of conflict.

The extent of common ground between Swapo, the DTA and three smaller minority parties surprised the former enemies and their critics who had predicted protracted wrestling with conflicting ideologies.

Assembly members yesterday agreed to

☐ To Page 2

SA lawyers

☐ From Page 1

assign three South African lawyers to embroider agreed constitutional principles into a legal document for tabling in the house on January 12.

Agreed choices are constitutional law experts Professor Marinus Wiechers of Unisa, Stellenbosch University's Prof Gerhard Erasmus and top Johannesburg human rights lawyer Arthur Chaskalson, SC.

Hartmut Ruppel, a Windhoek lawyer and Swapo assembly member who chaired the all-party committee that synthesised constitutional principles, reported yesterday that the group "succeeded to resolve all remaining substantive issues in principle" barring minor fringe details.

The committee did not table all the underpinning principles, but Ruppel said afterwards major areas of dispute were cleared by compromise.

For example, Swapo got its favoured executive presidency, earlier opposed by its major opponents, the DTA.

In return, Swapo conceded its opposition to a bicameral parliament and proportional representation electoral system backed by the DTA.

"We have overcome the mutual suspicion — at worst a mutual hatred — that clouded our relationships when we were abroad," senior Swapo member Moses Garoeb said

"A sense of national unity and reconciliation has prevailed.

"We have accepted, for better or for worse, a multi-party democracy, an open democracy. We hope it will become entrenched, established and institutionalised."

Lawmakers found no substantive dispute on proposals that included a mixed economy — with a Swapo-backed focus on rural development and land reform — an independent judiciary, constitutional safeguards for recognised human rights and Press freedom and legally backed condemnation of apartheid.

● Comment: Page 4

Travelling and reasonable removal expenses are payable on appointment.

In general, permanent appointment (tenure) will be granted upon satisfactory completion of a three-year probationary period.

The academic year runs from 1st February to 31st December. The University teaching year extends for twenty-four teaching weeks in two terms of approximately four months each, divided by a winter vacation and two short breaks of one week each.

A staff member and his/her dependents receive a part remission of tuition fees at the University of Cape Town under certain circumstances.

A service bonus is payable at the rate and subject to the conditions determined by the University Council from time to time.

MEDICAL EXAMINATION

Appointment will be subject to a satisfactory medical report.

GENERAL

The University reserves the right to appoint a person other than one of the applicants or to make no appointment.

ACADEMIC FREEDOM AND DISCRIMINATION

The stand which the University has taken on the question of academic freedom is fully set out in the attached document. It is the University's policy not to discriminate on the grounds of sex, race or religion.

Attachment : Statement on Academic Freedom

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August 1987

PROFESSIONS 1989

JUNE

JANUARY

Lamgsburg was washed away by a lion," the paper concluded — Sapa.

'Remands push up legal costs'

By Kaizer Nyatsumba

The image of the legal profession could be enhanced and lawyers could receive the support and trust of the majority of the population if they used their influence to have the Criminal Procedure Act amended so that court hearings could not be remanded once dates had been fixed, according to a Pretoria lawyer

Writing in the December issue of the law magazine *De Rebus*, Mr I Gutstein said it would do the legal profession a world of good "if the numerous remands could be eliminated in criminal trials in the Magistrates' Courts".

Mr Gutstein said lawyers were obliged to demand "a very substantial deposit" from people charged with petty offences such as reckless or drunken driving because they knew the accused and the witnesses would have to appear in court at least half a dozen times before the matter was heard

Said Mr Gutstein "The anticipated remands are the cause of the high cost of litigation"

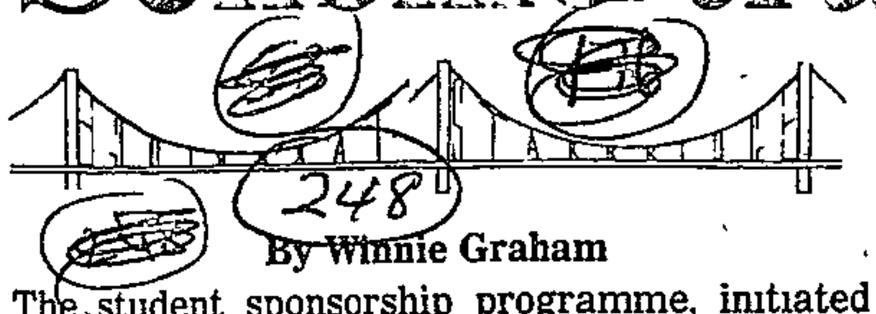
These frequent remands could even result in the accused losing their jobs if they have unsympathetic employers, according to Mr Gutstein

"The incredible waste of time spent by the attorney, the accused and the witnesses waiting for the matter to be called only to discover that the State is not ready to proceed because, for example, the investigating officer has failed to produce witnesses, makes the majority of the population who have anything whatsoever to do with the law thoroughly disenchanted"

He suggested that the Criminal Procedure Act be amended so that when a date for trial was fixed, failure by either the defence (accused) or the State to proceed on that date, be punished by making the defaulting party pay the wasted costs of the day.

If the amendment eliminated remands by 80 percent, some of the benefits would be a reduction in both defence and State costs, the matter would be heard when the relevant facts were still fresh in the minds of the people concerned, and there would be fewer prosecutions because the State would not proceed unless it at least had a prima facie case and frivolous prosecutions would disappear

Scheme trains black accountants



By Winnie Graham

The student sponsorship programme, initiated by the Chartered Institute of Management Accountants (CIMA) to assist in the training of black management accountants, is set to provide South Africa with its first black management accountants within three years.

Ms Diane Schneider, CIMA's administrative officer, said yesterday that at the end of last year 23 students completed an intensive first year of study and would now work for their sponsoring companies, continuing their studies on a part-time basis

She said students who had done well in mathematics and English in the matriculation examination were now being interviewed for the first year of the new course — which would be run in Johannesburg and Port Elizabeth this year.

Racial imbalance

At the moment there are no black management accountants in South Africa, against about 800 whites in the profession

When the student sponsorship programme was launched last year, Mr Terry Burgess, the president of CIMA, said a bold initiative was required to redress both the racial imbalance and provide for the growing demand for these professionals

"The institute needs to attract the black and coloured population to the profession to meet the growing demands," he said

Superficial research by the Association of Black Accountants has revealed accountants and people with financial management skills provided at least 60 percent of the executive and managerial skills of major companies and enterprises in South Africa

Blacks are the least represented in the accounting profession: statistics show there are only 17 black chartered accountains, only 60 accounting technicians, no qualified black municipal accountants and few chartered secretaries

Mr Christo Nel, a business consultant, has predicted that at the current rate of economic growth, South Africa will need 116 000 new managers by the year 2 000 The maximum number of whites who can expect to become managers is estimated at 40 000 The remaining 80 000 will have to be blacks

The low number of developing white managers has been attributed to the average age of the white population More than 50 percent of South African whites are over 35 In contrast, the black population is youthful 50 percent are under the age of 15 and 80 percent of all blacks are under 30

The sponsoring companies contribute R6 000 towards the training of each student



Black management students at work. Left to right are Mrs Denise Jenkin, president of the SA Council of the Chartered Insitute of Management Accountants, Miss Snowy Ndaba, Mr Ishmael Ndlovo and Miss Diane Schneider, administrative officer.

Pavement law: lawyers may take action

THE town of De Aar's infamous action against people "unlawfully standing on a pavement" may become the subject of a Cape Supreme Court action, the Lawyers for Human Rights group has said in Pretoria.

LHR national director Brian Currin said the actions were based on a Cape provincial proclamation issued in 1987 that provided that "no person shall cause a nuisance to other persons by standing in a street or on a public place".

Currin said. "It is a law reminiscent of colonial days."

In LHR's view the provision was "unreasonable, vague, cannot be enforced and is subject to abuse against the under-privileged members of our society".

LHR had, under the circumstances, instructed attorneys to prepare an appropriate Supreme Court application to strike the offending law.

Scores of people – apparently mostly non-whites – have recently been summonsed in the Karoo town for transgressing the law, Article 26 (1) published in the *Cape Provincial Gazette* on October 2, 1987.

Among people summonsed were Johannes Van Staden, a coloured man, for "unlawfully standing aimlessly on the pavement thereby hindering the public". He is to appear in court on February 14.

Academic boycott on the agenda

PIANNA GAMES

THE National Union of SA Students (Nusas) would thrash out a policy of how it intended to implement the academic boycott at its national council meeting later this year, president Lindsay Falkov said at the weekend.

He said the issue of Irish historian Conor Cruise O'Brien in 1986, whose lectures were disrupted by students who harassed him on the grounds he had broken the boycott, had raised a number of questions.

A key issue raised was the question of how the boycott should be implemented. Another was what constituted a "controversial" figure in terms of the boycott.

Asked if this would only apply to people on one side of the political spectrum, Falkov said a position would be developed in terms of whether a person was actively implementing apartheid or supporting it.

What qualification would be used to define these two categories was also an important area of debate which would be discussed at the April meeting.

Nusas supported the boycott and its aims but it was essential a focused national strategy be developed.

Falkov said because of more pressing issues which had arisen owing to the state of emergency and state repression, the boycott issue had taken a back seat last year, but campuses around the country now had a mandate to look at broad strategies regarding it. They would report back to the meeting.

CAs to discuss dropping advertising ban

B/Day 23/11/89

CHARTERED accountants are to discuss today whether they want to drop advertising restrictions in their profession (248)

This is in expectation of what punishment, if any, will be meted out to Arthur Young for its corporate survey in the Financial Mail last year

The firm of accountants has been under investigation by the Public Accountants and Auditors Board (Paab)

Business Day Reporter

since the publication of the survey on November 11, which led to numerous complaints by accountants that the publication could be at odds with the profession's ethical code.

If found guilty, the 54 partners could each be fined a maximum of R10 000, be reprimanded or, worse, some could be suspended

The Paab and the Institute of Chartered Accountants (ICA) met recently to discuss the case A disciplinary hearing is to be held next month

Today's meeting will discuss a paper on marketing, publicity and advertising in the industry The paper was circulated late last year with a note from the ICA that it was "inclined to lift restrictions on advertising".

'Archaic rules govern attorneys'

GERALD REILLY

PRETORIA — The way in which attorneys clung to obsolete principles and practices was inexplicable, newly elected Association of Law Societies president Andries Geyer said yesterday

Where other professional institutions decided on their own affairs, attorneys were prescribed to by outsiders through legislation

He said archaic processes still determined lawyers' fees and the application of tariffs.

Writing in the attorneys' journal De Re-bus, Geyer said this task should be left to the attorneys who were capable of adapting the system in a manner responsible to attorneys and the public in a changing SA

Referring to restrictions on the right of attorneys to compete, he said attorneys should be permitted to appear in the Supreme Court provided they had the necessary qualifications

arrest an Azapo member.

ANC holds talks on law

248

sowetan 30/11/89

HARARE — Lawyers, academics and politicians from South Africa and the African National Congress began arriving yesterday for a 5-day closed conference on law's role in a post-apartheid society, said an ANC spokesman.

Among the arrivals was Albie Sachs, the ANC's top legal spokesman, and Frederik van zyl Slabbert a former Parliamentarian and political opposition leader in South Africa who quit and founded the Institute for a Democratic Alternative, a multi-racial organisation designed to find an alternative non-racial democratic form of government.

Sachs' arrival marked his first return to Africa since a bomb attack in April 1988 in Maputo, Mozambique, which cost him his right arm and the sight in his left eye. The 53-year-old lawyer was one of the few whites who participated in the ANC's defiance campaign in South Africa that led to it being banned in 1960. After being released from

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© To Page 2

Gunned down in Rockville

© From Page 1

reported to the police. Other newspapers have also inquired about this, but no policemen have filed a report of this nature."

Dr Asvat (46), was gunned down in his surgery in Rockville, Soweto, on Friday afternoon by two young men posing as patients

He was shot twice in the chest at pointblank range with a 9mm pistol and died instantly.

Hundreds of people gathered at his home and surgery on Friday evening mourning the death of a helper of the downtrodden

Dr Asvat gained nationwide respect for his commitment to the plight of homeless people, detainees and people who could not afford to pay for medical treatment

Azapo

Dr Asvat, who was an executive member of Azapo, was also nominated as the *Star* newspaper's Star of the Community about a year ago and won the Indicator newspaper's Human Rights Award last month

He was buried according to Islamic rites less than 24 hours after his death and thousands of people from as far as Durban, the Free State, the Cape and the Northern Transvaal turned up

Two services will be held this week — at Regina Mundi in Soweto on Tuesday at 6pm and in Lenasia on Saturday

Mr Lybon Mabasa told mourners "Nobody in Soweto killed comrade Abu.

He was killed by the system or those whose interests coincide with the system

"Members of the oppressed community had nothing to gain from his death"

Another speaker, Mr Nkosi Molala, said "He was not known among circles that give people prestigious awards Yet in the black community and among squatters in particular, his name was held in high esteem"

He leaves his wife Zohra and three children

Dr Rasik Gopal, a neuro-surgeon at Baragwanath Hospital said Dr Asvat's funeral was the biggest ever held in Lenasia

South Africans, ANC to confer on 'post-apartheid law'

HARARE — Lawyers, academics and politicians from SA and the ANC began arriving yesterday for a five-day closed conference on law's role in a post-apartheid society, said an ANC spokesman.

Among the arrivals was Albie Sachs, the ANC's top legal spokesman, and Frederik van Zyl Slabbert of the Institute for a Democratic Alternative.

About 35 SA lawyers and academics are expected to attend, with about a dozen lawyers and ANC politicians coming from Europe and Lusaka.

The conference will examine law's role in ridding SA of apartheid and its part in a post-apartheid society, say organisers — Sapa-AP

SA, ANC lawyers meet in Harare

HARARE — About 50 lawyers and academics from SA, Zimbabwe and the ANC begin a four-day meeting here today, Ziana news agency reports

ANC representative Stan Mabizela, who would not disclose the objectives of the conference, said about 15 lawyers from SA and lawyers from the ANC's legal department in Lusaka would attend

A spokesman for the Friedrich-Ebert Foundation, which is funding the conference, also refused to discuss the objectives, saying he was protecting participants from SA

However, Reg Austin of Zimbabwe University's law faculty was quoted in the Press as saying "The conference will be trying to investigate how, once rid of apartheid, do you get rid of the results of the last couple of hundred years and how does law play a part in it?

"Some attention also will be given to the more immediate problem of how, if at all, law can be used to get rid of apartheid"

Zimbabwe's Justice Minister Emmerson Mnangagwa is expected to open the meeting — Sapa

SA law under spotlight

From MONO BADELA

HARARE. — South African lawyers are meeting a delegation from the ANC's legal and constitutional affairs department here to discuss the proposed legal structure of South Africa after apartheid.

The lawyers, 30 of whom came directly from South Africa, are also discussing major problems in the existing legal system and what would happen to it as the country goes through a period of transition.

Some of the lawyers are Afrikaners and others come from South African universities. The delegates are holding their discussions under the theme: The Role of Law in a Society of Transition.

The conference is hosted by the University of Zimbabwe's law faculty and the Cold Comfort Trust.

Officially opening the conference, Zimbabwe's Minister of Justice, Legal and Parliamentary Affairs, Emmerson Mnangagwa, said the transition to democratic independence, whether it was for South Africa or Namibia, would have to come through the law.

Critical areas of land ownership and distribution, including how to fund the redistributive machinery, the re-shaping of the education system and the provision of facilities to all citizens, would all need careful consideration by lawyers.

"We urge a very critical analysis of the problems on the ground in each country before a wholesale adoption of any other country's experience is accepted as applicable and appropriate."

Mnangagwa said Zimbabwe had used the law to undo and restructure the system of education, health, agriculture, residential accommodation and several others.

In South Africa, the post apartheid task would be as challenging as it was in Zimbabwe The inequalities and the distinctions in South Africa were far greater than those faced in Zimbabwe.

Included in the ANC's delegation, led by Thabo Mbeki, is the head of the Constitutional and Legal Affairs Department, Zola Skweyiya, formerly of Cape Town, Steve Tshwete, formerly of East London, Stanley Mabizela, formerly of Port Elizabeth and Albie Sachs

(248) South 2/2-8/2/89.

AFTER APARTHEID...

HARARE — South African law professors from universities throughout the country held discussions yesterday with the ANC on constitutional issues affecting South Africa after apartheid

The meeting was one of the most important of the five-day get-together during which the delegates are debating the role of the law in a society in transition

During a break between sessions, Dr F van Zyl Slabbert, director of Idasa, the Institute for a Democratic Alternative for South Africa, which has co-sponsored the meeting said discussion had focussed on practical issues

"There has been no attempt to score points," he said "We have not been fighting about capitalism versus socialism"

ANC spokesmen say they have been encouraged by the tone of the meeting so far.

"The discussions are proceeding very well People are seriously engaged in exchanging ideas about the way forward," said one ANC delegate

A prominent ANC legal adviser, Professor Albie Sachs, who was injured in a car bomb explosion in Maputo last year attended yesterday's session.

He has been receiving treatment in London for injuries he suffered including the loss of an arm

Harare talks held behind closed doors

PoW status for ANC not decided

Star 3/2/89

The Star's Africa News Service

HARARE — South African law professors who are meeting the African National Congress (ANC) in Harare failed to agree on whether captured ANC cadres qualified for prisoner of war status

At a briefing yesterday, newsmen were told the ANC had demanded this status

Professor Johan van der Vyver of the University of the Witwatersrand said no consensus had been reached

It was argued that the ANC did not qualify under the first protocol to the Geneva Conventions because it was not a state.

But the ANC had signed a declaration undertaking to abide by the protocol where liberation warfare was concerned

He said there was no division as such between the South African academic lawyers and the ANC The lawyers had listened to debate from international law experts who differed among themselves

The delegates later went on to discuss ANC constitutional proposals

Dr Van Zyl Slabbert, Director of the Institute for a Democratic Alternative for South Africa (Idasa), told the briefing that he considered the process of transition in South Africa to a non-racial democracy had already started The conference was called to discuss the role of the law in a society in transition

When asked how long he thought the transition period would last, Dr Slabbert said the end was "not around the corner"

Role of press

Among issues the delegates have been discussing has been the role of the press

Dr Slabbert said the feeling was that despite the severe restrictions, the press had a very important role to play in the transition process, as did Parliament

The meeting heard calls for the people themselves to be mobilised into committees or organisations to counteract actions of the State The people must be made aware of their rights

Dr Slabbert said it had been decided to hold the debates behind closed doors because it was felt that only in an atmosphere of confidentiality and privacy would delegates feel free to speak

'We have to work through the suspicions that exist when South Africans from inside the country first meet those from outside and the presence of the press is inevitably inhibiting," he said

Professor Reg Austin, dean of the law faculty at the Univeristy of Zimbabwe, said the gathering was essentially an academic one and would normally have been held in private

Dr Slabbert said the intention was to exchange ideas and look at possibilities, not take binding resolutions

The conference which is being attended by about 30 academic lawyers and half that number of ANC delegates, mainly from the movement's legal and constitutional departments, is due to end tomorrow

Winnie's house raided: 4 held

Cpt Times 22/2/89

Own Correspondents

JOHANNESBURG. — Four men who lived at Mrs Winnie Mandela's Diepkloof home are being held for questioning in connection with the death of "Stompie" Moeketsi James Seipei after police raided the home early yesterday.

A witness said the men taken by police were members of the Mandela football club

Bloodstained clothing, sjamboks, clubs, documents and other items were also taken, police said

In a related development, two people have been arrested in connection with the murder of activist Dr Abu-Baker Asvat and are expected to appear in a Soweto court today, police said

The police spokesman said he could not say if the two were picked up in yesterday's raids on several Soweto homes — including Mrs Mandela's — or had been arrested earlier

Break is total

Meanwhile, as the controversy surrounding Mrs Mandela and her bodyguards continues to grow, exile sources in London rejected the notion that there was a split between them and the "democratic forces operating within South Africa" over the affair

A weekend statement from the headquarters of the ANC in Lusaka called on anti-apartheid groups not to shun Mrs Mandela, even if she had made mistakes

The break by "progressive" organisations with Mrs Mandela is total, to the extent that in activist circles she is now called by her maiden name, Nomzamo Madikizela

The ANC statement, issued after a hectic two-day meeting chaired by ANC president Mr Oliver Tambo, also accused the South African government of infiltrating agents provocateurs among her bodyguards

Witnesses to yesterday's raid said police arrived at Mrs Mandela's home about 4am They said the last of the police left about 11am Major-General Jaap Joubert, who is heading an investigation into the Asvat and Stompie murders, was present at the raid

One witness said "lots" of police cordoned off the road and prevented several of the bodyguards from leaving

The witness said the bodyguards tried to leave but were caught

Police, including fingerprint and forensic experts, searched two rooms at the Mandela house which were used by members of the football club

To page

Inkatha offers apology to the Mandelas

LUNDI. — Inkatha's ...tral committee yesday resolved to apolo...se to the Mandela ... for the "unseemly ...haviour" of some ...ple, including the DF, in distancing them...es from Mrs Winnie ...la

Chief Mangosuthu ...helezi said the com...e made a plea for ... world to be "civi..." about the wife of jailed former ANC ... and to "presume ...ence until a person proved guilty".

The committee said it ...d the accusations ...ainst Mrs Mandela ... a deep sense of dis...

It asked the world to ...mber what it was for a young wife and ...ther to be isolated ...m her husband and to left isolated for 26 ...

The committee also re...d to "apologise to ... Nelson Mandela and ... Mandela for the un...ly behaviour of ... blacks, as shown by ... UDF's haste to dis... itself from Mrs ...dela in case they are ...d wrong by associa... with her". — Sapa ... Own Correspondent

P.T.O

Star 8/2/89 (18) 248 (28)

Forceful no to use of 'soft targets'

SA lawyers, ANC speak out on violence

By Robin Drew,
The Star's AFrica
News Service

HARARE — South African law professors took part in a "very vigorous but friendly debate" with the ANC just before the weekend over the use of violence to achieve a democratic regime

Newsmen were told at a briefing after last week's conference between the lawyers and the ANC that very strong opinions had been expressed against using soft targets in the armed struggle

Opposition to the use of soft targets was also expressed by the ANC

The view was expressed that the Afrikaner people had themselves taken up arms at one stage when they were trying to correct an injustice

Some speakers said they were opposed to the armed struggle but that they understood why the ANC had resorted to it

There was no attempt to seek a consensus

People spoke frankly, however sharp and discomforting their remarks might have been, because the atmosphere was such that it was possible to raise such matters, a conference spokesman told newsmen

The director of Idasa, Dr Frederik Van Zyl Slabbert, told the briefing that during debate on the ANC constitutional guidelines there had been general acceptance by the South Africans lawyers of the democratic principles contained in the proposals "No one took issue with them," he said

The conference, during which discussion centred on how lawyers could play their part in bringing about a democratic united South African state, ended on Saturday

For most of the lawyers attending the conference from universities throughout South Africa it was the first time they had met and debated issues with senior ANC officials

The ANC said it hoped the conference would result in a clearer perspective of what the legal fraternity could do in the struggle to end apartheid

Self-exiled Mokhehle 'will return to Lesotho'

Star 6/2/89

By Norman Chandler.

Maseru government and diplomatic

Group areas change welcomed by lawyers

Own Correspondent

CAPE TOWN — Lawyers for Human Rights has welcomed the change of emphasis on group areas announced by acting State President Chris Heunis during the opening of Parliament on Friday.

Spokesman Churton Collins said the fact that government intended to scrap the controversial Group Areas Amendment Bill, with its heavy penalties and powers to evict transgressors, meant people would have more chance to choose where they wanted to live in future.

However, the move was "light years" away from the abolition of the Group Areas Act.

IP leader Denis Worrall said Heunis had been vague on group areas and had said nothing about the Separate Amenities Act whose repeal was long overdue.

Durban Central Residents' Association chairman Iqbal Mohamed called for the immediate suspension of the Group Areas Act, saying right-wing extremists would continue to prevent people from exercising their basic rights because of the existence of discriminatory laws.

Green Point MP Tian van der Merwe welcomed the scrapping of the amendment Bill, calling it "a very obnoxious Bill which will cause enormous agony in people's lives if it is implemented".

ANC SAID TO BACK WESTERN-STYLE GOVT

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MICHAEL HARTNACK

HARARE — ANC legal and constitutional experts have reportedly told top SA lawyers and academics they plan a Western-style state, resting on a separate executive, legislature and judiciary.

The ANC experts also reportedly implicitly rejected the traditional Eastern Bloc model subjugating all institutions and individuals to the party and politburo

During closed session talks between the ANC and a delegation of leading SA legal brains last week, the outlawed organisation also committed itself to an independent bench of judges and a bill of rights which would protect SA's minorities Another pledge involved the retention of a mixed economy

Conference sources said the South Africans were told the ANC had reached the same conclusion as the 1909 (1909) Selborne Commission, which led to the formation of the Union of SA, that a federal structure was undesirable.

The ANC would back a constitution which would make no references to races or population groups but would defend human rights in all forms and hence protect whites while permitting the redestribution of land and the eradication of inherited economic injustice.

Idasa co-director Van Zyl Slabbert said the discussions had illustrated the ANC's proposals were a valuable contribution to debate on SA's constitutional future

ANC has vital role — SA lawyers

South 9-15/2/89.

From MONO BADELA

HARARE. — The five-day conference between South African lawyers and the ANC's legal and constitutional affairs department ended at the weekend with a general acceptance that the ANC's constitutional guidelines form a basis for negotiations for a democratic South Africa.

The 30 South African lawyers, including professors of law from leading universities, publicly recognised as "an undeniable fact" the stature of the ANC and its vital role in negotiations to end apartheid

During the conference the lawyers — predominantly Afrikaners — also discussed with leading ANC members other issues such as "hard



ANC's Thabo Mbeki

and soft" military targets, the status of ANC guerillas, and what would happen if the existing legal system goes through a period of transition

"The Role of Law in a Society of Transition" was the theme of the conference.

According to a statement released at the close of the conference the meeting's high point was the consensus reached on the need for a new constitutional order, a Bill of Rights and an independent judiciary

"Recognising that the ANC represents a substantial constituency within South Africa and must therefore essentially be included in the proceedings for change, the participants commended the ANC for putting forward for discussion its draft constitutional guidelines for a democratic South Africa.

"These guidelines were indispensable in reaching consensus reached," according to a statment realeased afterwards

Emphasis was placed on the need for the creation of a united, democratic and non-racial state based on a universal franchise and a



Idasa's Van Zyl Slabbert

multi-party political system

It was unanimously agreed there was a need to create conditions in which all South Africans would enjoy full and equal political, economic, social and cultural rights

Delegates agreed that the legal community had a responsibility to participate in bringing about an end to apartheid, which they described as the "fundamental cause" of the crisis in South Africa.

"The conference stressed the urgency for a negotiated end to apartheid and recognised as an the vital role of the ANC in this process

"The participants emphasised that the unbanning of the ANC and other political organisations and persons, the release of all political prisoners, the return of all the exiles and the simultaneous cessation of all violence by the state and all other parties involved are essential in this regard," the statement said

An ANC spokesperson said the meeting had not been organised to seek a consensus on what South Africa's future constitution should be like

"It was an opportunity particularly for people who were meeting the ANC for the first time to pose questions "

The director of the Institute for a Democratic Alternative in South Africa (IDASA), Dr Frederick van Zyl Slabbert, said the conference had shown that the majority of South Africans were in favour of a democratic type of constitution

The appearance of top ANC lawyer Professor Albie Sachs at the conference was an emotional one for participants on both sides Sachs had lost an arm in a car-bomb attack in Maputo last year

Bush urged to stop Unita support

HARARE — Delegates attending an ecumenical symposium on war and peace in Southern Africa have called on the United Nations to investigate attempts by the South African government to privatise existing public services in Namibia during the run-up to independence.

The delegates also called on the Bush administration to cease its support for Unita so that peace could be re-established in Angola "on the basis of clemency and national reconciliation".

The symposium, organised by the Ecumenical Documentation and Information Centre for Eastern and Southern Africa, heard of moves by the SADF forces in Namibia to sell off social facilities and public institutions to private interests.

In the resolutions adopted during the four-day symposium, delegates called on the international community to pressure South Africa from taking any decisions during the pre-independence period that might "deny the Namibians the opportunity to fully realise their right to self-determination".

The symposium also called on the ecumenical movement to send observers to Namibia during the transition period to ensure that elections would be free and fair as laid down in UN Security Council Resolution 435.

Churches within the Ecumenical Movement and the international community were called on to demand of General Dr Perez de Cuellar that he not reduce the Untag force.

Lawyers start solidarity fast

B/Day 10/2/87 (248)

THEO RAWANA

POLICE confiscated a file belonging to one of 42 lawyers at Johannesburg's Central Methodist,Church yesterday at the start of a 48-hour fast in solidarity with detainee clients.

Group spokesman Kathleen Satchwell said Capt Van Huysteen of the Security Police took the file from her.

She added he claimed it contained material useful in an investigation.

The lawyers, who had ealier gone to Johannesburg Prison hoping to meet Law and Order Minister Adriaan Vlok, said they were embarking on a fast "in solidarity with all detainees and especially those on hunger strike".

They added they shared the frustrations of clients who had exhausted every legal option.

"We have become extremely concerned at the mental, psychological and physical deterioration in our clients over the months and years of their prolonged and continuing detention without trial. . . . We condemn detention without trial. We demand release of our clients."

The lawyers said seven detainees had been admitted to Hillbrow Hospital and were being fed intravenously.

Sapa reports Vlok said yesterday

● To Page 2



Local and foreign newsmen at a media conference yesterday during which 42 lawyers said they were starting a 48-hour fast in support of their detainee clients on a hunger strike. Police confiscated a file belonging to one of the lawyers at the conference in the Central Methodist Church, Johanneesburg. Picture ROBERT BOTHA

Lawyers start detainee solidarity fast

B/Day 10/2/87 248

● From Page 1

there were no grounds for complaints about the circumstances of hunger-strike detainees nor their physical needs and treatment

He added authorities were committed to dealing with the situation in a humane and civilised manner.

The hunger strike was orchestrated from outside the prison to co-incide with the present session of Parliament, Vlok said.

The Human Rights Commission said Vlok, having acknowledged he was personally responsible for every detainee, "ought to be ashamed of himself"

It added: "The state is not threatened by these hunger strikes."

NOW IT'S LAWYERS

Sowetan 10/2/89 248

Legal representatives join hunger protest



A GROUP of more than 43 lawyers representing emergency detainees at Diepkloof Prison embarked on a three-day fast at noon yesterday.

The lawyers will fast until noon tomorrow when they will hold a protest meeting at the Central Methodist Church.

At a Press conference in Johannesburg lawyer Ms Kathleen Satchwell read out a statement on behalf of the hunger strikers.

No trial

"We are lawyers who represent in excess of 100 persons who are presently incarcerated in the new Johannesburg prison (Diepkloof).

"All of our clients have spent months and even years imprisoned as detainees without being brought before a court of law and prosecuted on any criminal charges.

"We understand that at the present time the majority of the detainee population at the new Johannesburg prison refuses to partake of

● To Page 2

REPORTS, pictures and comment in this edition may be censored in terms of the Government's state of emergency.

Twins doing well

Ms MARIA Diadia is seen with her Siamese twins, Thandiwe and Thandeka Sithole. According to Baragwanath Hospital, where the twins are being cared for, they are both doing well. Their mother is with them. The first series of tests revealed that the babies had separate brains although subsequent tests would be conducted to confirm the initial results.

MORE PEOPLE TRUST THE BRAND OF BLACK HAIR CARE PRODUCT THAN ANY OTHER



Sof'n Easy

THE BEST HAIRCARE IN THE WORLD

Lawyers join protest

• From page 1

food, vitamins, or medication and drink only water, supplemented by salt and sugar.

"Some of our clients have now been without food for a period of 17 days.

"As lawyers we have represented some of these detainees over the past two-and-a-half years. In many instances 'reasons' have not been supplied for the continuing detention of our clients. Where these 'reasons' have been supplied, they have been unsatisfactory.

"We ourselves have become extremely concerned at the mental, psychological and physical deterioration which we have observed in our clients over the months and years of their prolonged and continued detention without trial.

"The South African legal system has failed our detainee clients and it has failed ourselves as lawyers.

"We condemn detention without trial and demand the release of our clients.

"We are confident that our professional responsibilities require these actions of us and know that we have the support and commendations of many of our colleagues in all branches of the legal profession."

Before the Press conference yesterday lawyers gathered at the Central Methodist Church to discuss their fast. Ms Satchwell said that police interrupted this meeting and requested to be present.

She said: "It would seem the legal system and practice of law is in a powerless state."

Among the lawyers fasting are Kathleen Satchwell, Priscilla Jana, Krish Naidoo, Azhar Cachalia, Prakash Diar, Chris Watters, Chris Plasket and Firoz Cachalia.

• The Minister of Law and Order, Mr Adriaan Vlok, said yesterday there were no grounds for complaints about the circumstances of hunger-strike detainees and their physical needs and treatment.

He said in a statement that the authorities were committed to dealing with the situation in a humane and civilised manner as prescribed by international norms and standards — Sapa.

Lecturers' pay at the back of the field

ST Times 14/2/89

248

THE only way to stop South Africa from sliding slowly into decay, it has been said on numerous occasions, is to educate the workforce.

Institute of Personnel Management executive member Willem de Villiers expresses concern at the way in which education is still being handled

Mr De Villiers writes in the IPM journal that the Government's ad hoc handling of education and the lecturing profession is causing irreparable harm to SA's ability to produce high-level manpower

He lists four problems

- The financial remuneration package of especially lecturers has fallen so badly in the past few years that even the recent adjustment of 23,5% will not rectify the problem,
- As a result of high income tax, increasing prices and interest rates, there has hardly been any improvement in the educationist's real financial position,
- The relative position of the university lecturer compared with that of the rest of the teaching fraternity has not been addressed The so-called 7% vocationally directed adjustment is too restricted to improve the backlog that the lecturer experiences in relation to the rest of the State sector;
- What is of particular concern is that for universities to pass on the salary adjustments to their employees, they would have to find a large proportion of the money themselves The Government has not increased the subsidies of universities

"In these circumstances it is not strange that universities still lose staff to the private and public sector and particularly experience problems in attracting suitable staff in certain disciplines, such as engineering, commerce and administration

TIGHT

"As a result of the tight financial position universities are in, it is becoming an ever-increasing problem to acquire the necessary hardware, laboratory equipment, books and magazines so necessary for research and a high standard of education"

Mr de Villiers says there is an urgent need for a review of education in SA as a whole The review should cover the priority that education should enjoy, the many Government departments which are involved in education, the entrance requirements of universities, the manner in which they are financed and the remuneration package of the teaching profession

BASIC

"A recent independent study found that with regard to basic salaries alone, university lecturers should receive a minimum of a further 20% adjustment for their salaries to be market-related in any way"

Boesak joins, ready to 'fast to death'

Vlok to meet lawyers over hunger strike

Star 14/2/89 248

Staff Reporters

About 16 lawyers representing detainees involved in the national hunger strike at Diepkloof Prison, today flew to Cape Town for a meeting with the Minister of Law and Order, Mr Adriaan Vlok.

Another group of lawyers, including Ms Pricilla Jana, will fly to Cape Town tomorrow for a meeting with Mr Vlok

Mr Vlok agreed yesterday to meet the lawyers as the hunger strike by nearly 300 emergency detainees around the country entered its 21st day It started at the Diepkloof Prison in Johannesburg

About 170 emergency detainees at Diepkloof have refused to eat in protest against their continued detention A total of 21 has been admitted to hospital.

The hunger strike began 22 days ago when some detainees challenged the Minister to charge them in court or release them

Lawyers interviewed by The Star before their departure from Jan Smuts Airport said it was significant that Mr Vlok finally agreed to meet them

A spokesman for the Minister's office said it started making appointments soon after Mr Vlok's announcement that he was willing to see them They would come along in groups and as individuals

A meeting between Mr Vlok and a church delegation led by Archbishop Desmond Tutu has also been arranged It will take place on Thursday A spokesman for the archbishop said it was taking place at his request

Members of the families of four detainess are flying from Johannesburg to Cape Town today in an attempt to have an interview with Mr Vlok

The lawyers pointed out the detainees whose plight was to be discussed with the Minister were the lucky ones who could afford representation

"What about the many others who cannot afford legal representation?" they asked

Mr Vlok stressed in a statement yesterday that the meeting formed part of a continuous process during which the circumstances of each emergency detainee were considered regularly

BBC interview

Dr Allan Boesak, president of the World Alliance of Reformed Churches, who has begun an indefinite fast in solidarity with detainees on hunger strike, has told Britons that he is prepared to die

In a BBC telephone interview, he said "My doctor has explained to me the consequences of this and I

Gazing in a V



About 170 emergency detainees at Diepkloof have refused to eat in protest against their continued detention A total of 21 has been admitted to hospital.

The hunger strike began 22 days ago when some detainees challenged the Minister to charge them in court or release them

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In a BBC telephone interview, he said "My doctor has explained to me the consequences of this and I have thought about it and I think yes The situation is so serious and other people are already there with their lives on the line If I take this action then I must be prepared to go through with this, yes"

Dr Boesak said he embarked on the hunger strike because he could not stand by watching those struggling for justice starving to death

In a letter to Mr Vlok, Dr Boesak said "None of us wish to die But if that is the road we must take to make you and your government understand the evil of your ways, we will take it"

Other developments yesterday included

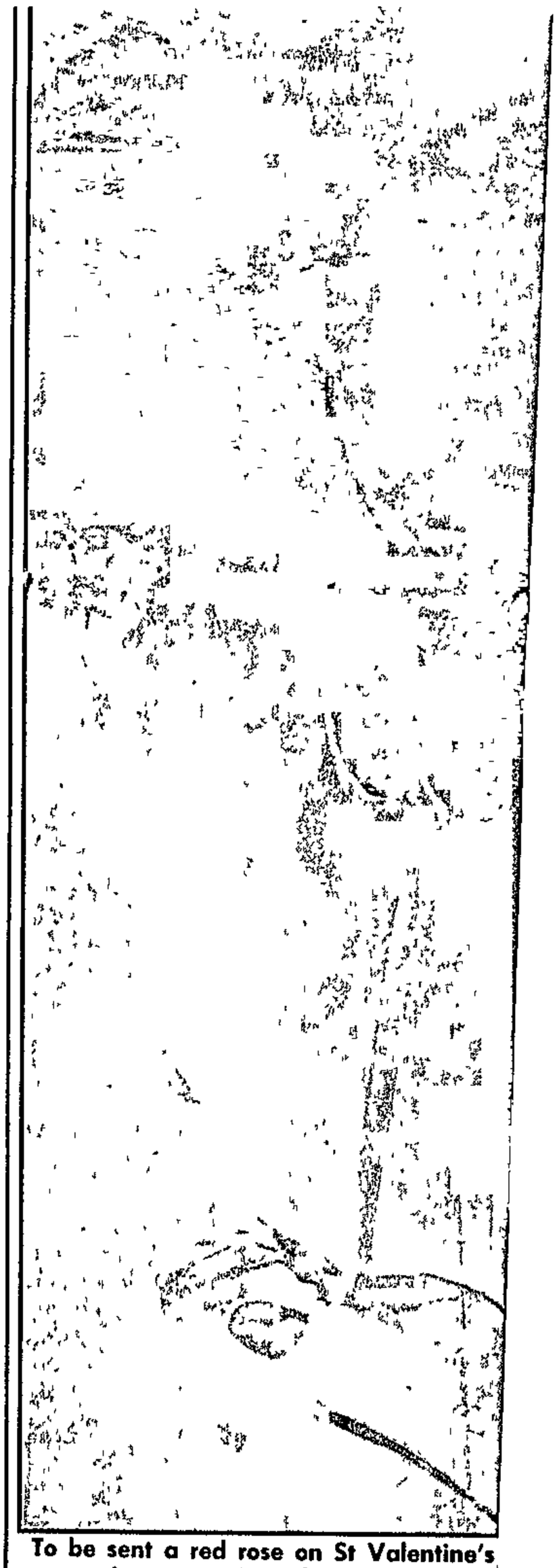
- Scores of journalists will begin a two-day solidarity fast from noon today, said statements by the Western Cape and Transvaal branches of the Association of Democratic Journalists

"In fighting for their release, the detainees on hunger strike are fighting for the rights of South Africans to freedoms denied them This includes freedom of speech As journalists, we hold this right dear," the statements said

- Mr Jasper Walsh, PFP MP for Pinelands, speaking during the mini-Budget debate, said the Government should appoint an independent judicial inquiry into the hunger strike
- The South African Council of Churches said "Mr Vlok must not talk of the hunger fast 'threatening' the State How can people locked up in jail be a threat to the State?

"The issue to be faced is the release of detainees, not conditions in prison This crisis would never have arisen but for .. detention without trial"

- Dr F E Auerbach, vice-chairman of Jews for Social Justice, said "In the name of justice we call on the Government to act speedily to avert a national crisis and personal tragedies that would be etched forever into the history of our country"



To be sent a red rose on St Valentine's romantic expectation of most young la 17-year-old Bronwyn MacNamara's eye the spirit of St Valentine's Day, which v romantic verse, greetings cards and cuddl

Lovers letting it all ha

By Joe Openshaw

Lovers let it all hang out with doggerel, poetry, blank verse, lyrics and intimate terms of endearment best confined to love nests — or the nursery — in Valentine's Day messages which appear in 11 columns of classified advertisements in The Star today.

And there is evidence that the language of love is universal with messages couched in English, Afrikaans, Portuguese, Greek, French — and one which may well be Scanderuvian *"Gerasimos — Se agapo pol — from Koekla Sou"*

There was a messa
Pie and baby talk nam
rations of love from
Rubbish, Puppy and
likes of Bidi, Ninniki
and Snookie Dearest
Big Prince Al with a
Tennyson's "Charge o
gade" Mine's not to re
but to do or DI"

Most intriguing is
world is made privy t
as "Colin Atkinson –
eyes sparkle, my toes
do some great stuff to

Hope for many detainees after lawyers' discussions with Vlok

Staff Reporters

Scores of detainees on hunger strike could be released soon, following intense discussions yesterday between Minister of Law and Order Mr Adriaan Vlok and six legal firms representing about 70 of the detainees

It is expected that about 90 percent of those detainees for whom representations were made could be released — although probably not at the same time

Official sources say the main reason for releasing them is that they have indicated that they will no longer get involved in the activities for which they were detained

No one will be released who is still on hunger strike They will first have to be rehabilitated and declared medically fit

RELEASED AT WEEKEND

Two detainees who had been on hunger strike in Kimberley Prison, have already been released at the weekend after abandoning the hunger strike

They are Mr Simon Mnyaka and Mr Liyanda Daniel Tom

Mr Vlok also released 17 other detainees from around the country yesterday

But this was unrelated as they were not on hunger strike, according to Mr Vlok's office

Ms Kathleen Satchwell, a lawyer representing about 25 of the striking detainees, said the group of lawyers had been given the opportunity to go through the file of each detainee at great length with Mr Vlok and his advisers

"We were able to discuss each detainee in some detail We feel we have been able to give Mr Vlok further insights and new information on a number of detainees"

Eight more Johannesburg lawyers — including Mrs Priscilla Jana and Mrs Winnie Mandela's former lawyer, Mr Krish Naidoo — representing more than 170 emergency detainees on hunger strike today flew to Cape Town for a meeting with Mr Vlok

- The United States has called on the South African Government to bring detainees to trial or release them
- The synodal boards of Holland's two Reformed churches have combined to send a telegram to President Botha to express their "utmost shock and alarm" over the hunger strike
- The Star's London Bureau reports that five former South African political prisoners yesterday started a 24-hour fast outside the South African Embassy in Trafalgar Square in solidarity with the detainees

Those fasting include Ms Shanthie Naidoo, the adopted granddaughter of Mahatma Gandhi — himself once a detainee in South Africa, co-founder of the Port Elizabeth Civic Association Mr Thozamile Botha, former trade union organiser Mr Sipho Pityana and Alexandra youth activist Mr Pule Nape

- Members of 19 organisations in Natal, representing several thousand people, have decided to fast today to demonstrate their concern for the detainees

Arthur Young fined R90 000 for advert

B Dart 16/2/88 (248)

KAY TURVEY

ACCOUNTANCY firm Arthur Young has been fined R90 000 for contravening the profession's advertising codes by publishing a corporate survey in the Financial Mail last year

Seven management committee members and two partners directly involved in the survey were fined the maximum of R10 000 each yesterday, after the Public Accountants and Auditors' Board (PAAB) disciplinary committee found them guilty of soliciting publicity

All 58 of the firm's partners were found guilty of contravening the rule relating to soliciting, but disciplinary action against the remaining 49 partners would be decided on April 25, said Arthur Young chairman Tom Wicksley

The publication of the survey was seen as pre-empting the profession's moves to relax its codes on advertising All firms have been canvassed on the issue and a decision is expected at the SA Institute of Chartered Accountants meeting on April 27

The groundswell of opinion in the profession is in favour of relaxing the stringent codes

A partner in one of the major firms called the fines "small beans, given the mileage Arthur Young has got out of it"

PAAB chairman Bev Humphries said he was forbidden by statute to comment on the board's findings The board may comment only in the case of a suspension or deregistration

Arthur Young case disputed

FINANCIAL Mail editor Nigel Bruce said yesterday he planned to take up with the Competitions Board the Public Accountants and Auditors Board (PAAB) ruling on the Arthur Young corporate survey published by his magazine last year

He said he regarded the board's ruling as a restrictive practice which prevented the media from reporting on legitimate businesses.

On Wednesday, the PAAB's disciplinary committee found all Arthur Young's partners guilty of contravening the profession's codes relating to the soliciting of business and nine of the 58 partners were fined R10 000 each

Bruce said he believed the board had gone out of its way to penalise the firm and make an example of the partners. Bruce also said the PAAB had never approached the Financial Mail or asked for its evidence during the inquiry

Arthur Young had not paid for, or advertised in, the survey. It had merely co-operated with Financial Mail interviewers

● To Page 2

BUSINESS Day incorrectly reported yesterday, under the headline "Arthur Young fined R90 000 for advert", that accountancy firm Arthur Young had been fined for contravening the profession's advertising codes by publishing a corporate survey in the Financial Mail The Public Accountants' and Auditors' Board finding was in fact that, in allowing publication of the report, all the partners were guilty of contravening the rule relating to soliciting The error is regretted

KAY TURVEY

FM to contest ruling on Arthur Young

● From Page 1

Asked whether the magazine would go ahead with a corporate survey on accountants Arthur Andersen, which is planned for May, Bruce said the survey was likely to be finalised closer to the time However, if it went ahead it would be conducted on the same basis, with Financial Mail reporters examining the business, interviewing the practioners and publishing their reports

The SA Institute of Chartered Accountants is canvassing accountants on whether to relax the profession's stringent codes relating to advertising A decision is expected to be reached late in April If the SAICA decides to drop the restrictions on advertising it will do so in consultation with the PAAB

PAAB chairman Bev Humphries said he was unable to comment on the matter, or Bruce's intention to refer the matter to the Competitions Board

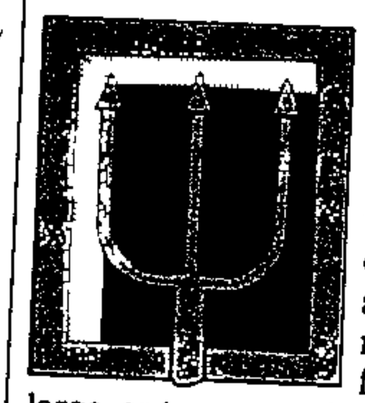
An Arthur Young spokesman said the firm did not wish to comment further

(248)

ARTHUR YOUNG

Accounting lords lash out

■ Punitive fines for 'soliciting' will solve nothing



The Public Accountants and Auditors Board (PAAB) is an august statutory body that presides over the conduct of chartered accountants Whether it does so for the benefit of the public at large, or to protect the special interest of the profession, is a matter open to question after the events of last week surrounding leading auditor Arthur Young

This firm, among the top eight in the world, has been heavily fined for alleged breach of the board's rule on soliciting In consequence, nine of its partners have been fined R10 000 each and if all the 58 partners are treated with the same severity later this month, it will end up paying more than R580 000 Among the ironies of the situation is that Arthur Young is paying the price not of its own satanic verse, but the *FM*'s version of it For Arthur Young's blasphemy is that it was prepared to tell the *FM* about its business This was published by the *FM* in a supplement on November 11 last year

It was written entirely by an *FM* writer Advertisements in the supplement were sold by our team of *FM* salesmen and Arthur Young itself was not an advertiser Other than being the subject of the supplement, Arthur Young had no pecuniary interest in it whatsoever

The supplement dealt with the changing nature of the business of this leading firm, its approach to auditing, the spread of accounting and business consulting services into which it has diversified, and its attitude to taxation, on which it also advises It is a story of the successful diversification of a firm that has been in existence for 138 years

In short, it fits well into the type of business coverage that the *FM* has offered its readers for the past 30 years

Moreover, some of the information used by the writer was provided from sources other than Arthur Young For Arthur Young's success is well known to its competitors and customers Very little of what was published was available only from the partners who are now being penalised

But even had Arthur Young advertised, it would not have been the first time it had done so, as the advertisement reprinted on this page demonstrates — an ad placed in the *Government Gazette* of 1850 by E J M Syfret, the founder of Arthur Young *Plus ca change*

It was after 1850 — after Syfret's ad, that is — that the accountants and auditors banded together to formulate the idea, subsequently become sacred writ, that it was against the public interest for chartered accountants (CAs) to advertise or solicit

Last week, the PAAB's disciplinary committee found all partners of Arthur Young guilty of contravening the PAAB's rule relating to soliciting Nine partners (Arthur Young's management committee and two other "directly involved" partners) were each fined R10 000, a decision on fines for the balance of the 49 partners — due on April 25 — has been delayed until evidence in mitigation has been given

The other irony is that day is only two days away from the scheduled date on which the profession will take another step towards considering whether it should follow the example of accountants in every other Western country and abolish the soliciting rule

It is common knowledge that SA is the last country in the world with a professional corps of CAs with First World qualifications where rules relating to advertising and soliciting have not been relaxed It's also common knowledge that the SA profession is constantly seeking views on *when* such rules are indeed to be relaxed — not *if* Nevertheless, the committee saw fit to impose the maximum fine The heaviest fine imposed by the PAAB in the past five years amounts to a mere R700 — R10 000 is way off that scale

And if Arthur Young is guilty of soliciting, is it in the public interest that it is tried in secret, found guilty, and fined by a five-man committee comprised of its competitors? Four are members of the "Big Eight" accountancy firms Brian Stokoe (Pim Goldby), Bertus Truter (Theron du Toit), Rod McIntosh ((Pim Goldby), and Sander van Maaren (Coopers & Lybrand) The fifth, Steve Ochse (chairman), is in public practice with Wiehahn Meyernel, and is also a member of the PAAB

It can be argued that one of the reasons Arthur Young "solicited" (which the *FM* disputes) was to gain advantage over its competitors It is, therefore, unsatisfactory that the committee's decision was handed down by CAs who are — in their personal capacities — competitors of Arthur Young Neither the PAAB, its chairman Bev Humphris, nor the committee are prepared to comment on the point, indeed they have all refused to comment at all

According to the latest committee report (for 1987) 86 allegations of improper conduct were referred to the committee Most of these complaints were dismissed In 21 cases (19 relating to advertising) the practitioner was found guilty and *cautioned* In five cases fines were imposed Three, involving the same practitioner, related to a failure to perform with due care and skill (a total of R1 300 in fines), and that was probably the "worst" transgression of which a CA, in that capacity, can be found guilty In one soliciting case the practitioner was fined R100 "and reprimanded as well" All of which is a far cry from the R10 000 for each of Arthur Young's partners

Surely in a case like this the profession should be zealous to insure that there is no possible perception of a conflict of interest and should have appointed a committee comprising solely those members of the PAAB co-opted from government (see **table**) These five — Joop de Loor, Clive Kingon, Theo van Wyk, "Mossie" Janse van Rensburg and Gert Volschenk — have no conflict of interest relating to any charges that a CA has advertised or solicited for the main, if not

SUPPLEMENT to the Government Gazette and Trade List, March 28, 1850.

THE Undersigned begs to notify that he has established himself in this City as AGENT and ACCOUNTANT, in which capacities he solicits the support of his friends and the public. Strict attention will be given to communications, (post paid) from the Country.

E. J. M. SYFRET.

Office, in Long-market-street,
Between St. George's street and Market-square.

Syfret's 1850 ad



PAAB chairman Humphris ... a flat 'no comment'



Government PAAB nominees (L to R): Kingon, De Loor, Van Wyk ... no special interest

sole, reason of gaining competitive advantage

The reasons for the committee's decision on Arthur Young may never be publicly known But some facts preceding the committee's decision are known For example, selected journalists (among them an *FM* writer) were individually invited to meet two executives — one from the PAAB, the other from the SA Institute of Chartered Accountants (SAICA) for a briefing Normally regular briefings are held with all members of the media present at the same time

At this briefing, a document called "Notes for the media on the marketing of the profession" were handed to the journalists and in the case of the *FM*, the writer, after being questioned on another corporate supplement, was asked if he "knew he was helping members of the profession to break the rules"

One of the officials added that Arthur Young had been contacted by SAICA and/or the PAAB a week before publication of the *FM*'s survey, and warned it could constitute a possible contravention of the profession's rules

These media briefings were held on February 2 and 3, ahead of the Arthur Young hearing on February 14 Before that, on January 23, SAICA suddenly asked Arthur Young to resign as its auditors Of the 16 members of the SAICA council, one, Prof Jerry Steele of Wits, said that if there were any publicity on the matter, his opposition to the request for Arthur Young to resign should be noted He told the *FM* he did not believe that Arthur Young was given any hearing and that the matter was heard prior to the disciplinary committee meeting (This does not imply that the vote went 15-1)

Arthur Young has been SAICA's auditors since it was formed in 1980

A final irony is a document currently being circulated in the profession by SAICA "DP (Discussion Paper) 9" says that the council of SAICA "considers that the public interest is best served by relaxing restrictions on advertising because the public will be better informed on the opportunities which exist to obtain diverse financial services from professional firms"

Furthermore, SAICA has for some months been carrying media advertisements *for the profession as a whole*

To extract the maximum fine from the Arthur Young partners makes no sense in the light of these liberalising moves

Government, which is pursuing policies of deregulation and privatisation, must be bemused by the committee's findings After all, auditors have statutorily guaranteed income from auditing work — they are protected by regulation And the committee's finding confirms, more than anything else, the profession's "closed shop" status — an acknowledged impediment to deregulation and a blatant restrictive practice

The effect of the committee's finding will be to seek to prevent the media from reporting on a legitimate business activity In past years, the *FM* has conducted numerous interviews with CAs — and published articles based on such meetings In our experience it is unknown for a CA in such a case to ask for his name, and the name of his firm, to be excluded from the article For all practical purposes the soliciting rule is in limbo

On the facts, it is near impossible for the *FM* to distinguish between such articles and the Arthur Young supplement

Moreover, elsewhere in this edition, the *FM* publishes an interview conducted in Johannesburg with Jim Taylor, international auditor Ernst & Whinney's US marketing director (see ***People***) that should in the committee's view now be classified as soliciting It will be interesting to see what action — if any — it feels able to take Taylor believes that "marketing in any industry, including accountancy, makes the industry more effective Marketing has improved the performance of accounting firms and other industries because it focuses on the customer"

The PAAB and SAICA have acted contrary to this spirit — which reflects worldwide trends It is difficult not to believe that a rather clumsy and blunt attempt is being made to protect a system of fee-fixing and restricted entry on which the profession has thrived since the last century, but which has become an actual impediment to the development of the freer economy in which resources are allocated more efficiently by competitive forces ■

PUBLIC ACCOUNTANTS' AND AUDITORS' BOARD

Practitioners	Firm/Co/Institution	Nominated By
Steve Ochse	Wiehahn Meyernel	Tvl Society
Kobus Scheepers	Theron du Toit	Tvl Society
Willem Wilken	Theron du Toit	Cape Society
Sander van Maaren	Coopers & Lybrand	Cape Society
Peter Purnell	Aiken & Peat	Natal Society
Gavin Brown	Deloitte Haskins & Sells	Natal Society
Prof Adolph Joubert	Univ — OFS	OFS Society
Bev Humphris	Pim Goldby	Minister of Finance
Academics		
Prof Keith Prinsloo	Univ — Natal, Durban	Committee of Univ Principals
Prof Johan Matthee	Univ — Stellenbosch	Committee of Univ Principals
Government Departments		
Dr Joop de Loor	Auditor-General	Minister of Finance
Clive Kingon	Commissioner Inland Revenue	Minister of Finance
Theo van Wyk	Registrar Financial Institutions	Minister of Finance
Mossie Janse van Rensburg	Registrar of Companies	Minister of Finance
Gert Volschenk	Chief Master of the Supreme Court	Minister of Finance

PAAB Disciplinary Committee

Practioners		
Steve Ochse	Wiehahn Meyernel	PAAB
Brian Stokoe	Pim Goldby	PAAB
Bertus Truter	Theron du Toit	PAAB
Rod MacIntosh	Pim Goldby	PAAB
Sander van Maaren	Coopers & Lybrand	PAAB

Sue now! While prices last!
(Should lawyers advertise?)

Lawyers meet next week to debate whether their profession should break a hallowed rule and allow advertising. Not in the brash, American style, but within limits set by a code, reports CARMEL RICKARD

THE man in front of the car crash has a microphone concealed in his lapel

"If you are the victim of a tragedy like this," he tells the television cameras while his name and phone number flash across the screen, "come to me and I will get you the best compensation"

South African lawyers opposed to the idea of legal advertising probably have this kind of advertisement in mind when they complain a change in the advertising rules will "lower the tone of the profession".

The advertising question is on the agenda of the 50th anniversary meeting of the Association of Law Societies to be held in Cape Town from February 26 to 28, but the kind of advertisement favoured by those backing a change in the rules is very different from the American travesty.

"We believe there is a need for the profession to change itself, without damaging itself," said one attorney "And that means clearly regulated advertising in good taste which will be informative and offer a service to the public"

Durban lawyer David Asherson is a member of the Natal Law Society's sub-committee investigating the issue of advertising, and a persuasive convert to the idea

He said this week that the issue of advertising by attorneys first began officially at national level last March, although there had been informal talk about the idea for some time.

He said when his committee were investigating the issue, they took into account the fact that advertising by lawyers was accepted in most Western countries, that accountants were "looking at the issue" and that general practitioners in the United Kingdom would shortly begin to advertise their services

David McQuoid-Mason of the Law Faculty, Natal University, Durban, said he believed advertising would be of great benefit to the consumer

He quoted from surveys which showed there was a general ignorance on the part of the public regarding legal rights and access to the law

"Although the work of the Law Clinics and the Legal Resources Centres is important, there is merit in the argument that advertising would be a much more effective method of giving people access to justice."

He said there could be little doubt that the consumer would benefit.

"The average person in the street does not know where to get an attorney. Nor do people know which attorney to consult for the kind of work they need done

"Experience in the USA and Britain has shown that people have benefitted from it"

He suggested that if the law association did approve advertising, it would be advisable from the consumers' point of view for the professions to be made subject to the prohibitions against misleading advertising contained in the Trade Practices Act.

McQuoid-Mason said he would favour "anything increasing the accessibility of the law and the legal profession"

He is among a growing number of lawyers who favour advertising which is coupled with regulations along the lines of the British "code". This forbids, for example, unsolicited visits and phone calls and lays down that publicity must not be inaccurate or misleading in any way.

There may be no comparisons or criticisms of services offered by other attorneys and no publicity may refer to an attorney's success rate

Apart from the argument that advertising would lower the dignity of the profession, opponents also say that smaller practices would not be able to afford advertising, thus giving the larger firms an unfair advantage.

Researching this argument, Asherson's committee discovered that in those countries where advertising is allowed, it tends to be the smaller, one-person practices which advertise, rather than the older-established and "establishment" firms

If the Association of Law Societies was to approve in principle the idea of advertising, the matter would be referred back to the four provincial law societies They in turn would probably begin a process of consulting their members before making a final decision

The kind of advertising likely to be given the go-ahead would contain the practitioner's name and address and describe the kind of work done by the firm — criminal defence, conveyancing, divorce, marriage contracts, maritime law, tax or wills It might also give some idea of the costs involved

One attorney said lawyers were expected to operate in the business environment, but without being able to use the "tools of this environment" to conduct their business

As the two sides square up for the debate next week, what will be in the minds of many is the fact that advertising of a kind is happening already

Large, established firms bring out "informational" brochures dealing with current legal issues likely to be of interest to their existing corporate and upmarket clients

These brochures sent to clients, and then circulated among an influential set, act as invaluable "advertising" for the firm of a kind that smaller practices could never hope to match

If advertising is approved for the profession, smaller firms may be able to reach their own potential clients with something of the efficiency of their more established counterparts

(248) FMML 24/2/89

Avenues of appeal in decay

Lawyers are not, as a rule, given to making extravagant claims So their recent criticisms of the "supine" performance of the Appellate Division (AD) deserve to be taken seriously The criticism focuses particularly on the stultification of judicial review, which is the chief means of seeking legal redress against executive action

When the legislature grants powers to an individual or body, these are normally granted conditionally To exercise these powers when the said conditions do not pertain is to act *ultra vires* — "outside your powers" Grounds for judicial review are normally some or other species of *ultra vires* Insofar as *ultra vires* represents the courts' efforts to discern and implement the intent of the legislature, the doctrine is the courts' way of recognising the sovereignty of parliament

Under the State of Emergency, there has been a massive accretion of powers to the executive, allowing it to make laws by regulation and decree Normally the legislature makes laws, and there is at least notional accountability since its members are elected With the legislature having delegated its powers to the executive, a heavy burden falls on the judiciary to harmonise this executive law-making with the requirements of the Rule of Law

The nub of the current concern is that recent AD cases have the effect, in Justice Didcott's words, that "the capacity of the courts to assert and protect the Rule of Law in that situation is so attenuated as to be, for all practical purposes, insignificant" Nicholas Haysom and Clive Plasket have written, in the *South African Journal of Human Rights* (SAJHR), of how the Rabie court "has actively and determinedly reshaped our jurisprudence so as to grant the greatest possible latitude to the executive to act outside conventional legal controls"

There is particular concern about two judgments delivered by the AD in September last year S vs Release Mandela Campaign (RMC) and S vs UDF

The RMC case concerned a notice given by the Commissioner of Police, purporting to exercise powers conferred by the emergency regulations, which basically prohibited any form of protest which sought the release of a detainee Professor Etienne Mureinik of Wits notes that "what was special about this notice is the way in which it contrived, in a single thrust, to attack both the right of free speech and the right to personal liberty" He asks how much further the authorities can go "than when they suppress the liberty to talk about the denial of liberty"

The court upheld the validity of the notice, resisting the avenues open to it to strike the notice down The implications of this decision for the judicial process seemed to escape the judges For, as Mureinik points out, "detention without trial is an institution in direct competition with the trial process that judges are appointed to administer" To protest detention is to say, at least implicitly, "charge or release," and is thus an affirmation of the importance of the judiciary in the face of the executive's threat to its role.

The decision in the UDF case is perhaps more distressing The case involved various regulations promulgated by the State President being challenged The most important part of the judgment decides that the ouster clause in the Public Safety Act of 1953 has the effect of defeating an attack upon an emergency regulation for uncertainty

Uncertainty of the law is a major ground for judicial review, for the law must obviously be clear if one is to demand obedience to it An "ouster" clause is one which purports to exclude the review jurisdiction of the courts Not surprisingly, these clauses are treated by courts with suspicion, for they attempt to remove any controls over the exercise of power and, in Mureinik's words, courts have "a deep and proper antipathy to unbridled power"

Normally, courts approach ousters by saying that they don't apply when a power is exercised in an *ultra vires* manner What the court did in the UDF case was to make an exception (whose logic is not immediately apparent) to this general approach It held that uncertainty does not render a regulation *ultra vires* The court also found, however, that an uncertain regulation was an ineffective and invalid one The court thus reached the extraordinary position of finding that the State President may make regulations which are both invalid and ineffective, yet enforceable It is unlikely the legislature could have had such nonsensical intentions

Such a conclusion offends common sense Yet, it should be emphasised, the courts were in no way bound to reach it Indeed, this is why they are accused of being supine For judicial review, in most of these cases, involves the court being asked to interpret what the Public Safety Act 1953 requires Its meaning is by no means uncontroversial, and there is a substantial body of legal authority which is less accommodating of the executive, and more mindful of the individual's rights, than these recent decisions

Does any of this matter, other than for the parties concerned in the cases mentioned? Certainly The major worry is that the cumulative effect of these decisions will be to induce an attitude of despair amongst judges, and there is already evidence to support this view

The decisions also serve as confirmation that, at least when there are perceived to be matters of national security involved, we are increasingly a country ruled not by law, but by decree

Commentators have pointed out that two judges, Rabie A C J and Hefer J A, delivered majority or concurring judgments in an extremely high proportion of cases involving security of the State

There is some hope that the Corbett court might approach matters differently For as Mureinik also notes "The record of the AD is not monolithic The principles now under attack have survived for far longer than has the present membership of the court"

Architects, surveyors feel pinch

By Udo Rypstra

ARCHITECTS and quantity surveyors, usually the first to detect changes in building activity, are losing confidence.

Architects report that the number of projects at sketch-plan stage has decreased considerably compared with a year ago

Quantity surveyors say they are unhappy about work opportunities, but report that the number of projects at bills of quantities stage has not fallen dramatically

Survey

The Bureau for Economic Research (BER) of the University of Stellenbosch reported this week that building contractors surveyed in the last quarter of 1988 expected a decrease in building activity and were dissatisfied

"They are, however, not experiencing the same severe downturn that the architects and quantity surveyors are reporting"

The BER has also warned builders of middle-class houses that the effective demand for new housing has dried up as a result of increased mortgage rates

It says "Profit margins will also be caught in a pincer movement of stagnant or declining retail prices on the one hand and sharply rising input costs on the other"

The BER differs from an opinion published in the United Quarterly Housing Review last week that prices of existing houses will increase by about 13% this year. It accepts the verdict of the Rode's Report that house prices will not show any significant increase this year

"A 13% to 15% growth in house prices during 1989, as is predicted by some analysts, is highly unlikely. If house prices could only notch up a 12% increase in 1988, which was the peak of the business cycle, it is hard to see how house prices could improve on this performance during 1989 — a year when the economy is set to decelerate."

High

In the residential sector, the value and volume of work compared with ago has fallen markedly, says the BER

It says interest rates are expected to remain high, or even to rise, with a resultant decrease in demand for money.

"In total, it can be said that indicators show that building activity in the non-residential sector has already started to move sideways and that the higher profit margins built into tender prices will again be squeezed during the coming months"

Lawyers' concern over future of conveyancing

GERALD REILLY

PRETORIA — Attorneys are concerned that the practice of conveyancing will be deregulated.

In the latest issue of SA attorneys' journal De Rebus, an editorial states 'the Competition Board had, for the time being, decided conveyancing should continue to be reserved for attorneys.

"Yet the probability exisists that SA attorneys will have to resist attempts in future to deregulate conveyancing."

The editoral warns it is probable that financial institutions will follow the overseas example and try to enter the area of conveyancing, even if conveyancers had to be appointed to do the job.

"If that is allowed, what is to prevent future attacks on other areas of reserved work, maybe even litigation?" asks the editoral.

SA's system of conveyancing was undoubtedly one of the safest in the world, it said.

Striking better deal

HARARE — A Lion Match Company spokesman said yesterday the Zimbabwe government had given the company its supplementary foreign currency allocation to procure better materials for the manufacture of matches.

The company has recently been a subject of complaints over the quality of its product. — Sapa.

to be that you could

SA lawyers convince ANC on issue of Bill of Rights

BY TIM COHEN

A conference to discuss the role of law in a society in transition, held in Zimbabwe last month, attracted 30 lawyers from South Africa, members of the ANC's department of legal and constitutional affairs, leaders of the ANC and Zimbabwean lawyers. The University of the Witwatersrand's Professor Johan van der Vyver attended the conference and spoke of his impressions.

An important breakthrough was achieved by lawyers who met ANC members in Harare last month, Professor Johan van der Vyver told Wits law students at a report-back meeting recently

The 30 mainly Afrikaans lawyers from South Africa were able to convince the hesitant ANC members present that a Bill of Rights was desirable. Finally the participants at the meeting unanimously agreed to include it in their final communique.

Professor van der Vyver said the conference also heard a senior ANC member solemnly swear that the ANC would no longer attack soft targets and that if any member did, the ANC would deal with this member "in the harshest possible way"

He said the ANC was not particularly keen on a Bill of Rights because they feared that the government of a post-apartheid South Africa — which they hope will be an ANC government — would be stifled by the kinds of restrictions a Bill of Rights would contain

Professor van der Vyver used the example of a constitutionally defended right to property ownership, which he said the ANC feared would restrict a new government's attempts to redistribute wealth

"But I think after the purpose of a Bill of Rights was fully discussed and some of the fears were waylaid, the ANC people conceeded that a post-apartheid South Africa should have a justifiable Bill of Rights — a Bill of Rights that is enforceable through the courts"

Professor van der Vyver explained that the argument put forward by the lawyers from South Africa was that the new constitution, including the Bill of Rights, should guarantee the non-repetition of the evils which a society experienced

"That's the way the American Bill of Rights was drafted and that's the way the Bill of Rights of the Federal Republic of Germany was drafted Star 7/3/89

"The countries came to a crisis in their history, they established a new society and in their constitution they made guarantees against all the faults of the past so that the crisis would not be continued

"At the talks, the ANC delegation presented a draft constitution, which includes such principles as universal suffrage, the promotion of a single national identity, a constitutional duty to eradicate race discrimination, worker's right to strike, a mixed economy and an affirmative action programme to implement land reforms"

Professor van der Vyver said his main critism of the ANC document is that it retains elements of state absolutism and totalitarianism

For example the constitutional guidelines ban and make punishable any kind or racism, he said

To do as the ANC's guidelines suggest would be to over-burden the law in an attempt to put things straight, Professor van der Vyver said

The debate on violence was exremely heated, he said, but after one heated exchange, a senior member of the ANC had stood up and "very solemnly" told the conference that the ANC would never again attack soft targets

The ANC had internationally committed itself to abide by the first protocol of the Geneva conventions on war, which means that it had undertaken to conduct its offensive against the South African Government in terms of the rules of international humanitarian law, he said

The convention outlaws urban terrorism and the hitting of soft targets

The ANC did admit that it had attacked soft targets, but ANC representatives said that in all the cases, the operatives involved were trained in South Africa

They had not had the opportunity of going to Lusaka to be briefed on the ethos and the international commitments of the ANC

Law Society probing Bloomberg

THE Law Society of the Cape of Good Hope has begun investigations into Cape Town attorney Mr David Bloomberg's alleged involvement with corruption in Transkei.

The investigation stems from a recommendation by the Harms Commission that Mr Bloomberg's status as a lawyer should be scrutinised

The Harms Commission found that Mr Bloomberg and Mr Sol Kerzner paid former Transkei prime minister Chief George Matanzima R2 million to secure gambling rights in the territory.

It is not clear yet whether Mr Bloomberg will be required to appear before the Law Society in person According to the society's deputy director Mrs Susan McElvane a decision will be made in due course.

Mr Bloomberg is in London where he has been for the past two months

Asked by the Cape Times yesterday whether he would be prepared to appear before the Law Society, he declined to comment.

Speaking from his London home, Mr Bloomberg also refused to comment on "whether or when" he would be returning to Cape Town, citing what he described as "adverse publicity"

Mr Bloomberg said a month ago that he would definitely be returning to Cape Town

Asked if the threat of extradition to Transkei was a reason for his being in London, he once again declined to comment

Transkei's military ruler, Major-General Bantu Holomisa, has said in the past that he would definitely have Mr Bloomberg and Mr Kerzner extradited to Transkei to stand trial

So far, however, no documents connected with an application to extradite the two men have arrived at the attorney-general's office in Cape Town, a spokesman for the attorney-general said yesterday

The Law Society has given no indication as to how long the investigation will take, saying that there is a "tremendous amount" of documentation to be examined

● Mr Bloomberg recently resigned his directorship of the South African company Afrox, saying that he would be too busy travelling to be able to perform his duties satisfactorily

tions are implemented, they perpetuating a political system cepting them "in one gulp"

Wide-ranging moves will effectively end apartheid

Star 17/3/89 (2088) 248

By Norman Chandler

A Bill of Rights, a new constitution and a universal franchise are recommendations made by the South African Law Commission in a dramatic report published at the weekend

The wide-ranging moves, which will effectively end apartheid because it is also recommended that discriminatory legislation should be abolished, have caused a sensation in legal and political circles

The laws which should be abolished include the Constitution Act of 1983, the Population Registration Act and the Group Areas Act

The document is regarded as a working paper specifically designed to elicit further comment, contributions and suggestions

The Law Commission report, prepared at the request of the Minister of Justice, Mr Kobie Coetsee, says a Bill of Rights — a "limited version" of which should be introduced immediately — would protect minorities just as cultural, religious and linguistic values would be protected, but not as group rights since a group is not a legal person

Such a document would also need to be approved by Parliament as well as "the entire nation, regardless of race and colour" It suggests a referendum be held

The Law Commission, the government's legal think-tank, says that no matter who governs South Africa, "it goes without saying that if we are to avoid dictatorship — even the dictatorship of the democratic majority — we need such a Bill"

It adds "Too long has there been no concerted, conscious action on the part of the State to put human rights first and to protect them, with the result that in our society insensitivity to those rights has taken root"

There is considerable practical advantage to be gained from its adoption, it says

It says ". the resultant image of justice and respect for the dignity of man that would thereby be promoted would invalidate many of the arguments of our critics

"The courts are severely hampered as regards the protection of individual and group rights in the face of legislation which curtails these rights"



Mr Kobie Coetsee . . requested the report.

The Law Commission says that a court's competence to test the validity of parliamentary legislation and provincial ordinances is at present extremely limited

No legislation or executive act would discriminate against or give privileged treatment to the culture, religion or language of any individual

The report also recommends that everyone over the age of 18 should have the vote, and adds "It must be laid down that the constitution shall provide for the composition of the parliament within which equal and equivalent franchise can be realised."

Star 13/3/89 (248)

Lawyers hail 'bold' Bill of Rights report

By Tim Cohen

Lawyers have welcomed the "bold and forthright" report of the South African Law Commission which suggests that the introduction of a Bill of Rights should be linked to a new constitution and universal franchise

The report, which is the product of more than two years' work and is nearly 500 pages long, was requested by the Minister of Justice, Mr Kobie Coetsee

The document, already dubbed "remarkable", states "The present constitutional deadlock on the black vote will have to be resolved to the satisfaction of all if the Bill of Rights is to have credibility, for the simple reason that the right to vote is one of the fundamental human rights that must be enshrined in any constitution"

Delighted

Mr Andries Geyser, head of the Association of Law Societies, said that although he had not had an opportunity to study the report in detail, he was "delighted" by it because an attorney's primary function was to protect individuals' rights

He congratulated the Minister for requesting the report and the SA Law Commission for its "exciting ideas".

"We hope that the Minister will give the matter his direct and immediate attention"

Head of Lawyers for Human Rights, Mr Jules Browde, said the commission's report was "one of the most important documents that has emanated from a commission in the last 40 years"

"If some of the recommendations are implemented, they could transform this country overnight

"From a human rights point of view, it is what we have been working for for years," he said.

"Fundamental to us is the commission's suggestion that group rights are best protected by entrenching individual rights in a constitutional Bill of Rights"

The project leader of the investigation is Mr Justice P J J Olivier

Interested parties are invited to comment before the final report is laid before Parliament

It was released on Saturday and was welcomed by parties to the left of the Government, but it also reflected recent statements by National Party leader Mr F W de Klerk

Professor Etienne Mureinick of the University of the Witwatersrand law faculty said the report was a "deeply impressive document" which was "meticulously researched and very thoughtful"

"Although not everyone will agree with all the commission's recommendations, opponents in principle of a Bill of Rights will find it very difficult to resist the commission's principal arguments The proposed Bill is not perfect, but it is invaluable as a charter for reconciliation"

Professor Johan van der Vyver of the University of the Witwatersrand said the commission's instructions were to inves tigate the feasibility of protecting group rights within a Bill of Rights regime

"It was quite clear as far as I was concerned that the Minister of Justice, Mr Kobie Coetsee, hoped that the human rights ideology could provide a front for perpetuating a political system founded on race.

"In that sense, the commission's report boomerangs rather dramatically against initial intentions

"It is quite clear that Judge Olivier quite rightly regards the perpetuation of apartheid in any form as being incompatible with the idea of human rights Group rights can be adequately protected through the entrenchment of individual rights

"If South Africa is to have a Bill of Rights, we will have to concede the system of universal franchise irrespective of race, and until such time as such a political system is introduced, a Bill of Rights is simply not on

Constitution

"So what he is telling the Government is to get on with setting up a representative body to draft a new constitution for South Africa that would include a Bill of Rights"

The committee responsible for the document consists of Mr Justice G Viljoen (chairman), Mr Justice H J O van Heerden (vice-chairman), Mr Justice Olivier, full-time member of the commission, Mr G G Smit, SC, senior government law adviser and full-time member of the commission, Professor David Joubert, dean of the faculty of law at Pretoria University, Mr Monty Knoll, a Pretoria attorney, and Mr P J Kotze, president of Johannesburg Regional Court

Chairman of the Black Lawyers' Association, Mr Keith Kunene, said last night that the commission's suggestions "just about break the foundations of apartheid", but he was pessimistic about the Government's accepting them "in one gulp"

South African Police with a view to keep awaiting-trial juveniles out of prison

(2) (a), (b) and (c), as well as (i), (ii), (iii), (iv) and (v) These statistics are not centrally available and can only be obtained through a costly and manpower intensive survey

Group Areas Act: persons prosecuted/convicted for contraventions

96 Mr J J S PRINSLOO asked the Minister of Justice †

(1) (a) How many persons were (i) prosecuted for and (ii) convicted of occupying premises in contravention of the provisions of the Group Areas Act, No 36 of 1966, in 1987 and 1988 respectively, and (b) in the case of how many of these convictions did eviction orders form part of the sentence,

(2) how many dockets of the South African Police on alleged contraventions of the Group Areas Act (a) were still with the respective Attorneys-General for consideration on 31 January 1989 and (b) had been disposed of at the above-mentioned date with a decision that no prosecutions would be instituted?

B240E

The MINISTER OF JUSTICE

Statistics in respect of prosecutions for the unlawful occupation of premises in contravention of the provisions of the Group Areas Act, 1966 (Act 36 of 1966), are not available separately The statistics furnished in the reply to (1) relate to all offenders against the Group Areas Act, 1966, and not only to occupiers

			1987	1988
(1)	(a)	(i)	3	98
		(ii)	2	10 (There is at this stage still a great number of partly heard cases)
	(b)		0	4
(2)	(a)		77	

(b) It is not economically feasible to furnish the required information for the period before 1 April 1988, since a great number of dockets would have to be scrutinized to obtain it The Attorney-General have been requested to keep this information with effect from 1 April 1988

During the period 1 April 1988 to 31 January 1989 401 dockets were disposed of with a decision that no prosecution be instituted

Disputes/work stoppages/strikes

130 Mr P G SOAL asked the Minister of Manpower

(a) How many (i) disputes, (ii) work stoppages and (iii) strikes were dealt with in 1988 in terms of the Labour Relations Act, No 28 of 1956, by (aa) his Department and (bb) the Wage Board and (b) in what industries, trades or occupations did (i) word stoppages and (ii) strikes occur?

B272E

The ACTING MINISTER OF MANPOWER

(a) (i), (ii) and (iii) (aa) The department does not usually deal with disputes, work stoppages and strikes in terms of the Labour Relations Act, 1956

(bb) The wage Board does not usually deal with disputes, work stoppages or strikes in terms of the Labour Relations Act, 1956

(b) (i) and (ii) The Labour Relations Act, 1956, does not provide for statistical particulars on strikes and work stoppages to be furnished in accordance with the classification industry, trade or occupation and therefore statistics are usually not processed in this format by the Department

Messages from SP: cost of advertisements in media in RSA

136 Mr F J LE ROUX asked the Minister of Information, Broadcasting Services and the Film Industry †

What total cost was incurred by the State from 17 June 1987 up to the latest specified date for which information is available, in respect of advertisements in the media in the Republic that contained messages from the State President?

B330E

The MINISTER OF INFORMATION, BROADCASTING SERVICES AND THE FILM INDUSTRY:

Between 17 June 1987 and 15 March 1989 the total cost incurred was R455 653, 52

Pinetown. offences reported

139 Mr R M BURROWS asked the Minister of Law and Order

How many cases of (a) murder, (b) culpable homicide, (c) assault with intent to do grievous bodily harm, (d) common assault, (e) rape, (f) burglary of business premises, (g) burglary of residential premises, (h) robbery with aggravating circumstances, (i) robbery, (j) common theft, (k) theft of vehicles and cycles, (l) possession of drugs and (m) dealing in drugs were reported in 1988 at the Pinetown police station in the Durban West police district?

B338E

The MINISTER OF LAW AND ORDER.

(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m)

30 — 52 263 37 191 1044 101 49 1242 381 — —

NOTE: Para (j): Since 1 July 1987 separate statistics have been kept in respect of ordinary theft and theft from motor vehicles A decrease in ordinary theft may therefore be indicated

Legal training branch: persons attending/completing courses

145. Mr D J DALLING asked the Minister of Justice:

How many (a) White, (b) Coloured, (c) Indian and (d) Black persons (i) attended and (ii) successfully completed courses in functional and legal training, respectively, provided by the legal training branch of his Department in 1988?

B344E

The MINISTER OF JUSTICE

FUNCTIONAL TRAINING

(a)	White		
(i)	966	(ii)	966
(b)	Coloured		
(i)	8	(ii)	8
(c)	Indian		
(i)	7	(ii)	7
(d)	Black		
(i)	472	(ii)	472

LEGAL TRAINING

(a)	White		
(i)	193	(ii)	153
(b)	Coloured		
(i)	3	(ii)	3
(c)	Indian		
(i)	3	(ii)	3
(d)	Black		
(i)	4	(ii)	4

Legal training courses: participants

146. Mr D J DALLING asked the Minister of Justice:

(a) How many persons participated in legal training courses organized by his Department in 1988, (b) how many such persons were (i) White, (ii) Black, (iii) Coloured and (iv) Indian and (c) in which courses did these (i) Black, (ii) Coloured and (iii) Indian persons participate?

B345E

The MINISTER OF JUSTICE

(a) 1656

(b) (i) 1 159
(ii) 476
(iii) 11
(iv) 10

(c) (i) Assistant Masters 1
Diploma in Registration of Deeds 6
Traffic Officers 196
Other Departments — Legal Courses 45
Regional Magistrate 1
Magistrate Criminal Court 60
Magistrate Civil Court 13
State Prosecutors 83
Clerk of the Court 67
B Iuris 2
Diploma Iuris 2

(ii) Diploma in Registration of Deeds 1
Magistrate Criminal Court 1
State Prosecutors 3
Estate Controllers 3
B Iuris 2
Diploma Iuris 1

Hansard.

(iii)	State Prosecutors	7
	B Iuris	3

Natural/juristic persons: sequestrations/ liquidations

166 Mr C UYS asked the Minister of Justice †

How many (a) sequestration orders against natural persons and (b) liquidation orders against juristic persons were granted (i) in 1987, (ii) in 1988 and (iii) during the period 1 January 1989 up to the latest specified date for which figures are available, on account of insolvency in the courts of the Republic in (aa) the Transvaal, (bb) the Orange Free State, (cc) Natal and (dd) the Cape Province?

B394E

The MINISTER OF JUSTICE

		(aa)	(bb)	(cc)	(dd)
(a)	(i)	2533	446	289	725
	(ii)	1660	266	242	493
	(iii)	232	49	38	63
(b)	(i)	1190	84	238	417
	(ii)	1138	72	188	364
	(iii)	182	11	47	73

The information with regard to (a)(iii) and (b)(iii) is for the period from 1 January until 10 March 1989

Rape: persons sentenced to death

170 Mr D J DALLING asked the Minister of Justice

How many persons in each race group were sentenced to death for rape in 1985, 1986, 1987 and 1988, respectively?

B405E

The MINISTER OF JUSTICE

	1985	*1986*	*1987*	*1988*
Coloured Males	5	6	5	5
Black Males	3	0	4	0
White Males	2	0	0	1
Indian Males	None			

HOUSE OF REPRESENTATIVES

QUESTIONS

†Indicates translated version

For oral reply

General Affairs

Member for Alra Park. investigation into death

*1 Mr W J DIETRICH asked the Minister of Law and Order

(1) Whether the investigation into the death of the late member for Alra Park has been completed, if not, why not, if so, (a) when and (b) what were the findings,

(2) whether any persons have been apprehended and charged in connection with this person's death, if not, why not, if so, what are the relevant details,

(3) whether any other steps have been taken in connection with this matter, if so, what steps,

(4) whether he will make a statement on the matter?

C32E

The MINISTER OF LAW AND ORDER

(1) (a) and (b) Yes, the case docket was handed to the Attorney-General on 30 September 1988 and his decision is still being awaited

(2) Yes, Mr IVAN WILFRED BALLAKISTAN

(3) The Attorney-General's decision is being awaited

(4) No

For written reply

General Affairs

De Aar persons arrested for loitering

1 Mr L J HOLLANDER asked the Minister of Law and Order

(1) Whether any persons were arrested in the De Aar area for the offence of loitering and/or contravening section 26 of the Standard By-law relating to Streets published under Provincial Notice No 562 of 1987, during the period 27 October 1988 to 31 January 1989, if so, (a) how many were (i) arrested, (ii) charged and (iii) had the charges against them withdrawn, (b) what is the (i) name, (ii) place of arrest, (iii) race, (iv) age, (v) sex and (vi) occupation of each of the persons so charged and (c) what is the (i) race and (ii) rank of each of the policemen involved in these arrests,

(2) whether these arrests were made as a result of complaints received by the South African Police, if so, what are the relevant details,

(3) whether any of the persons so charged were detained for more than one hour, if so, what are the relevant details,

(4) whether arrests for offences of this nature have ceased, if not, why not,

(5) whether he will make a statement on the matter?

C2E

The MINISTER OF LAW AND ORDER

(1) to (4)

After complaints were received from the public on various occasions about persons who loitered and were a nuisance to the general public, chiefly in the vicinity of Voortrekker and Alida Streets, De Aar it was decided to take action against those persons Between 27 October 1988 and 31 January 1989 a number of persons were arrested in this area by members of the South African Police However, these persons were not detained in the police cells, but summonses to appear in court were served on them as quickly as possible, whereafter they were released

At the instruction of the Attorney-General a number of these cases were withdrawn due to the fact that all the elements of the offences could not be proved

The fact of the matter is that the South African Police is responsible for the maintenance of law and order If persons loiter and are a nuisance to other members of the public, action will still be taken against them, irrespective of their race Statistics prove that action of this nature effectively combats other crimes such as assault, pickpocketing, theft drunkenness, etcetera However, loiterers are not sum-

Star 16/3/87 248

Student-staff ratio at faculty a poor 37-1

Emigrating lawyers add to woes at Wits

By Sue Valentine

Reports of a shortage of lecturing staff in the law faculty at the University of the Witwatersrand are true, but they are not new, according to the dean, Professor June Sinclair

"We have one of the worst student-staff ratios in the university with 37,4 full-time students to one actual staff member," says Professor Sinclair.

"For many years it has been very difficult to compete with the profession to recruit good young lawyers or to retain the staff we have Salaries of university academics have fallen well behind what professionals can earn in the city"

Prof Sinclair says the growing number of commercial firms, who formed their own legal departments rather than farming out the work to legal firms, are absorbing more lawyers

"We recently lost a senior lecturer to an insurance company Despite the 7 percent and 15 percent increases recently given to university staff, he was offered approximately three times what he can earn at university

"It's not a new problem, it is simply becoming more acute"

Another factor is that in South Africa, as in the United States and Britain, there has been a phenomenal upsurge in the number of people wanting to study law

'We have commerce and arts students wanting to include law subjects in their degrees Five or six years ago there were 80 or 90 first-year LlB students Now we have 250"

Prof Sinclair says the department has recruited from its best graduates, but this is changing because of the political situation and conscription

Men and women graduates are choosing to emigrate or going overseas to study and staying there instead of returning

'One of the great attractions for academics is the chance to do research Yet the student-staff ratio in our department means staff have to spend a large amount of time teaching, preparing and marking

'We refuse to appoint people to more senior positions, as is the case in some other universities, simply to augment their salaries We don't want to lower our standards and, thus far, our scholarly output has been maintained

'We have recently restructured our degrees and this is the first year of their implementation This means we're running old courses and restructured courses simultaneously and the duplication of effort is causing transitional difficulties"

Professor Sinclair adds that this aspect of the problem will only last another year or two and should then ease

FMARC 17/3/89

ACCOUNTANCY (248)

Changing the rules

There is no surer way of winning than changing the rules as you play Finance Minister Barend du Plessis is a dab hand at that, as many taxpayers will testify

But so is the Public Accountants' & Auditors' Board (PAAB)

The March edition of *Accountancy SA*, official organ of the SA Institute of CAs, contains a report by the PAAB legal secretary

The exact date of the report is not recorded, but it contains the words "during the October to December quarter 1988. " and it discusses the difficulty in legal interpretation of the word "unduly" in the rule against "bringing the name of one's firm unduly before the public "

It notes that "Though the chairman of the PAAB and the president of the institute recently published a joint notice requesting practitioners to refrain from contravening the rules regarding advertising and publicity, these transgressions continue "

The legal secretary's discourse then contains this statement "It has accordingly been decided that, in appropriate circumstances, all partners will be charged when a firm appears to contravene these rules Normally this is known as guilt by association.

"The practice in the past has been to inquire which partner accepts responsibility for the apparent transgression, and charge that person only "

This, whether or not it has anything to do with Arthur Young, which was found guilty recently of soliciting after co-operating in the publication by the *FM* last November of a corporate supplement, is a striking change of policy

Last month, nine Arthur Young partners were each fined R10 000 — the absolute maximum — for this transgression. The decision on the balance of the partners waits until April 25, if guilt by association applies, Arthur Young is then in for R580 000 ▨

Lawyers withdraw from trial

Own Correspondent

PORT ELIZABETH — All the lawyers involved in defending 11 people in the Kenton-on-Sea terrorism trial have withdrawn "for ethical reasons"

The accused appearing in the regional court at Kenton are Linda Fibi, Gunyazile Marubungwana, Zuko Adam, Vuyo Kwinana, Mawonga Willem, Mzolisi Dyasi, Sebelo Matomane, Solomzi Liwende, Toto Masiza, Lizo Pityana and Lauretta Bukelwa Mengezeleli

They face charges of terrorism, attempted murder, conspiracy, malicious damage to property and the unlawful importation or possession of firearms, explosives and ammunition

Their lawyers had been involved in "plea-bargaining" with the State prosecutor on behalf of their clients

When the trial resumed last week, however, the lawyers — instructing attorneys and advocates — indicated that for ethical reasons, they could no longer represent the accused

The trial has been postponed to March 23 to allow the accused to arrange alternative legal representation.

An attorney, Vanessa Brereton, said yesterday all the lawyers had had no option but to withdraw No reasons had been given for the withdrawal, because this would prejudice the accused

Human Rights becomes urgent issue

SOWETAN REPORTER

SOUTH African attorneys hope that when the 50th anniversary of the universal declaration of human rights falls to be celebrated, South Africa will no longer be an odd man out, according to an editorial in the latest issue of *De Rebus*, the SA Attorneys' journal.

Countries around the world celebrated the 40th anniversary of the universal declaration of human rights last year but not South Africa, which, together with Russia and Saudi Arabia, is not a signatory

However, according to the editorial, "a human rights culture is developing in South Africa," as was indicated by the SA Law Commission's publication of a proposed Bill of Rights

In another article of the same issue, Johannesburg attorney Mr Harry Barker explains why it is imperative that South African lawyers become involved in human rights.

He says there is a challenge to the legal profession to ensure the availability of sufficient lawyers to represent those thousands standing trial in our courts daily who have no legal assistance because they are too poor to bear the cost

Critical

This critical situation led to the formation in 1981 of Lawyers for Human Rights whose objectives are "to uphold and strengthen in South Africa those human rights that are associated with the Rule of Law and the administration of justice" and Mr Barker urges attorneys to join this organisation.

gramme was in the Pietersburg goldfield where a drilling programme had been

● Ogilvie Thompson

Brazil, Chile and Argentina in a variety of geological environments, with generally encouraging results.

UIF reserves at R600m

PRETORIA — Reserves in the Unemployment Insurance Fund (UIF) had reached a record level of R600m and actuaries were studying the possibility of improved benefits, Unemployment Insurance commissioner Jack Scheepers said at the weekend.

He said income from workers and employers now exceeded total payouts by R20m a month.

The UIF board would look at a number of possible adjustments to benefits based on the actuaries' report. These would include whether, because of the strength of the fund, contributions should be decreased or benefits rates increased.

Another option would be to extend the current maximum six-month benefit period.

Scheepers said new applications for benefits — there are five categories including unemployment — were being received at a rate of about 40 000 a month

GERALD REILLY

Pay-outs to an average of 120 000 beneficiaries a month amounted to between R35m and R40m a month. Payout points now totalled more than 400.

Workers and employers each paid 0,9% of employees' earnings into the fund and the income ceiling below which workers were compelled to contribute was now R35 000.

Payout

Scheepers said the amounts paid out had varied little during the past few years.

In 1985, beneficiaries totalled 426 000 and the payout R325m: in 1986, 424 000 and R386m in 1987, 400 000 and R388m.

Last year's figures had not yet been computed but were not expected to differ significantly, the payout was expected to be around R400m.

Academics defend UWC after unrest reports

CAPE TOWN — Large numbers of people want to work at the University of the Western Cape (UWC), according to academics and administrators who placed a half-page advertisement in the Sunday Times

The advert was placed in response to reports of student unrest and resignations from the university's law department.

The advert — also signed by Afrikaans professor A J Coetzee and Dean of Arts J C

Own Correspondent

Malan — says UWC has growing lists of applicants for posts from people who want to be part of a university where the pressing issues of education are being faced

The advert also slams government's SAPSE plan on subsidising education It says the upshot of the plan is that UWC is having to manage on 48% of the subsidy given to a white university.

Stellenbosch profs back Lusaka trip

Own Correspondent

CAPE TOWN — A Stellenbosch University SRC resolution barring SRC members from holding talks with the ANC had no basis in "law, equity or reason", the university's human rights expert said yesterday

Laurie Ackermann, who occupies the university's H F Oppenheimer Human Rights Chair, was one of three top campus academics who yesterday strongly supported the trip to Lusaka by eight "rebel" SRC members

The others were Philosophy Department political philosophy section head John Degenaar and Political Science lecturer Jannie Gagiano

Ackermann was reacting to SRC secretary Tjaart van der Walt's statement that the student committee had "clearly decided" on the "no talking to the ANC" resolution — which barred members from either private or official contact

Ackermann compared the resolution to the SRC saying none of its members could watch rugby or cricket in their personal capacities or visit overseas countries

The SRC "rebels", who return home to a politically hostile campus, have said they were acting in their individual capacities

Reacting to the 11-4 voting in favour of the "no talks" resolution, Ackermann said "You cannot bind the minority"

But he said it would be a breach of faith if those who had voted in favour of the resolution had gone on the trip

Gagiano said claims made by some of those involved in the talks, that the talks were a "breakthrough for Stellenbosch University" were "perhaps rather foolish" as this weakened their defence.

Practical course for articled clerks

(248) SUSAN RUSSELL

THE Association of Law Societies is to offer articled clerks a six-month practical course aimed at familiarising them with various aspects of the profession they are likely to encounter in their first few years of practice BTDem 29/3/89

The ALS says the project is the first of its kind in SA It has been approved in principle by the ALS and will be funded by the Attorneys Fidelity Fund.

An initial 50 LLB and B Proc graduates will be selected, preferably with not more than two months' practical experience at a legal firm

ALS legal education director J C van der Walt said the overall objective of the project was to teach students the skills, attitudes and ethics they would encounter during their first few years at a firm with a basic general practice

The project would be organised and supervised by a full-time director, Nic Swart.

If the pilot project was successful, the ALS intended investigating the viability of permanent training centres in at least the major centres

'Real need' for black CAs in South Africa

By Adele Baleta

There was a real need for qualified black chartered accountants in view of the dwindling white minority in an economically active population, Mrs Jane Hofmeyer, of the education department at the University of the Witwatersrand, said recently.

Presenting a paper to the Natal Society of Chartered Ac countants, she said the white male-dominated character of the profession was problematic

Of the 12 000 chartered accountants in South Africa in 1989, about 25 were African and about 400 were women

Not enough

Mrs Hofmeyer said another problem was that although the profession could generate enough accountants for its own needs, there were not enough to supply commerce and industry. It was predicted that by the year 2 000 there would be a shortage of about 7 000 accountants

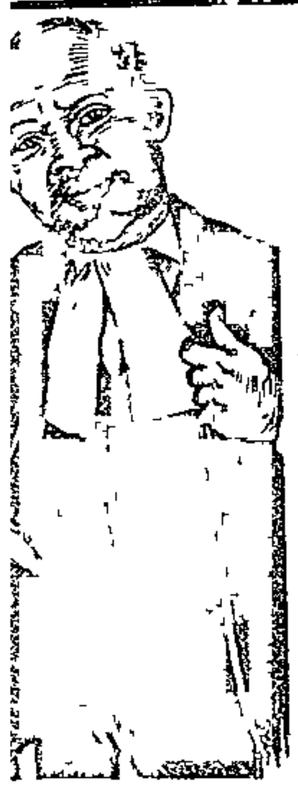
The brain drain of white chartered accountants had to be seen in the context of the predicted expansion of the black labour force by the year 2 000 — 74,1 percent compared with 14,2 percent for whites 2,4 percent for Asians and 9,2 percent for coloureds

Short-term strategies proposed by Mrs Hofmeyer to overcome the problem were to maximise the existing pool of chartered accountants and to compete more effectively for the best students

Chartered accountancy should be boosted by members of the profession at black schools where there were no guidance councillors, she said Financial aid in the form of long-term, low-interest loans should be encouraged so that more blacks could have the chance of furthering their education

Affirmative action would have to be taken to open the profession's ranks to all candidates, irrespective of race or gender.

Thought needed to be given to how the profession was perceived in the black communities. For chartered accountants to be effective agents for change, they might have to take a stand on political issues that affected their ability to go about their professional business



Five out of six black advocates eschew the Bench

Black advocates in Johannesburg face special problems, particularly in becoming judges, CATHY STAGG discovered in a series of interviews

The legal profession is concerned about the small number of blacks in its ranks and is working towards bringing more in

The Johannesburg Bar, the largest in the country, has 381 practising members and of these six are black The number is soon to double because there are another six pupil advocates at present.

Interviews with each of the six black qualified advocates showed areas of agreement, but they were divided on whether it would be appropriate for a black person to become a judge Five were against the idea, only one in favour

The interviews showed that a special area of conflict among black professionals is the contrast between their peers, who tend to be traditionalists inclined to caution, and the black community, which expects black lawyers to be black first and lawyers second

Thus it is not surprising there was division on the question of black judges

All agreed it would be totally unacceptable for a black person to be appointed as a judge on the grounds of race Appointments should be made only on merit and at present none of them came close to being qualified

However, assuming a black person with the necessary expertise and years of experience was approached, here are their views

Mr Legwai Pitje has been at the Bar for eight years, the longest of the black advocates

"In a normal society, I would welcome the idea, but you are accountable to your people It is possible a black judge could do a lot of good work in civil matters, on appeals and in non-contentious matters, but in certain cases he would feel awkward," Mr Pitje said, mentioning freedom fighters.

The definition of terrorism is laid down If the State proves it, the judge has to convict no matter his personal views

Mr McCaps Motimele was in favour of a qualified black person becoming a judge although he emphasisedthe matter did not concern blacks and whites as such, but justice being seen to be done He felt if the profession was suffiently blended, wider representation would follow

He has served as an assessor in a murder trial which in itself was a controversial decision

Mr Modise Khoza said of this "A colleague sat as an assessor, which raised eyebrows I sat in the gallery and could hear mumblings. The whole emphasis of the trial was off the accused — and on what a black man was doing up there with the judge

"People believe the judiciary is identified with the ruling class and judges are forced at times to apply unjust laws.

"There are judges who challenge such laws when the laws are new," Mr Khoza said, 'but once the loopholes are closed, there is no alternative"

He felt the black community was not ready for blacks to lend credibilty to what is seen as an unjust system

Mr Ismail Semenya said that if the status quo remained it was unlikely a black would realise a significant role in the legal sphere

To build a reputation, one first had to get the cases to work on

Big commercial cases were not fought by black advocates because the black community was not prominent in commercial matters, he said

Ms Lucy Mailula, the first black woman advocate, said that if a black person was appointed as a judge while apartheid laws were still on the statute books, it would be a problem for any black person aware of his identity to enforce those laws

Mr R J S Mogagabe said a judge might be exempt from group areas because of his position but would have to enforce those laws and would find it embarrassing not to be able to dispense justice

Mr Pitje said some black attorneys in Johannesburg who were black and radical in their politics were "white and conservative" when it came to briefing advocates

He found the black attorneys in Natal and the Eastern Cape tended to be more supportive of black advocates

But, he added the Johannesburg Bar was the biggest in the country with many illustrious counsel, so it was hard to make a name here

He said he had never refused to represent white clients, but was seldom approached I would like to be an advocate like any other, he said

He summed it up for the others when he said that for all the problems "I am still happy

Experts examine law in changing society

By Patrick Laurence

The Legal Resources Centre commemorated its tenth anniversary today in a sober mood of appraisal instead of with popping champagne corks

Its anniversary conference on the theme "Law in a changing society" got under way at the University of the Witwatersrand with an opening address by the Mr Arthur Chaskalson, SC, national director of the Legal Resources Centre

Other speakers will be Mr Justice Enoch Dumbutshena, Chief Justice of Zimbabwe, Mr Justice Michael Kirby, president of the New South Wales Court of Appeal, Australia, and Mr Sydney Kentridge, SC, one of South Africa's best known advocates

"The past 10 years have seen an increasing awareness of the important role that the legal profession plays in demanding that rights be defined and protected," Mr Chaskalson said

"Much that in the past went by default is no longer allowed to do so We are slowly becoming a less closed society and increasingly those who exercise power are being called upon to account for the way in which power is wielded"

Mr Chaskalson acknowledged that fundamental aspects of life in South Africa were still affected by institutionalised racial discrimination But he said "We are living in a changing society and we can look forward to a time when race will cease to be the determining factor in our lives"

THE BIG FIVE: (Left to right) Mr Justice Michael Kirby, Court of Appeal of New South Wales, Australia; Mr Keith Kunune, chairman Black Mayor's Association; Mr Justice G P C Kotze SC, former judge of Appelate Division of the Supreme Court, Mr Sydney Kentridge QC, barrister; Mr Ismael Mohomed SC, advocate and Judge of Appeal, Lesotho/Swaziland.

Now lawyers take up cry of the townships

248

Star 15/4/89.

PATRICK LAURENCE

THE CRY of the townships — one man, one vote — is increasingly on the eloquent lips of lawyers in the universities and their colleagues at the Bar

Universal adult suffrage was an interlinking thread in the erudite addresses of distinguished jurists at the 10th anniversary conference of the Legal Resources Centre, which ended behind closed doors yesterday.

The question was not so much whether the time had come for one man, one vote in South Africa, but whether it was enough

Mr Jules Browde, SC, noted that even the government-appointed Law Commission had declared in favour of universal adult suffrage in its report on human rights in South Africa

It was the *sine qua non* for the achievement of human rights for all South Africans.

But, warned Mr James Robertson, former director of the American Lawyers' Committee for Civil Rights under Law, the mere extension in law of the vote to the disenfranchised did not in itself guarantee their escape from poverty and humiliation

He told delegates from four continents a tale entitled The Mississippi Parable

After the American Civil War (1861-65) the vote was extended to black Americans in the South, in Mississippi, where blacks were in the majority, 67 percent registered

Backlash

Then came the white backlash Various techniques were introduced to disqualify black voters, including a literacy test and the "eight box law"

The literacy test required a knowledge of the constitution; whites were asked ridiculously simple questions, blacks had to have a PhD on the Mississippi constitution to pass

Under the "eight box" test, voters were given eight votes To qualify they had to place their votes in the "correct" boxes, whites were given all the help they needed and blacks were ignored

It was only after the great drive for civil rights in the United States in the 1960s that a halt was called to the trickery that deprived blacks of the vote

Professor Francis Wilson of the University of Cape Town asked whether it was enough to repeal apartheid laws in South Africa

Apartheid laws were, he said, merely the scaffolding which had made erection of the apartheid structures possible, removal of the scaffolding did little — in the short run — to topple structures, particularly economic ones, dominated by whites because they had been the beneficiaries of apartheid laws

It was not enough, he said, to abolish discriminatory laws and let market forces sort out the situation

The Land Acts of 1913 and 1936 had enabled a few whites to concentrate an overwhelming share of privately-owned farming land in their hands, there was no way that that imbalance would be undone by the action of market forces in the forseeable future

Mr Steve Kahanovitz of the Cape Town Legal Resources Centre raised the question whether the demand for privatisation, and the ideology that went with it, was not motivated by a desire to place vital resources beyond the reach of the State now that the prospect of a black-controlled state was in the offing

Rubicons

One corrective — as Mr Gilbert Marcus of the Centre for Applied Legal Studies pointed out — was through affirmative action or positive discrimination in favour of people who had been disadvantaged

Mr Ernest Moseneke, a former Robben Island prisoner who obtained his legal degree while in jail, said "massive reconstruction" was needed

"If you have doubts that dark-skinned people can handle the vote responsibily, you still have a private Rubicon to cross," he said

Pik hints at talks about SA with Soviet Minister

Star 15/4/89

CAPE TOWN — Foreign Affairs

Govt moves on Mandela release

POLITICAL STAFF

CAPE TOWN — The Government is seriously considering the release of jailed African Na-

garet Thatcher through to So-

They shoot horses

Do ambiguities in accounting statements create new markets for creative financial packaging? The answer seems to be yes, particularly with off-balance sheet financing

While the SA Institute of Chartered Accountants (Saica) "strongly condemns schemes structured so as to leave liabilities off-balance sheet," pragmatists take a different tack The latest row began when Fleetlease Contracts (part of Stannic) thought it saw an opportunity in Saica's recent statement on off-balance sheet financing

Fleetlease's Peter Isherwood says he gave a draft press release to Saica for vetting The response was "no comment" and the release went out Among other reports was one in *Business Day* "Full maintenance vehicle leasing as an operating lease has received the go-ahead to remain an off-balance sheet funding method by (Saica) "

This seemingly amazing erosion of fair presentation and full disclosure was referred to Saica by the *FM* Pointing to the quoted paragraph, Saica technical director Graham Terry said "This is not so It is not Saica, but the Accounting Practices Board (APB), that approves statements of generally accepted accounting practice (Gaap) Saica, together with other professional institutes and commercial associations, is a member of APB "

Terry says that in any event, a full maintenance lease could not be generically classified as either a financial (on-balance sheet) or operational (off-balance sheet) lease "It would depend on the facts of each lease whether it should be capitalised and included on the balance sheet "

But, says Terry, "at the end of the day," it's a question of "substance over form" and "fair presentation" that should dictate the treatment This is all very well, problem is that Saica, along with APB, often seems to cop out by leaving ambiguities in Gaaps

Moreover, the recently overhauled statement governing off-balance sheet financing gave companies a three-year phase-out Other accounting statements (such as deferred tax) give an option of two treatments

Deferred tax accounting rules had been singled out by a number of commentators as resulting in shocking presentation in some financial statements, particularly in the treatment of foreign exchange losses

Controversy over off-balance sheet financing will continue for some time, JSE president Tony Norton said at last year's SA National Congress of Chartered Accountants, when he described off-balance sheet financing as a "particular worry "

"A number of consumer credit companies, notably furniture companies, arrange off-balance sheet borrowings for their credit books. The technology of these structures is clever but the effect is (again) to me a breach of the key of substance over form " ■

Lawyers take a close look at the way justice works in SA



MR JUSTICE Enoch Dumbutshena, Chief Justice of Zimbabwe, at the Legal Resources Centre seminar in Johannesburg.

'Law used by politicians'

Sowetan 20/4/87

THE idea of equality before the law presupposed economic, social and political equality And to achieve this, a massive "social engineering" programme must take place to create a just, democratic and non-racial state

This was the theme of the papers delivered by distinguished speakers in the legal profession at Wits University last week during a conference to mark the Legal Resources Centre's 10 years of existence

The two-day conference examined the work of the centre which was set up to help individuals and communities who otherwise would be unable to afford their legal rights It also examined the role the law has to play in a changing society

The common ground or assumption among the participants was that society was changing towards a democratic, non-racial state Discussions also centred on the role the law would play in that society

Issues of poverty and racism, the rule of law and a constitution encompassing a Bill of Rights were central issues dealt with by every speaker during each discussion forum

Special guests included the Chief Justice of Zimbabwe, Mr Justice Enoch Dumbutshena, the President of the Court of Appeal in New South Wales, Australia, Mr Justice Michael Kirby, Johannesburg advocate and Judge of Appeal in Lesotho and Swaziland, Mr Ismail Mahomed, and the Johannesburg and London advocate Sydney Kentridge QC

In an opening address, Mr Arthur Chaskalson, the National Director of the Legal Resources Centre, said the law in South Africa had been used both as an instrument of justice and of oppression

Lawyers were part of the process leading to the dismantling of apartheid

Professor Francis Wilson of the School of Economics at the University of Cape Town, speaking on the role of the law in creating and perpetuating poverty in the country, said the issue of poverty mostly concerned lawyers whose work involved not only dispensing justice but also with reducing the crime rate

Poverty was a lawyer's concern because among other things, it prevented access to the legal system and it may cause crime Where it is linked to deep inequality, it is a manifestation and cause of social injustice, he said

Professor Wilson noted that about 50 percent of households in South Africa lived below the minimum level and in the "homelands" the figure was 81 percent

The infant mortality rate showed that 94 to 124 out of 1000 black babies born alive, died under the age of one, while the ratio for white babies was only 12

Statistics of murder, rape and assaults also reflected that South Africa and particularly the townships and rural areas had higher incidents of these, when compared with other countries, like the UK and the USA

Apart from factors like the population growth,

FOCUS

By SONTI MASEKO

Other causes of poverty were the colour bar practices in the mines, the differential public investment in education, health and housing and the crushing of the trade union movement, Professor Wilson said

The question then arises on whether it would be sufficient to make the law colour blind after 300 years of discrimination, he said

Mr D E Moseneke, an advocate and founder member of the Black Lawyers' Association, said the most direct impact of segregation has been the denial of development and the consequent impoverishment of the black people.

Land dispossession

"A true Rubicon will be one that presupposes unlimited extension of the most fundamental human rights," he said

A call for the empowerment of the disadvantaged majority in the country was also made by advocate Dullah Omar, the president of the National Association of Democratic Lawyers

Mr Omar, a human rights lawyer, said guidelines were needed to reduce the helplessness of the people

"Lawyers should find methods of empowering the people to help themselves, like the roles lawyers have played on the labour front," he said

He said the changes in the last 10 years were not motivated by the desire to change, but were prompted by the economic needs of the country

Zimbabwe's Chief

Homes — new twist

THE Soweto City Council yesterday agreed to transfer ownership of more than 50 000 rented houses to tenants in the area.

This was announced in a joint statement by the municipality and Soweto People's Delegation (SPD) after a six-hour meeting held at the council's offices.

"The council has agreed to the transfer of all rented houses to the people of Soweto — only the details need to be worked by it," said the Rev Frank Chikane who led the SPD delegates with the Rev Lebamang Sebidi.

The delegation said Soweto's rent arrears were no longer a focal point as the council had asked "us to leave this matter to them." The council had also pointed out that the matter would be settled "without Soweto residents having to pay the money".

The SPD had urged the council to seek a single tax base for Soweto and Johannesburg as a solution to the

• To Page 2

REPORTS, pictures and comments in this edition may be censored in terms of the Government's state of emergency.

Brixton Murder and Robbery Squad probed — P2

Sowetan

20/4/89

28

unemployment and inflation, poverty in South Africa was a man-made problem resulting from the land conquest in the form of the Land Acts of 1913 and 1936, slavery in the form of the influx laws, the migrant labour system and rural impoverishment

was a designed process of impoverishment which, coupled with the taking away of the franchise, led to exploitation, Mr Moseneke said

An appropriate land reform programme was needed, together with a government that would spend vast amounts on the disadvantaged

Justice, Mr Justice Dumbutshena, speaking on building the rule of law, said that justice could be done in an emergent independent state only if the people's rights were protected by a declaration of human rights

He said it was important for the judiciary in a new state to dissociate the past from the present so that it remained impartial.

In Zimbabwe, he said, political considerations did not interfere with the method of choosing judges. The judiciary included members from the Smith and the Muzorewa governments.

ments

"There is no consideration given to political affiliations, otherwise I would not have been appointed a judge," he said

Political comment in this issue by Aggrey Klaaste and Sam Mabe Sub-editing, headlines and posters by Sydney Matlhaku All of 61 Commando Road, Industria West, Johannesburg

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• Write to the Editor at PO Box 6663, Johannesburg 2000 Nom-de-plumes can be used, but full names and addresses should be supplied or the letter will not be published

Entries open for US fellowships

THE United States Embassy has announced its annual competition for the July 1990 Hubert H Humphrey Fellowships.

By NKOPANE MAKOBANE

A spokesman said application forms for this bursary programme may be obtained from the US Information Service offices in Pretoria, Johannesburg, Cape Town and Durban.

The closing date for submitting applications is April 20 1989.

The Humphrey Fellowships send accomplished professionals to the US at a midpoint in their careers for a year of non-degree study and related professional experience.

A limited number of fellowships is granted competitively to professional candidates with a commitment to public service in both the public and private sectors, specifically in the fields of planning and resource management, public administration, agriculture and health and nutrition.

Practical

The programmes do not result in the granting of a degree because emphasis is on obtaining practical knowledge.

Fellowships are granted to applicants with a strong academic background, an outstanding record of professional accomplishments, a career pattern of progressively responsible professional experience in public service; demonstrated leadership qualities and fluency in English.

Becoming a jolly good fellow!

Sowetan 24/4/87



NKOPANE MAKOBANE . . . going abroad.

SOWETAN education reporter, Nkopane Makobane, is to travel to the United States in June where he will spend six months on the Alfred Friendly Press Fellowship.

Mr Makobane is one of the 11 journalists from around the world to be invited to the US this year for the fellowship. He and the other 10 were chosen from more than 100 applicants from 42 countries

The AFPF was established and endowed in 1983 by the late Alfred Friendly, former managing editor of the Washington Post, author and Pulitzer Prize winner.

Since then, more than 50 young promising journalists have gone to the US for an intensive work experience in American journalism.

SOWETAN Reporter

The aims of the AFPF programme include providing experience that will enhance future professional performance and enable journalists to gain understanding of the significance of the free Press in American society

While in America Mr Makobane will work five months at the Kansas City Star. He will contribute directly as a working reporter, to the routine output of the host publication. Mr Makobane has been in journalism for 12 years.

Star 26/4/87 248

SA has crucial talent gain

By Michael Chester

The brain drain caused by the exodus of top talent from South Africa has been reduced to a trickle, according to migration trends tracked by the Central Statistical Service.

Among several top occupation brackets, the drain has actually been reversed

Figures released yesterday show that total immigration is again greater than emigration

NET GAIN

However, it is still well below the rate of influx before the state of emergency was declared five years ago

Newcomers outnumbered emigrants by 10 400 to 7 767 in a final count for last year and more net gains in the flow were recorded at the start of 1989

The brain drain reached its peak in 1986 when 13 711 South Africans joined the exodus as the clouds of political unrest gathered — and the flow of immigrants reduced to only 6 994

The net loss in the two-way migration treks in that year was even heavier than in the pandemonium that followed Sharpeville and the 1976 Soweto riots

In the first count of 1989, with figures adjusted to allow for seasonal factors, immigrants outnumbered emigrants in January by almost two-to-one 1 000 coming in, 554 moving out

However, economists are likely to concentrate on the head count of the inflows and outflows of top talent — the main cause of brain drain concern in recent years

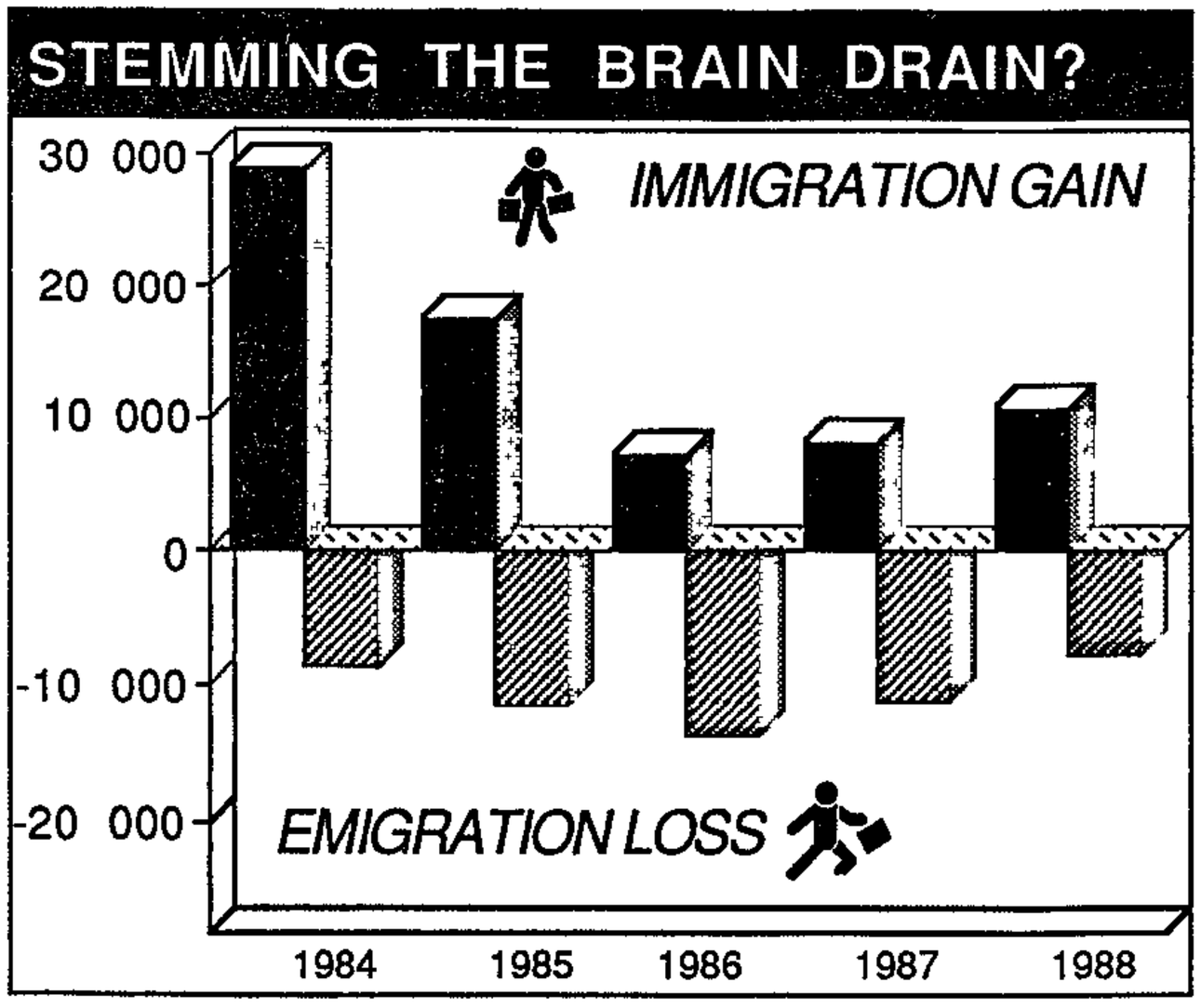
Here the CSS reveals that 1988 flows almost closed the whole gap in the arrival and departure of migrants in top professional and technical jobs, with the newcomer total rising to 1 375 compared with an outflow that shrank to 1 394

CRUCIAL

In one of the most crucial talent brackets of all, the number of engineers and technologists among the immigrants last year overtook their emigrant counterparts by 391 to 290

In the managerial, executive and administrative brackets, the inflow was nearly twice as strong as the outflow — 611 arrivals against 362 departures

There were also net gains in the two-way flow of foremen and supervisors artisans and apprentices



"I am sure it is not impossible to find a [illegible] viable, adding [illegible] tected by all South Africans." — Parliamentary Staff

Bargaining rights for educators

Star 9/5/87

By Peter Fabricius,
Political Correspondent

CAPE TOWN — Educators are to be given the right to bargain collectively for salaries and conditions of service if new legislation introduced to Parliament yesterday is passed

Educators now have no more than advisory powers on these matters

The National Policy for General Education Affairs Amendment Bill aims to create a bargaining council for educators equivalent to one envisaged in legislation introduced last week for other civil servants

The new Bill setting up an educators' council will abolish the committees that now advise the Government on educators' salaries and conditions of service

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much You will always be with me in spirit I will never forget you as long as I live Your heartbroken wife, Loren

125 cc 1 T Algie; 2 G Fouche; 3 H Bezuidenhout
Super Singles 1 C Kennerley, 2 J Wood 3 B Scholtz

Heart man may quit SA

CAPE TOWN — Professor Bruno Reichart, head of Groote Schuur Hospital's heart transplant unit, is considering an offer to return to West Germany as head of the Grosshadern cardio-thoracic clinic in Munich.

Professor Reichart (46), who succeeded Professor Chris Barnard as head of South Africa's only heart transplant unit in 1984, was unavailable for comment yesterday, but Professor George Dall, Dean of the University of Cape Town's medical school, said he had been told that Professor Reichart was considering the offer — but had not decided yet.

"We don't have anything on paper. He hasn't resigned," said Professor Dall.

The Munich newspaper *Abundzeitung* reported Professor Reichart's selection as first choice for the appointment had caused controversy.

Under the headline "Heart Professor Reichart comes back — as chief at Grosshadern", the newspaper claimed that his selection followed months of stalling, with his opponents resorting to intrigues and anonymous letters, and references to his "playboy-like habits", in a bid to discredit him.

His possible move follows a special visit by Bavarian Science Minister Mr Wolfgang Wild to Professor Reichart in Cape Town at Easter.

The world-renowned surgeon performed West Germany's first heart-lung transplant in 1983. In 1986 he scored another success with South Africa's first heart-lung transplant on a West-German woman, who was displayed to an audience of doctors and academics at his inaugaural lecture in a controversial move.

He visited Munich last month to launch his book, "Recent Advances in Cardio-Vascular Surgery". He returns to the city on May 22 as chairman of the International Association of Heart Transplantation to open a congress.

Professor Dall said it would be a great loss to UCT if Professor Reichart accepted the Munich appointment.

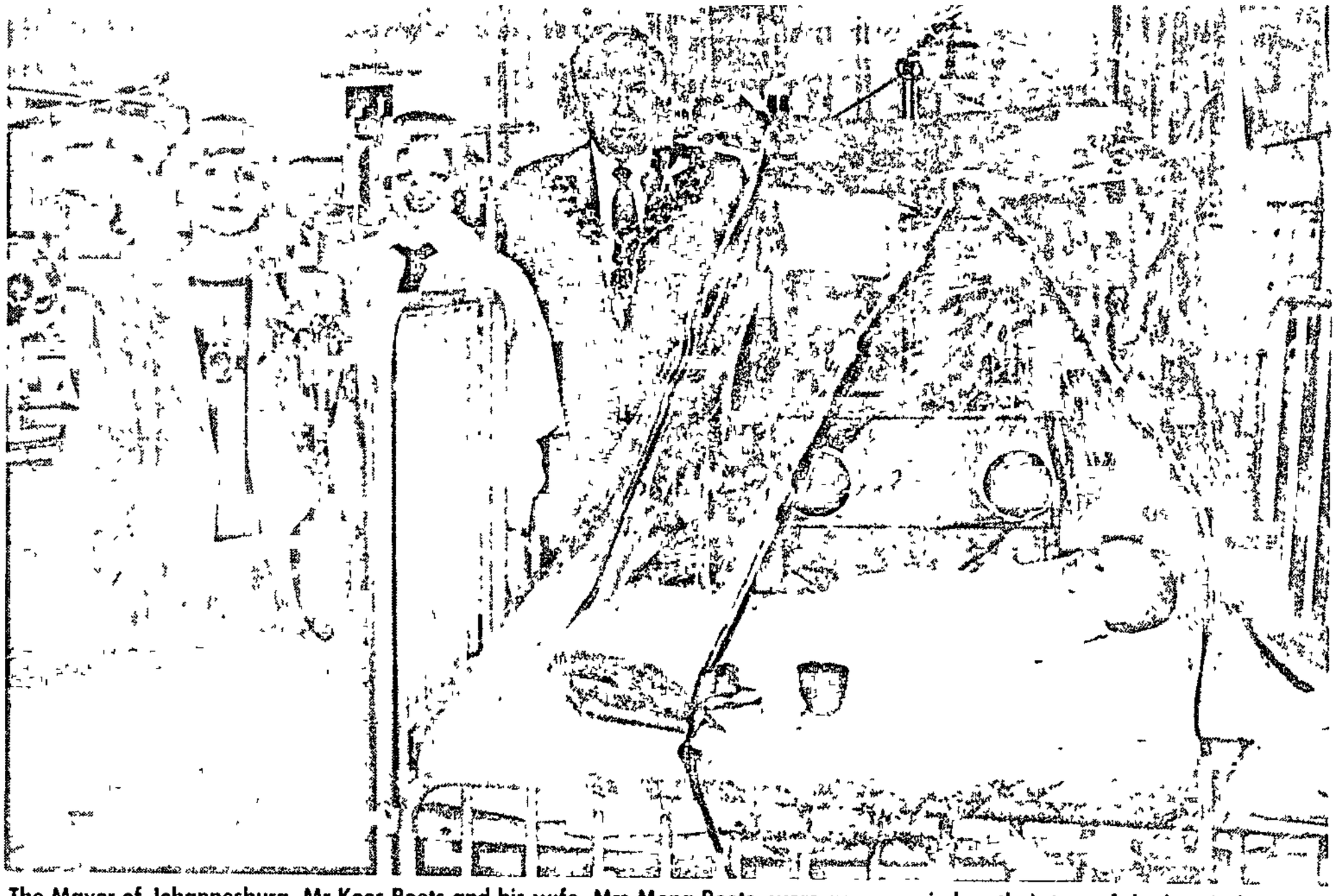
"There is always a certain amount of movement in academic circles and we must accept that."

If it came to finding a successor for Professor Reichart, a search committee would be appointed to canvass the best in the international community and locally.

The university's problem was that the value of South African currency was so low that they could not always afford the top people.

Finding a successor was a long process, and the earliest one could expect an appointment was six months to a year after starting the search.





The Mayor of Johannesburg, Mr Koos Roets and his wife, Mrs Mona Roets, were accompanied on their tour of the hospital's "open days" exhibition by the superintendent, Dr Annette van der Merwe

Hospital and Wits officials hold meeting

Star 12/5/89

By Toni Younghusband, Medical Reporter

The superintendent of the J G Strijdom Hospital, Dr Annette van der Merwe, held discussions with Wits University's dean of medicine, Professor Clive Rosendorff, yesterday over the hospital's controversial transfer to "own affairs" administration

Dr van der Merwe said after the meeting that no decision had been taken on whether the university would withdraw from the hospital She said the meeting had been a question of discussing the "complications and possibilities" involved

The J G Strijdom was transferred from "general affairs" administration to "own affairs" on April 1 Since then Dr van der Merwe and 12 specialist doctors have tendered their resignations

Technically, all Wits University staff should withdraw from the hospital, as an academic institution — which the J G Strijdom has been for the past 20 years — cannot be administered by "own affairs" and must be run under "general affairs"

The university s medical faculty executive committee will meet today to discuss the issue

Professor Rosendorff told The Star he preferred not to comment at this stage

He and other university officials are due to meet with "own affairs" authorities next Wednesday to discuss the hospital's transfer, after which the university is expected to make a public announcement

● Sapa reports that the Minister of Health Services and Welfare in the House of Assembly, Mr Piet Clase, said yesterday the J G Strijdom would continue to function as before

Speaking during his department's budget vote, he said that if the hospital did not function as before, the blame would lie with those doctors who had resigned

Mr Clase said all that had happened was that the hospital — with others — had been transferred to his department's control from April 1, but his department "did not interfere ' with its running

The Transvaal Provincial Administration ran it, as an agent, he said

The hospital had been declared an academic hospital a few years ago when it had been hoped that the Rand Afrikaans University would get a medical faculty, but this had subsequently been allocated to the University of the Orange Free State

The hospital could not now function as an autonomous academic one, Mr Clase said



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Police mum on Webster inquiry

JANET HEARD

POLICE yesterday refused to reveal any information arising from their investigation into the assassination of anti-apartheid activist and university lecturer Dr David Webster.

Dr Webster was murdered outside his Troyeville home almost two weeks ago.

Colonel Floris Mostert, head of the Brixton Murder and Robbery Squad, said no information on progress police had made would be released because "the press has been making all sorts of speculation which may hamper the investigation".

There has been widespread speculation in anti-apartheid organistions that Dr Webster was assassinated by a professional hit squad.

Colonel Mostert said the identification of the car the assassins travelled in would not be released. Last week, he said a description of the car would be released this week.

The day after Dr Webster's assassination, police released identikits of three suspects, but since then, have remained silent.

● The University of Democratic University Staff Associations (Udusa) this week pledged rewards for information leading to the arrest of those responsible for Dr Webster's death.

"This is in addition to the R10 000 offered by the University of the Witwatersrand, and an equal amount by the SAP

Lecturers want their own pay talks mechanism

Bloem 13/5/87

248

PRETORIA — A warning has gone out on the quality of university education unless more heed is taken of lecturers' pay

This was stressed at a weekend Committee of University Teachers' Associations meeting

President Arrie de Beer said lecturers wanted their own negotiating machinery — on the same lines as teachers — to bargain directly with government

University lecturers' earnings are now determined by the extent

GERALD REILLY

of government subsidies

The final say in remuneration rests with university councils which are severely constrained as subsidies continue to shrink

De Beer said public servants had their own negotiating mechanisms which gave them a say in determining earnings levels

He added low pay at universities was reflected in the high number of resignations and the fact prospective lecturers were leaving for the public and private sectors

De Beer said the country would depend for economic progress, for example, on the quality of its engineers, accountants and other high-level technical and managerial personnel

"If pay levels are as low as they are now there can only be one consequence — the quality and standards of graduates is going to nosedive," he added

Merger creates world's largest auditing firm

ARTHUR YOUNG and Company and Ernst Whinney have agreed to merge their worldwide practices in a move that will create the largest auditing and consulting firm in the world.

An announcement released yesterday said that the step followed the recent unanimous decision of their international councils on which both South African firms are represented. The name of the merged firm will be Ernst and Young.

The combined revenue of the two firms in 1988 was R9,5 billion with 70 000 people working in 100 countries.

In South Africa, Roy Andersen, senior partner of Ernst & Whinney and Tom Wixley, chairman of Arthur Young, confirmed that this decision now opened the way for merger discussions between the two locally owned firms.

According to a statement in New York, the merger was meant to help both firms cut costs in the teeth of fierce competition for auditing contracts and dominate the tax advisory and accounting businesses after trade barriers fall in Western Europe in 1992.— Reuter

Drive to put huge price on killer's head

DANIEL SIMON

A CAMPAIGN to collect a reward of at least R150 000 for the arrest and conviction of anti-apartheid campaigner David Webster's killers is to be launched by the Union of Democratic University Staff Associations (Udasa)

In a statement, Udusa said it was launching the campaign in the hope of generating publicity and collecting a "large reward", increasing the probability of Webster's murderers being unmasked

There are at present two rewards of R10 000 each on offer One was offered by the SAP soon after Webster's murder and the other from Wits University a few days later.

Udusa said its campaign suggested a pledge of R100, but people were welcome to make joint pledges with others or pledge a larger amount

"About 60 South Africans have been killed in similar circumstances, and the police's record with these cases has been such that the killers are unlikely to be found

"The purpose of offering the reward is therefore to increase public pressure on the government, and to ensure that harrassment and murders of its political opponents does not continue

"If we can help find the killers or prevent future assassinations, we will have helped provide a fitting memorial to Dave," said the statement

□ Police spokesman Col Frans Malherbe said yesterday police were trying to improve three identikits of Webster's killers with the help of a new witness

Honorary doctorate for Butler

Education Reporter

Professor Guy Butler, poet and former head of the English Department at Rhodes University, will receive an honorary doctorate from Unisa at a graduation ceremony in Port Elizabeth today

Professor Butler first completed a BA and then an MA at Rhodes University, with distinctions in English, before World War 2, after which he furthered his studies at Oxford University and then taught English at Wits before returning to Grahamstown

After serving as head of English at Rhodes for 35 years, he retired in 1987 and was appointed emeritus professor and Honorary Research Fellow

Professor Butler has won various literary prizes, including the CNA prize for his volume "Selected Poems" in 1976



Professor Guy Butler . . . honoured by Unisa.

He has had several plays and books published, and has edited various anthologies

GROUP TO OFFER R150 000 REWARD

Hunt for Webster's killers

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Brain drain bites deep at varsities

GERALD REILLY

THE academic brain drain had bitten deeply into key faculties at some universities, a Committee of University Principals survey found

It also showed the major reason for resignation from the English-language universities was emigration

The survey, which began in 1986, found that annual staff turnover at all universities varied between 4,7% and 18,2%

The destinations of those who resigned from all universities was roughly distributed between the private sector, public sector and tertiary educational sector

The departments where most problems were experienced in finding suitable academic staff included economics, accountancy, maths and related subjects, computer science, physics and chemistry

Retrenching

The survey also found that in the drive to rationalise, against a background of shrinking state aid, most universities had managed to economise on their salary budgets without retrenching staff

Universities were committed to retrenching only as a last resort

However, academic and non-academic staff numbers during the past three years had risen at a much slower rate than student numbers

This process could not be continued indefinitely

The survey said some universities had reported the strain of additional work loads was starting to tell on staff

It was found, too, that the extent to which universities had done away with degrees, diplomas, subjects and options within subjects was "surprising".

The survey said "If all were added up the total would exceed 300".

It was also found that nearly 200 departments or institutions were either closed or amalgamated with other departments or institutions in the three years

Business challenged to help academics

BUSINESSES should sponsor an academic to attend the 11th International Sapics Conference, said Sapics president Peter Birkett

Universities recieved government grants to send academic staff to conferences where any papers they delivered were refereed.

The Sapics conference was officially not considered to have the academic status, and was therefore not recognised for a grant.

While Sapics' membership of 1 200 does not comprise "graduates only", the conference was considered the most upto-date forum on production and inventory control methods to be held in SA

It attracted overseas speakers, and papers were delivered by leaders in the South African manufacturing field

"Sadly, SA academics do not get 'browny points' to attend this stimulating think-tank. It would bring them into contact with manufacturers who have practical and advanced experience I believe it reflects in the curricula of universities.

"I challenge businesses to sponsor an academic to attend the Durban conference in June," Birkett said

Those interested can contact conference organiser Rob Clemo at (011) 805-2110

SA 9th out of 28 — accountancy survey

JAYNE LA MONT

LONDON — SA came 9th out of 28 countries in a world survey of accounting practices and annual reports among multinational firms

Of the 200 companies surveyed, the highest-ranked SA company was SAB, in tenth place Lowest was De Beers, in 175th place

World Survey of Published Accounts, edited by David Tonkin, concluded that accounting practices and the quality of annual reports varied greatly among SA firms

In the survey, Tonkin catalogued and illustrated the wide range of reporting practices among 200 major multinationals, comparing them with the Financial Times 1980 World Survey of Annual Reports Each firm's performance was measured in terms of the extent to which it adopted a range of reporting practices

Companies and countries were ranked accordingly, and recommendations were made as to how accounting practices could be improved

According to a statement by publishers Lafferty Publications, annual reports were increasingly studied by an international market as companies raised capital on a worldwide basis

"Tonkin has highlighted ways that companies could produce reports on which the international investment community can base their investment decisions," it said

Slipped

Overall winner was British Petroleum, with accounts which "are outstanding in sheer volume of information disclosed"

The UK headed country rankings, producing the highest average score Of the top 10 companies listed, five were UK organisations

The US — first in the Financial Times survey — slipped to 6th position Tonkin's survey described US policy disclosures as too brief and "leaving too much as being implied by the US regulatory envirоment"

The Netherlands and Germany also fell in the ratings, from second to fifth and ninth to 14th repectively

The Big Eight international accounting firms represented 81% of the sample companies surveyed KPMG led with 18% and Price Waterhouse was noted as having edited 30% of the North American group of companies

The survey also found "there has been a marginal improvement in reporting practice since 1980 There are still areas such as treatment of goodwill, timeliness of reporting and omission of subsidiaries from consolidation, in which levels of disclosure and variability have worsened"

University principals condemn Govt move

By Sue Valentine, Education Reporter

A recent amendment to the Private Act of the Universities — which allows the Minister of Education and Culture to nominate members of university councils — has been strongly condemned by the Committee of University Principals

Up until now, council members have been elected or nominated by various constituencies such as graduates of the university, the city council and the State President This new move means the white own affairs Minister will have control of nominating council members at universities at which black and white students are enrolled

The procedure has been changed on grounds of "administrative convenience" against the express wish of the universities of Rhodes, Natal, Cape Town and the Witwatersrand

The vice-chancellors of the four universities said in a statement "The universities believe it is completely inappropriate for the white own affairs Minister to nominate council members It is absurd to take this retrograde step when more than 20 percent of the students at our universities are not white"

The statement said the Committee of University Principals was unanimous that universities should fall under a single education Ministry and not forced into own affairs ideology

Stellenbosch academics 'concerned'

Own Correspondent

CAPE TOWN — A group of about 60 "concerned" Stellenbosch University academics have adopted a motion requesting the University Council to lift the ban on peaceful protest on the campus

This follows the controversy surrounding the recent expulsion of Nusas leader Miss Leslee Durr and the suspension of all activities by Nusas and the Black Students of Stellenbosch organisation, after a protest over segregated residences

A declaration on issues will be issued after the University Council meeting on June 23.

248 Wmail 9-14/6/89

Arrested: Assessor who criticised the judge

By CARMEL RICKARD

AN extraordinary controversy involving a Transkei Supreme Court judge and his assessor has sent shock waves through the legal profession.

Assessor Arjun Naidu, an advocate and professor of law at the University of Transkei, last week signed a statement saying in effect that Mr Justice M Mitchell had lied in court.

A week later, arrested and charged in court for contempt and defamation, he said the statement was a lie, made "under duress".

In the affidavit, filed with the Registrar of the Supreme Court in Umtata, he challenged the judge's ruling on the last day of a "political" murder trial, that the court found "unanimously" there were no extenuating circumstances.

Naidu, who was not in court at the time sentence was handed down in the case, questioned the accuracy of the judge's remarks during sentencing. The judge said he and the assessor were unanimous in their conclusion that there were no extenuating circumstances. He sentenced the two accused in the Wild Coast casino bombing trial to death.

Naidu's version was that he had not reached a final conclusion on extenuating circumstances and he challenged the judge on whether the court was "unanimous" on the issue, saying the judge's remarks had caused him "great concern".

He also explained why he was not in court: Naidu said he had received threatening letters and phone calls about his role in the trial and was warned to recuse himself.

After consultation with the trial judge and Transkei's Chief Justice it was decided that he should not continue sitting in the case.

However he stressed that while he did not appear in court on the final day, "I state quite categorically that I did not reach any definite conclusion on the question of extenuation and certainly did not convey my final judgement on this question before withdrawing as an assessor".

A few days after his affidavit was lodged, Naidu was arrested. He appeared in the Transkei Supreme Court on Monday and read a second statement, this time made to a magistrate, claiming his previous statement was made under duress.

Naidu claimed that after the death threats began, he was visited by Durban advocate Kessie Naidu, who told him to sign an affidavit which would "make him blameless in the eyes of certain organisations".

The assessor said he took this to mean the African National Congress was involved. He claimed the lawyer told him that the ANC "would just have to give the word to the students ... and (he) would be killed within a few minutes".

Arjun Naidu said that, acting under duress, he signed the statement contesting the judge's version of the question of extenuating circumstances even though his own version was not true.

He also claimed that the portion of the document stating that it was signed before a commissioner of oaths, was not signed in his presence, and he did not know "if and when it was done".

Naidu said the statement was signed "under total compulsion and fear for (his) life".

The assessor was released on bail of R250.

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more established industrial areas closer to Johannesburg

Hodge, the machine is geared for work at altitudes of 1 200m. Sable's machines are working on a road contract in the Lesotho Highlands

No case for lowering standards for engineers

Star 13/6/67

248

While South African engineering graduates compare favourably with those in the rest of the world, there would have to be great care taken to avoid the "unthinkable practice of reducing academic standards" to compensate for dropping enrolment figures

Writing in the latest issue of Asphalt News, Professor Alex Visser, of the engineering faculty of the University of Pretoria, says "In Brazil during the Seventies the number of engineering graduates had to be raised fourfold within about five years

"The only way this could be achieved was by lowering standards and such an approach leads to complete chaos"

Professor Visser points out that the end result is that only graduates from certain universities who maintain standards have any chance of gaining employment

"Fortunately, university authorities here are guarding against such rash approaches," he says

A major concern in engineering at present is the high first-year failure rate

The majority of students on a five-year programme invariably drop one or more subjects in their first year

"Many graduates and their employers are coming to realise that post-graduate specialisation is essential," says Professor Visser "Consequently, enrolment at post-graduate level is increasing"

This is also the trend in the US where some states now require post-graduate qualifications for registration as a professional engineer

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Wits denies 'blackmail' at hospital

248 STW 14/6/89

Medical Reporter

The University of the Witwatersrand had never "blackmailed" its staff to resign from beleagured J G Strijdom Hospital, Dean of the Medical Faculty Professor Clive Rosendorff said yesterday.

He was reacting to a statement last week by Minister of Foreign Affairs Mr Pik Botha, who said "a certain university blackmailed" staff at the hospital to resign

More than 30 doctors and at least 50 nurses have resigned since the hospital was transferred to Own Affairs administration on April 1.

As staff at J G Strijdom are appointed jointly by Wits and the provincial authorities, Mr Botha was more than likely referring to Wits.

APPEALS TO STAFF

"His statement is absolutely untrue

"On the contrary, the university has consistently appealed to staff at the hospital not to leave at least until the end of the year," said Professor Rosendorff

The university had urged staff to stay to ensure its orderly transition from an academic institution to non-academic, and to minimise the effect of the university's withdrawal on patients.

Under Own Affairs, J G Strijdom may no longer operate as an academic hospital, but the university will stay on until December 31 to try to reduce the traumatic effects of its withdrawal.

Ex-newspaper editor in court

Star 15/6/89

(248) (300)

CAPE TOWN — An application to drop charges against a former editor of the weekly newspaper, *South*, has been refused

It is alleged that Mr Rashid Ahmed Seria (38), who has not yet been asked to plead, and *South* contravened the emergency regulations on May 11 1988 by publishing an article entitled "It's 1985 in the schools again", with news and comment on a school boycott

Yesterday, defence counsel argued that the Attorney-General had no power or authority to prosecute Mr Seria The objection was dismissed and the case was adjourned to August 28. — Own Correspondent

Star 14/6/89 248

Attorneys welcome Law Commission's proposals on rights

By Cathy Stagg

The South Afican Law Commission's working paper, "Group and Human Rights", has been welcomed as restoring the legal profession's reputation as one of the rightful and most important proponents of human rights in South Africa.

An editorial in the attorneys' journal, *De Rebus*, says the paper restores confidence in the legal fraternity to take responsibility for the propagation of the rule of law in this country.

The Law Commission consists of members of the judiciary and legal profession, academic lawyers, magistrates, and Department of Justice officials

It has drawn up a working paper which argues for the protection of individual human rights in South Africa by means of a Bill of Rights. It concludes that a workable and broadly accepted Bill of Rights can, and should, be introduced within the present political set-up

The document sets out a broad framework within which it would have to fall if it is to be acceptable and effective

The *De Rebus* editorial says the report displays a consistent bias in favour of legalism and legal idealism, balanced by an appreciation of the realities of the South African situation as reflected in the evidence before it

"The working paper wisely suggests that 'political group rights, that is to say, the question of the legislature's composition, should be protected in the constitution itself, subject to the principle of equality'," *De Rebus* says

● The working paper was prepared under the direction of Mr Justice Pierre Olivier, the Law Commission's vice-chairman It is not the commission's final view and only when comment on it and further suggestions have been evaluated will the commission reach a final conclusion and submit it to the Minister of Justice, Mr Kobie Coetzee.

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248 STAR 14/6/89

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Webster reward R50 000

THE total reward offered for information leading to the arrest and conviction of the murderers of Dr David Webster is nearing the R50 000 mark.

Pledges from various concerned parties are pouring in daily, a representative of the Academic Staff Association at the University of the Witwatersrand, Dr Allan Mabin, said yesterday.

"Already six weeks have elapsed since David's assassination and there are no signs of positive leads. It seems under the circumstances that the only way the case will be solved is with information from someone privy to the deed."

Mabin pointed out Webster, who was both his friend and colleague, was "far from the only person of a general political persuasion whose murder has not been solved."

He said the reward was not only for his friend "but for the deaths of all those other people to be kept in mind."

"The pledges are an opportunity to place on record outrage at David's murder," an Udusa statement said.

Mabin said pledges to the Union of Democratic University Staff Associations (Udusa) had risen to R25 000 yesterday morning which, added to the rewards offered by the police and the University of the Witwatersrand, amounted to nearly R50 000.

He said the reward was being offered to persuade anyone with information to come forward.

mid- ould sys- tion oirs

faith by voting themselves a 10 percent pay cut and fund their own pensions by paying 75 percent of their premi-

areas The continually escalating prices are due to the apathetic situtation of the public towards the Government

must elapse between the date of proclamation and nomination day

By nomination day all candidates for the election must be finalised Political parties are expected to receive provisional voters lists soon although the official list will not be published until later

Webster killers: the cash rolls in

(248) JANET HEARD Star 17/6/89

UNIVERSITY of the Witwatersrand lecturers this week repeated their determination to continue campaigning for the capture and trial of the killers of anti-apartheid activist Dr David Webster

More than R25 000 has been pledged by people towards a reward for information leading to an arrest, said Dr Alan Mabin, a member of the Union of Democratic University Staff Associations (Udusa), this week

He said "Already six weeks have elapsed since David's assassination and there are no signs of positive leads

"It seems under the circumstances that the only way the case will be solved is with information from someone privy to the deed"

Dr Mabin said about 60 South Africans had been killed in similar circumstances, and the police's record with those made it unlikely that the Webster killers would be found

The total reward offered now stands at more than R50 000, including the police offer of R10 000, and the equivalent offered by Wits University

Colonel Floris Mostert, head of the Brixton Murder and Robbery Squad, supported the Udusa offer and said it could help to activate a person to come forward with information

He said he suspected there were people who could contribute to solving the case who had not yet come forward

"Other witnesses are needed It may take a long time for them to come forward, but eventually people will start talking"

He said the investigation was continuing, but there had been no further leads during the past few weeks

"The investigating officer has not had a weekend off since Dr Webster was murdered," said Colonel Mostert

● Udusa pledge forms can be obtained by writing to the Treasurer, Udusa, University of the Witwatersrand, Johannesburg Telephone 716-2864

Penalty fee for late bond payments

By Helen Grange

At a time when homeowners are struggling to keep up with their bond repayments, some account holders are also faced with the threat of a penalty fee should they fall into arrears

The Perm Building Society charges additional interest of two percent of the monthly repayment should homeowners fall behind by two months Thereafter the bank's attorneys are instructed to institute legal proceedings.

No other bank or building society has instituted this additional interest, although at the Natal Building Society (NBS), an extra fee of R20 is payable for a bond repayment outstanding for two months For every month after that, R10 is added to this

The general manager of Perm, Mr David Harrison, says the reason for additional interest on late bond repayments is the "extra problems experienced by the building society once an account falls into arrears"

"It is a reasonable reaction It wasn't introduced to jolt people into paying, but only to cover administrative expenses on our side," he said

Mr Harrison added that homeowners who couldn't meet their commitments could approach the building society, which would tailor bond repayments to their ability to pay

Wittes honoured for saving captain

By Barry Glasspool

A Transvaal Rooibokke player who saved the life of his teammate and captain during a provincial match at Newlands two weeks ago has been honoured by his teammates and Transvaal rugby officials

Wittes Buitendach thrust his fingers into Francois Pienaar's mouth to prevent him swallowing his tongue when Pienaar suffered an epileptic fit after receiving a blow on the head during the game against Western Province B Doctors later said Buitendach's action had saved Pienaar's life

Dr Louis Luyt, president of the Transvaal Rugby Union, said yesterday "If it hadn't been for the quick, sure action of Wittes, we could have lost Francois He almost had one finger severed, such was the ferocity of the bite"

Buitendach was presented with a Transvaal centenary tie at a weekend ceremony at which the gratitude of the TRFU was extended to the Rooibokke hooker

21 SA academics hold talks with ANC

By Sue Valentine, Education Reporter

A 21-person delegation from the Union of Democratic University Staff Associations have returned to South Africa after three days of talks with the African National Congress in Lusaka

The Udusa delegation was led by its president, Professor Mala Singh, and comprised delegates from all its branches These included academics from Stellenbosch, Potchefstroom, Rand Afrikaans, Cape Town, Rhodes, Natal, Durban-Westville, Qwa-Qwa, Bophuthatswana, Unisa, Fort Hare, Witwatersrand and Turfloop universities

The ANC delegation was led by Mr Thabo Mbeki

The general secretary of Udusa, Dr Mike Morris, said the union's intention in going to Lusaka was essentially as a fact-finding mission

"The exchange of views was extremely beneficial and will enable Udusa to conduct more informed deliberations on these issues at its congress in July," he said

SA authors nominated for Nobel Peace Prize

By Shirley Woodgate 248

Best-selling South African authors Frances Kendall and Leon Louw have been nominated by a group of Scandinavians for the 1989 Nobel Peace Prize. Star 21/6/89

The nomination is mainly based on their book "South Africa — The Solution", now running into 40 000 copies, which promotes the introduction of the canton system in South Africa.

According to Kendall, nominations for the Peace Prize can be made by three categories of people. a previous winner, a Norwegian parliamentarian or Norwegian academics.

Excerpts from the nomination highlight the authors' attempt to seek new solutions for peace in South Africa

"The Solution" published in 1986 is seen by the panel as "the most important approach ever" in South Africa's search for peace

One of the nominators, Mr Kai Stensrod of Norway, lauded their call for a Constitutional Bill of Equal Rights

The authors' second book "Let the People Govern", with a foreword by Dr Frederik van Zyl Slabbert, has recently been launched

SA profs to study at Yale, Princeton

Education Reporter

Two social anthropology professors at the University of Cape Town have received prestige fellowships to Yale and Princeton universities in the United States worth about $40 000 (R112 000) each.

Professor Harriet Ngubane will leave for Yale University in September where she will spend a year on the SA Research Programme working on three projects.

Associate Professor Robert Thornton will go to Princeton to join the Institute for Advanced Study — the institute where Einstein did his research.

He said he would be researching the sociology of crime, studying violence as well as other rituals and rites for a book he is writing.

THREE PROJECTS

The three projects Professor Ngubane will tackle include:

- Social change in women, the transition African women are going through and how the privatisation of wealth is leaving many women out in the cold.
- Philosophical questions in relation to African thought patterns.
- Development questions — whether developing countries are able to feed themselves in the context in which they are surrounded by South Africa.

Probe into metal fatigue

Education Reporter

Engineering fractures can cost industry about 4 percent of its gross national product, and this year the third national conference of the University of the Witwatersrand Fracture Research Group will be held in Johannesburg on June 29 and 30.

The conference will provide a forum for local and international engineers, metallurgists and scientists who are concerned with fatigue and fracture. It will also cater for such as insurance loss adjustors.

The conference will be held at the World Trade Centre in Johannesburg. Registration enquiries may be addressed to Ms Lesley Stephenson on 716-5091.

Top SA academics among group of 120 to meet ANC

Star 22/6/87 248

By Esmaré van der Merwe, Political Reporter

The largest group of white South Africans yet to meet the African National Congress will attend a conference in Zambia later this month to discuss with the banned organisation the role of whites in a changing society

The Five Freedoms Forum, which organised the conference, yesterday released the names of some of the 120 South African delegates who will meet 40 ANC representatives in Lusaka from June 29 to July 2

Prominent educationists are among the delegates, including University of the Witwatersrand deputy vice-chancellor Professor Mervyn Shear, University of Cape Town deputy vice-chancellor Professor Dave Woods, Sacred Heart College principal Mr Neil McGurk; educationist Dr Franz Auerbach and Dr Robin Lee of the Wits Centre for Policy Studies

Others attending the conference, sponsored by the governments of the United States, Sweden, Canada, the Netherlands and Denmark, include East London mayor Mr Donald Card, former Black Sash president Mrs Joyce Harris and *Southern African Report* editor Mr Raymond Louw

The Five Freedoms Forum said yesterday that the delegates represented parties which worked in the white community.

The conference would substantially differ from previous meetings between individuals and the ANC, the Forum said

"The delegation of whites is unique in that not only does it include a large number of influential individuals, but that most delegates will be representing specific organisations or constituencies."

End lawyers' conscription call supported

By Kaizer Nyatsumba

There has been widespread support in legal circles for a call by the board of the faculty of law at the University of the Witwatersrand that young lawyers be exempt from conscription

The board recently said it believed that it was "morally wrong to have a system of compulsory military training in support of a political structure in which the majority of South Africans cannot participate", and resolved to support the call for "viable alternatives" to military conscription.

The board said compulsory military service forced many promising potential lawyers to emigrate and this resulted in declining standards

"The lack of adequate legal representation places serious question marks against the system of criminal justice in South Africa. Law graduates could be used as public defenders in a programme of alternative service to remedy this deficiency," the board said in a statement.

ENDORSED

Lawyers contacted by The Star last week overwhelmingly endorsed the call.

A Johannesburg lawyer, Mr Raymond Tucker, said "It is well known that there is an inadequate amount of legal representation available, and this would be a very creative way of providing that service"

The national director of Lawyers for Human Rights, Mr Brian Currin, said "I think that young lawyers must be exempt from military conscription and given an opportunity to take part in an alternative public defender programme"

Pottinger wins top fellowship

Sowetan 28/6/89

HARVARD University has announced that Brian Pottinger, assistant editor of the *Sunday Times*, has been elected the 1989/1990 South African Nieman Fellow

Pottinger, a graduate of the University of Natal, started his career as a journalist with the *Daily News* in 1976 Prior to joining the *Sunday Times* in 1983 as a political correspondent, he served on the staffs of the *Evening Post* and *Natal Witness* Besides being a widely recognised and astute commentator on political affairs, Pottinger is also the author of several critically acclaimed scholarly works, the most recent being *The Rise of the Imperial President P W Botha, 1978-1988*

The fellowship is administered and sponsored in part by the United States-South African Leader Exchange Programme (Ussalep) and Pottinger is the 30th consecutive South African to be elected a Nieman Fellow

The fellowship is one of the most coveted awards in the world of journalism and it offers the opportunity to study a wide range of subjects at Harvard In addition, the fellow participates in programmes with other Niemans from America and other parts of the world

Mr Joe Thloloe, deputy editor of the *Sowetan* was last year's Nieman Fellow

115 fly out to see ANC

Star 30/6/89 248

By Esmaré van der Merwe, Political Reporter

The largest South African delegation to meet the outlawed African National Congress left from Jan Smuts Airport yesterday for a three-day conference on the role of whites in a changing South Africa

Organised by the Five Freedoms Forum (FFF), the conference in Lusaka will be attended by about 115 South African and 50 ANC delegates

FFF chairman Mr Mike Olivier said at a news conference that while SA delegates shared a desire for a non-racial, democratic country, they held widely divergent views on how such a society should be achieved

"We respect the diversity of the delegation and do not expect delegates to speak with one voice," he said

Delegates were attending a function at the invitation of Zambian President Kenneth Kaunda last night.

ANC leader Mr Oliver Tambo will address the opening session of the conference today.

Among the SA delegates are 23 academics from nine universities, 20 businessmen, 16 journalists including five editors, city councillors, church workers, trade unionists, educationists, students and individuals from the Democratic Party

PROFESSIONS — 1990

Star 2/1/90 (AP) 248

Writer Etienne Leroux dies in Bloemfontein

By Sue Valentine

Internationally acclaimed Afrikaans author Mr Etienne Leroux (67) died at the Universitas Hospital in Bloemfontein on Saturday after a long battle against lung cancer

Mr Leroux, who was known to his friends as Stephen, twice received the Hertzog prize for Afrikaans literature

Among the works by the controversial *sestiger* (sixties literary genre) author, was "Magersfontein, O Magersfontein", which was banned in 1977 for 2½ years

COMPLAINTS

He first made headlines in 1962 with Sewe Dae by die Silbersteins (Seven Days at the Silbersteins) — the first of a trilogy which elicited complaints on moral grounds from the Afrikaner establishment and which was translated into English

His second trilogy, "For a Dubious Salvation" brought him international acclaim and was published in the Penguin Modern Classics series

He was working on his 12th novel, *Die Kaping* when he fell ill and it remains unfinished

A close personal friend and specialist on Afrikaans literature, Dr John Kannemeyer — to whom Leroux's 1964 novel, "One for the Devil" is dedicated — said he believed Leroux was one of the few very great authors of Afrikaans literature

"He was the most important author of the sixties, especially as a novelist and he was one of the few people in Afrikaans literature who could be compared internationally He was, I believe, the only Afrikaans author published in the Penguin Modern Classics"

Dr Kannemeyer said he first encountered the author's work as a schoolboy in Robertson in the Cape in 1955 when he saw a copy of Leroux s first novel, Die Eerste Lewe van Colet in the local bookshop

"The name Etienne Leroux didn't mean anything to me, but I was attracted to the book because it was dedicated to the Dutch poet Jan Greshoff

"For a boy on the platteland who didn't come from an academic family, this book was wonderful to read Nothing at that time in Afrikaans prose could compare From that moment I was very much interested in his work Immediately after there was a new book of his published I was one of the first to buy it"

Dr Kannemeyer said he first met Leroux when he delivered a lecture at the Literary Society of the Afrikaans department at the University of Stellenbosch in 1960

ATTORNEY

Mr Leroux, who was the son of a former agriculture minister, Mr S P Leroux, grew up in the Oudtshoorn district

He worked as an attorney in Bloemfontein before taking up full-time farming on his farm Janee near Koffiefontein

He is survived by his wife Elizabeth and children Mr Stephanus Le Roux , Mrs Cherie Collins and Dr Helise Ashton.

Recently he came out in support of those Afrikaans authors who met the ANC at the Victoria Falls in July

B/Dam 3/11/90

(4) 248

Tribute paid to writer Leroux

PRETORIA — The Afrikaans Writers' Guild (Afrikaanse Skrywersgilde) has expressed its sense of "great personal loss" at the death of renowned Afrikaans author Etienne Leroux

Leroux died in Bloemfontein at the weekend after a long battle against lung cancer He was 67

Guild chairman Charles Malan said in a statement yesterday that Leroux's death was felt "as a blow for literature but also as a great personal loss"

He had been one of the guild's most respected members

His "characteristic youthfulness of spirit" had ensured that he had always been seen as one of the "Young Turks"

He would not only continue to live on in his 11 novels and his other texts, but in the memories of his literary circle of friends

"The writer is dead, long live the writer," Malan said

Among Leroux's works was the controversial Magersfontein, O Magersfontein, which was banned for more than two years from 1977, One for the Devil, and For a Dubious Salvation He was working on Die Kaping at the time of his death — Sapa

B/Dam 3/11/90

DET takes stand on matric failures

THOUSANDS of black students who failed the recent matric examinations would not be allowed back to school to repeat the year, an Education and Training Department spokesman said at the weekend

DET spokesman Corrie Rademeyer said many of the candidates who had failed did not need to go back to school as they did not have to repeat all the subjects

Rademeyer said only 23 783 of the failures, out of a total of 195 960 who had entered the matric examinations, were under the control of DET.

The rest fell under the various education departments of self-governing territories, Bophuthatswana, Venda and Ciskei

Priorities

A total of 74 249 pupils (85 656 passed in 1988) passed last year's examinations Of these, 17 553 candidates achieved university entrance

"Many of the failed candidates do not need to go back to school to pass, but to finishing schools because they need only to repeat a few subjects"

Rademeyer said the department had to follow certain priorities within the regulations when considering accommodating matric student who had failed

He said it was important to note that with the rapid growth in the number of pupils, accommodation was at a premium

"There are priorities that have to be followed in considering pupils — not only failed matric pupils — for accommodation at schools"

THEO RAWANA

He said these were (in order of preference)

- ☐ Those who enrolled the previous year and had passed received first preference,
- ☐ New pupils coming from feeder schools,
- ☐ Those who had enrolled the previous year and had failed for the first time were the next to be considered, in order of merit,
- ☐ Pupils transferred from other schools because their parents had moved from another areas

It was only then that other applicants could be considered, Rademeyer said

The director-general might also refuse entry "on educational grounds" to pupils over the age of 20.

An important component in placing pupils was the placement committee, consisting of school principals, circuit inspectors, management council chairmen and other parent representatives

"It is against this background that the director-general can plan There are several options he can use, including facilities at adult education centres and finishing schools"

Rademeyer said the circumstances of failed candidates were considered from region to region

"Only when there is a clear picture of how many pupils need to repeat all or some of their subjects will regional directors make final decisions, in consultation with the management councils of the schools," Rademeyer said.

● Comment: Page 4

SAP HARD PRESSED BY BOOST IN CRIME

DURBAN — The incidence of seri- [illegible] lar fraud, can be attributed to a

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currently arranging a $90m facility for Zambia Air ways acquisition of new wide body aircraft he said

A member of the Gold Fields Group

SA law is moving fast to head off the flow of stolen ideas

Star 3/11/1990

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WILLIAM LANE

COURT decisions have continued to draw attention to the rapid adjustment of SA law to the exploding industry of industrial espionage and unfair competition in the form of theft of intellectual property

These cases all concern forms of unlawful competition and follow the important judgment in the matter of Dun & Bradstreet vs SA Merchants Combined Credit Bureau (Cape) (Pty) Ltd 1968(1) SA209 at 218

In this case a trader was held li able in damages for knowingly using confidential, specialised information compiled by the exercise of skill and labour by its rival trader and com petitor Reaching this decision, the court affirmed the time-worn princi ples of fairness and honesty, as well as questions of public policy as the future guidelines in the law relating to competitions of trade

"While fairness and honesty are relevant criteria in deciding whether competition is unfair they are not the only criteria Questions of pub lic policy may be important in a particular case eg the importance of a free market and of competition in our economic system" (at 679)

Despite the establishment of these principles and guidelines the courts have been hesitant to define exactly the circumstances in which relief will be granted to an injured party

They have preferred to rely in each instance, on what they consider to be fair and honest, having high regard to the general sense of justice in the community

However, by considering the na ture and circumstances of the fol lowing 1988 decisions it is possible to glean some information about how the courts deal practically with the increasing problems of unfair com petition in trade and commerce

The principal cases where the courts intervened in the cause of fairness and honesty in 1988 were

Sibex Construction (SA)(Pty) Ltd v Injectaseal CC 1988 (2) SA 54

Pepsisco Inc & Others v United Tobacco Company Ltd 1988 (2) SA 334

Elida Gibbs (Pty) Ltd v Colgate Palmolive (Pty) Ltd 1988 (2) SA 360

Capecan (Pty) Ltd v Van Nimwe gen & Another 1988 (2) SA 454

Sibex was a wholly-owned subsid iary of Turner & Newall which specialised in on line maintenance leak-sealing, and was a regular con tractor to companies such as Sasol and Natref After Sibex decided on its prices to tender for work to Sasol and Natref certain directors and senior employees of Sibex resigned and set up a competing company, Injectaseal, which also submitted tenders to Sasol and Natref

The court found that the departing directors and senior employees in competing with Sibex, had not only breached their fiduciary duty owed to Sibex arising out of their particu lar confidential relationship but had also acted unfairly and dishonestly in using their knowledge of prices quoted by their employers

Mr Justice Goldstone concluded "No argument in favour of a free market or of free competition could justify such dishonest use of confi dential information It follows in my judgment, that if such information was used it would have constituted unlawful competition

The judge quoted with approval a decision of a Canadian court which placed particularly onerous respon sibilities upon members of top management of companies whether or not directors

The Canadian judge urged that the courts should enforce a strict ethic in respect of such persons In my opin ion this ethic disqualifies a director or senior officer from usurping for himself or diverting to another per son or company with whom or which he is associated, a maturing business opportunity which his company is actively pursuing

'He is also precluded from so act ing even after his resignation where the resignation may fairly be said to have been prompted or influenced by a wish to acquire for himself the opportunity sought by the company, or where it was his position with the company rather than a fresh initiative that led him to the opportunity which he later acquired '

Consequently the court granted an order requiring the offenders to withdraw any quotations or tenders submitted to Sasol and Natref and prohibited them from submitting any further tenders or quotations to Natref

Although the Pepsico case falls partly under the law of trademarks, the same principles of decency and honesty arose

Pepsico had acquired the right to use the trademark Ruffles in the Re public in connection with a new pota to chip Preparing the launch of the chip, they introduced it to certain large retail suppliers

Before their marketing campaign had been completed however, Unit ed Tobacco Company launched a similar chip which was also referred to as Ruffles, which the respondent marketed through hundreds of cafes

The question before the court was whether Pepsico had before its chip effectively reached the market ac quired in the chip and the name Ruf fles a right which the law would protect The court was also asked to intervene on the grounds that the respondent had been guilty of unlaw ful competition

In concluding that this did consti tute unlawful competition the judge said Pepsico s demonstration of the trademark had given it a reputation Accordingly 'it was sharp practice constituting unlawful competition" for United Tobacco to try and pre empt Pepsico s launch

The court granted an interdict re straining the respondents from using the brand name Ruffles in relation to potato chips or any snack food or food products

The fullest and most lucid discus sion by the Appellate Division of principles involved in unfair com petition by former employees is in Schultz v Butt 1986 (3) SA 667

Over a long period, and with con siderable expenditure of labour and money Butt had developed a ski boat hull Schultz then made a mould of this and sold the hulls in competi tion with Butt

The Appellate Division upheld an order preventing Schultz from man ufacturing or selling the Butt hull, and remarked that it did not assist him that by adding impudence to dishonesty he had registered the hull's design

In SA the legislature has not limi ted the protection of the law in cases of copying to those who enjoy rights of intellectual property under statutes

'The fact that in a particular case there is no protection by way of pat ent copyright or registered design, does not license a trader to carry on his business in unfair competition with his rivals," the court said

Often it is difficult to decide, in the absence of an agreement which of the employer s information has to be treated as confidential and which is available for dissemination by the employee The difficulty is one of balancing two conflicting social and economic interests

The law on the one hand, encour ages competition but, on the other hand tries to afford established busi ness reasonable protection against unfair trade practices

Examples of the court s approach to the problem are

☐ An employee of an auctioneering firm was held to have erred in taking a copy of a list of customers and of a telegraphic code belonging to his employer for use in a business set up for himself (Pelunsky & Company v Theron 1913 WLD 34)

☐ The plaintiff had acquired the right to exploit a patent roof tile Although there was no secrecy about the process details were confiden tial The factory was the first of its kind it produced a suitable product with reasonable efficiency and it was a great commercial success

A former employee communicat ed to the defendant a considerable quantity of information As a result, the defendant was able to produce a competing product without going through designing its own plant with all the attendant expense effort and delay in getting into production The court granted the defendant an order against the competitor and the for mer employee (Harvey Tiling Co (Pty) Ltd v Rodomac (Pty) Ltd & Another 1977 (1) SA 317)

Despite the fact that the law does offer some protection for the employer, his best remedy is to enter into an express agreement with his employee

Employers are increasingly seek ing to protect confidential informa tion by "restraint undertakings '

This express contractual form aims to ensure that the employee cannot lawfully use the employer s information in competition with the employer

The extent to which the courts are now prepared to go in enforcing re straint provisions was illustrated in the Capecan case

The court found no reason to pre vent an employer from enforcing an agreement under which a former employee had undertaken not to compete with the company for three years after the termination of his employment (no matter how such termination shall arise)

The employee challenged the validity of the termination, contend ing that an employer who had not kept his side of the bargain could not keep the employee to the restraint

Miss Justice van den Heever held that the restraint clause in cases like this was intended to have an exist ence independent of the contract of employment and to continue to be operative after the latter has ceased

'The restraint obligation is a duty undertaken as one among many others in return for the pay packet received as a quid pro quo"

William Lane is a partner in the legal firm Bell, Dowar & Hall

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Jurists voice death penalty concerns

Star 4/1/90

Staff Reporter

A key issue which advocates feel strongly about regarding capital punishment is that in the absence of extenuating circumstances in a murder, South African judges have no discretion and are bound to impose the death penalty

There is also no automatic right of appeal to the Appellate Division

These concerns were voiced yesterday in response to a British TV programme, "South Africa's Death Factory", dealing with hangings in South Africa.

Responding to remarks made on the programme by Mr Justice Didcott about the death penalty, Mr A L J van Vuuren, executive director of the Association of Law Societies, a body representing attorneys, said the official ALS position was to call neither for the retention nor the abolition of the death penalty.

However, it had asked the Government to look at the entire question afresh

"We are particularly concerned that when there are no extenuating circumstances, the judge has no discretion. That is the main problem."

Mr van Vuuren felt that in all court cases the presiding officer should have discretion because the accused and all the facts were before him

He said he had heard that some senior advocates refused to accept an appointment to the Bench because they opposed the death penalty.

Mr Milton Seligson SC, chairman of the General Council of the Bar in South Africa, said that whether one was an abolitionist or in favour of retaining the death penalty, he did not think any concerned jurist in South Africa was satisfied with the death penalty in its present form

He said the general council had called for an exhaustive inquiry into all aspects of the death penalty Because it was believed that the subject should be considered at the highest level by an impartial body endeavouring to improve justice, the SA Law Commission had been approached but so far no response had been received

Two key issues which advocates feel strongly about are the fact that if a judge does not find extenuating circumstances in a murder, he has no discretion and is bound to impose the death penalty, and the fact that there is no automatic right of appeal to the Appellate Division.

Mr Seligson confirmed that there were some advocates who might otherwise have graced the Bench but who declined to become judges because of their views on the death penalty.

"I don't believe the numbers are great but it is true there are some advocates who feel that way," he said.

Churchmen to see De Klerk

CHARLENE SMITH

THE first of an anticipated series of talks between church groups and President F W de Klerk takes place tomorrow when he meets a 12-member delegation from the conservative Church Alliance of SA (Casa)

De Klerk, in his Christmas Eve address last month, called on church leaders to meet him It is believed he is keen to involve churches in remoulding the racial attitudes of their congregations and in helping to create a climate for negotiations

The Casa delegation which claims to represent about 10 million church go ers, said issues it intended discussing with De Klerk included the state of emergency, constitutional development, the abolition of discriminatory laws, and the application of biblical principles by the authorities when they decide on controversial moral issues

A De Klerk spokesman said dates had not yet been set for meetings with other churchmen

Casa, which was formed in June 1988, said it represented more than 900 denominations Delegates at tomorrow s conference will include among others Casa president and Fellowship of Pentecostal Churches secretary-general M L Badenhorst, Reformed Independent Churches Association presi dent Bishop Isaac Mokoena, the Zionist Christian Church's Rev Paul Mazibuko, and Dr Pierre Rossouw of the white Dutch Reformed Church

Retirement villagers bale out developers

LESLEY LAMBERT

CAPE TOWN — Members of the 200 cottage Silvermine retirement village near Noordhoek are having to bale the development out of short term financial difficulties

Earlier, another retirement village in the Cape reported similar problems

The Silvermine villagers have taken over management of the "share-block" holding company after the negotiated resignation of members of the controlling ARP & P Noordhoek Development Trust The trust is headed by Cape Town attorney Barry Burton Barbour, who was involved in the Helderberg Retirement Village near Somerset West which ran into cash flow difficulties last year

The Silvermine share block scheme is said to owe creditors more than R3m while Helderberg's debt is reported to amount to R4,5m

Burton Barbour said yesterday Sil vermine s financial problems were not related to Helderberg s

National Council for the Aged direc tor Syd Eckley said yesterday at least 10 retirement village schemes had gone bankrupt in the Cape and Trans vaal over the past year

Legal profession 'wants to see black judicial officers'

SUSAN RUSSELL and GERALD REILLY

THE legal profession wants qualified black judicial officers appointed to the lower courts and the Supreme Court as soon as possible, says Johannesburg Bar Council chairman advocate L Goldblatt, SC

Goldblatt was responding in a statement to an interview — with newly elected Association of Law Societies president Nico Coetzer — printed in attorneys' magazine De Rebus

Coetzer said the nurturing of an un faltering belief among all South Africans that courts were places where justice would prevail was the greatest challenge facing SA's legal system this decade

Two major problems faced by SA's legal system were the question of legitimacy and access to the courts by everyone who needed it

While the pro deo system had served a useful purpose it should be replaced by readily available legal aid where an advocate could be supported by an attorney, Coetzer said

The legal profession was doing everything possible to give everyone who needed it access to the law

Responding to Coetzer s comments, Goldblatt said he believed the SA courts were already perceived as legitimate

He agreed, however, that a legal system seen as legitimate by the entire population was one of the challenges facing the profession

"Obviously among blacks they must be perceived as white courts and that creates a political problem "

'One hopes that in time to come there will be more blacks sitting in the various courts — the lower courts and the Supreme Court "

The legal profession, he said, wanted the appointment of black judicial officers to happen as quickly as possible

"It is not a question of appointing people by virtue of colour '

"We must have people of colour and ability with the appropriate training and experience We all hope these people will emerge

Lawyers' group to meet Mandela

Own Correspondent

DURBAN — Twelve members of the National Association of Democratic Lawyers (Nadel) are to meet Nelson Mandela this week (248)

Nadel's national president Pius Langa said yesterday Mandela was Nadel's honorary life president and there had been "a mutual desire to hold an open meeting".

He said the Nadel members, who will meet Mandela today and tomorrow, wanted to discuss the role of lawyers in SA B/Day 10/1/90

□ KIN BENTLEY reports from London that peaceful movement towards democracy on a broad front in SA was a necessary prelude to British Prime Minister Margaret Thatcher visiting that country, a spokesman for her office said yesterday. He said Mandela's release would not in itself be sufficient progress to enable such a visit.

● Comment: Page 6

Star 10/1/90 (252) (248)

'Legal system tied to apartheid'

Bar council's call 'cosmetic'

By Helen Grange

A call by the Johannesburg Bar Council to have qualified black judicial officers appointed to courts as soon as possible has been criticised by the black legal profession as a superficial attempt to legitimise the South African legal system among blacks.

The chairman of the Johannesburg Bar Council, Mr Louis Goldblatt SC, said this week that one of the challenges facing the legal profession was a legal system seen as legitimate by the entire population.

"Obviously among blacks the courts must be perceived as white courts and that creates a political problem.

Apartheid

"One hopes that in time to come there will be more blacks sitting in the various courts — the lower courts and the Supreme Court," Mr Goldblatt said.

However, this move would do little to legitimise South Africa's legal system, according to Mr Keith Kunene, vice-chairman of the Black Lawyers Association.

"The problem stems from the offensive apartheid laws of the country. Many black lawyers would object to sitting on the bench and perpetuating the present legal system," he said.

Advocate Mr Jules Browde SC, chairman of Lawyers for Human Rights, agreed that the question of credibility in the legal system was a "multi-faceted" problem.

"It is very important that the bench consists of both black and white judicial officers, because the courts at present are looked upon as part of the system and consequently don't have the respect of the mass of people in this country. Naturally, the presence of black judges would make a tremendous difference, particularly if they are chosen from the ranks of properly qualified black practitioners who themselves have the respect of the black community.

"I believe it would also lead to less disparity in sentences passed.

"At the same time, the obnoxious discriminatory laws would have to be removed before we could expect the enthusiastic participation of black lawyers in the legal system," he said.

According to the newly elected Association of Law Societies president, Mr Nico Coetzer, another problem facing South Africa's legal system is access to courts by all.

Mr Coetzer said in the attorneys' magazine, *De Rebus*, that while the pro deo system had served a useful purpose, it should be replaced by readily available legal aid where an advocate could be supported by an attorney.

d to discuss the issue at a meeting in Johannesay. The JSE could not be reached for comment.

Prof Odell gets top heart surgery post

Own Correspondent

CAPE TOWN — Top local surgeon Prof John Odell is to take over from Prof Bruno Reichart as head of the department of cardio-thoracic surgery at Groote Schuur Hospital

This appointment to one of the country's most prestigious medical posts has not been announced officially yet and has to be given final approval by provincial authorities The information was supplied by a reliable source.

UCT Medical School dean Prof J P van Niekerk said yesterday that until provincial confirmation of the appointment was received, no official statement could be made.

Shortly after Reichart left for Germany late last year, Van Niekerk said the appointment would probably be made public "early in the new year".

He said then that John Odell, who was Reichart's deputy, had been made acting head of the department until an appointment was made official.

He referred to him as a "highly competent surgeon".

Van Niekerk said much interest had been shown in the position and that applications both from within the country and abroad had been received.

Odell, a UCT graduate, maintained a low profile for the three-and-a-half years he worked with Reichart.

Before this he worked at Wentworth Hospital in Durban and had previously spent some time in Scotland.

He declined to comment on the appointment when approached by our correspondent yesterday.

Reichart, who took over as department head from Prof Chris Barnard in 1984, now heads Munich University's department of cardio-thoracic surgery.

Latin requirement for law to be amended

SUSAN RUSSELL

THE Minister of Justice is to introduce a Bill this year to amend the minimum Latin requirement law students need before they may practise as an advocate.

The proposed amendments provide that students wishing to practise as advocates must have matric Latin at a higher level, as prescribed by the Joint Matriculation Board, or a special university course of a higher standard than that needed for matric at standard grade.

The present minimum requirement is a preliminary course in Latin at university level.

Coetsee said in the light of the very real and valid arguments in favour of and against the abolition of Latin, he had investigated the matter in an attempt to resolve the issue to everyone's satisfaction.

"This has proved to be most difficult owing to the fact that there are so many divergent views on the matter," he said.

"On the one hand there have been pleas for the total abolition of Latin, and on the other there have been requests for the reintroduction of Latin I as a minimum requirement.

"The constituent Bar Councils have also not reached consensus."

Coetsee said a comprehensive study had revealed the desirability of retaining the language requirement currently applicable in respect of Latin.

Prospective advocates would still have to pass courses in both English and Afrikaans at post-matriculation level.

The proposed amendment would not affect the autonomy of universities to insist on higher minimum levels.

"The Bill, which will put an end to all the speculation regarding the position of Latin and law, will most probably be considered by Parliament early in the 1990 session and will enable students to plan their curricula accordingly," he said.

Latin for law: Change soon

Own Correspondent

JOHANNESBURG — The Minister of Justice, Mr Kobie Coetzee, is to introduce a Bill this year to amend the minimum Latin requirement law students must comply with before they may practise as advocates, the minister announced yesterday

The proposed amendment provides that students wishing to practise as advocates must have Matric Latin at a higher level as prescribed by the Joint Matriculation Board or a special university course of a higher standard than that needed for matric at standard grade

At present a preliminary course in Latin at university level is regarded as sufficient.

Mr Coetsee said that in the light of the valid arguments in favour of and against the abolition of Latin, he undertook to investigate the matter in an attempt to resolve the issue to everyone's satisfaction

"This has proved to be a most difficult task as there are so many divergent views on the matter," he said "On the one hand there have been pleas for the total abolition of Latin, and on the other requests for the reintroduction of Latin I as a minimum requirement The constituent Bar Councils have also not reached consensus on these matters"

Mr Coetsee said a comprehensive study had shown the desirability of retaining the language requirement currently applicable for Latin

Oshabeni location, Mehlomnyama | Security Branch in Soweto. - Sapa.

Mystery over wife of alleged 'hit squad' cop

Sowetan 11/1/90 **Sowetan Correspondent**

MYSTERY surrounds the whereabouts of Mrs Karin Coetzee, wife of alleged "hit squad" policeman Captain Dirk Coetzee after she failed to arrive for a Media Council hearing in Cape Town yesterday on a complaint she lodged against the *Rapport* newspaper

Coetzee, who lodged a complaint with the Council over three articles published in *Rapport* on December 3, 17 and 24, was expected to testify at the hearing yesterday morning.

She claimed that there were inaccuracies in the articles and it is understood she was keen to be present at the hearing

It is believed that Coetzee intended driving from Pretoria to Cape Town for the hearing, scheduled to start at 9 30am, but she did not arrive

Media Council chairman Mr Justice Jan Steyn did not convene the hearing, but, after discussions with deputy chairman Mr Justice GPC Kotze and panel members Mr Tertius Myburgh, editor of the *Sunday Times*, Professor SAS Strauss of the University of South Africa, and Mr Ed Linington, editor of *Sapa*, he informally announced an indefinite postponement.

He said *Rapport* had fully answered Coetzee's allegations. Coetzee had been notified to attend the hearing.

She had 14 days to give satisfactory reasons for not appearing If she failed to do so, the case would be dismissed.

Call for black judges

Sowetan 11/1/90 248

JOHANNESBURG Bar Council chairman Lewis Goldblatt says the legal profession would like to see suitably qualified blacks appointed as judicial officers - including judges - as soon as possible.

In an interview on Tuesday, he warned that, among blacks, the courts must at present be perceived as "white" courts

Goldblatt, SC, was responding to comments by the newly elected Association of Law Societies president, Mr Nico Coetzer, who said the nurturing of an unfaltering belief among all South Africans that courts were places where justice would prevail was the greatest challenge facing South Africa's legal system this decade.

Goldblatt, in response, said he believed South African courts were already perceived as legitimate

The profession wanted the appointment of black judicial officers to happen as quickly as possible

"It is not a question of appointing people by virtue of their colour.

"We must have people of colour and ability with the appropriate training and experience We all hope these people will emerge."

Goldblatt said judges were chosen from silks (senior counsels) and there were at least three people of colour who were senior counsels in South Africa

He said he would also like to see more women appointed as judges At present there was only one.

He agreed, however, that a legal system seen as legitimate by the entire population was one of the challenges facing the profession

"Obviously among blacks they must be perceived as white courts and that creates a political problem

"One hopes that in time to come there will be more blacks sitting in the various courts - the lower courts and the Supreme Court"

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BUSINESS EDUCATION

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Publisher puts SA book world in a stir

Star 29/11/90

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The announcement which caused a stir in the book publishing industry and unsettled a number of local writers was made in three different forms early last week

In separate letters to the book trade and writers, as well as in a press release to this newspaper, Southern Book Publishers managing director Mr Basil van Rooyen announced The company will cease importing, marketing and distributing books published outside South Africa as from 28 February 1990 The company s Wynberg warehouse will be closed on that day

The decision by Southern Book Publishers to cease importing, marketing and distributing books published abroad will have no impact on local writers, according to the company's managing director, Mr Basil van Rooyen KAIZER NYATSUMBA spoke to him

INUNDATED

Once the news was public knowledge, telephones at Southern Book Publishers never stopped ringing, according to Mr van Rooyen The publishing house was inundanted with calls from its authors who thought Southern was closing down its local publishing

That is emphatically not the case said Mr van Rooyen in a facsimile to The Star a few days later

The publishing side (of the company) will continue under new ownership, but with the same team of people '

In an effort to establish what the exact situation was at Southern, The Star asked for an interview with Mr van Rooyen He said he was too busy to grant an interview, but would be able to answer questions if put to him in writing The Star did so

What, Mr van Rooyen was asked, were the implications for local writers the book publishing industry and the book-buying public of the closure of the company, believed to be the second largest publisher of works of non-fiction in this country

Mr van Rooyen said the closure of the importing side of the company would have no implications for local writers, since Southern s local publishing side would continue as an entity under new owners Also unaffected would be the book-buying public, he said

REDISTRIBUTION

The Southern MD also dismissed as untrue speculations that the closure of Southern Books importing divisions would push up the prices of books published abroad

No books will not cost more, he said The same books will still come into the country, simply via different agents or operating companies The fact that Southern Books as an importer disappears will mean that there will be a redistribution of overseas agencies among the members of the International Book Distributors Association

'The company might disappear, but the functions performed by it will simply be rechannelled I see no reason whatsoever why this should affect the pricing of books

He said negotiations were still in progress between overseas shareholders of Southern Publisners and various possible buyers in the local book market

It was possible, he said, that if Southern were taken over by another company, there could be some changes in the company s direction and emphasis

In which direction (tne change and emphasis will be), I am unable to comment until such time it is clear who the new owners will be," he said

Mr van Rooyen said he thought the new owners would probably trade under the same name since the imprint would be part of what they would purchase

He did not know when the new owners were likely to be announced but he thought it might be within the next two to three weeks

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'Clean-break' divorce must be an option

Court Reporter

The clean-break principle in divorces is increasingly becoming part of the South African legal system and should be considered during every divorce

This is the view of Mr Casper le Roux in an article in the January edition of *De Rebus*, the Association of Law Societies' journal Star 25/11/90

Mr le Roux says the clean-break principle applies only to divorces in which it must be determined whether periodic payments should be made to the ex-husband or wife.

The clean-break principle acknowledges that it is advantageous to spouses, as well as the broader community, that after a divorce former spouses have as little contact with each other as possible.

"The former spouses should be encouraged to get the bitterness of a family break-up out of their system and start a new life which is not overshadowed by the broken relationship," says Mr le Roux.

Traditionally, a former spouse, usually the husband, was left with a obligatory maintenance after the divorce

Where minor children are involved, the court should carefully consider the interests of those children and determine whether a clean break will have a significant influence on them.

Learn CPR and save a life – doctor

By Toni Younghusband, Medical Reporter

Hundreds of South African lives could be saved each year if more people knew how to apply cardiopulmonary resuscitation, believes Dr Walter Kloeck, head of the SA Resuscitation Council.

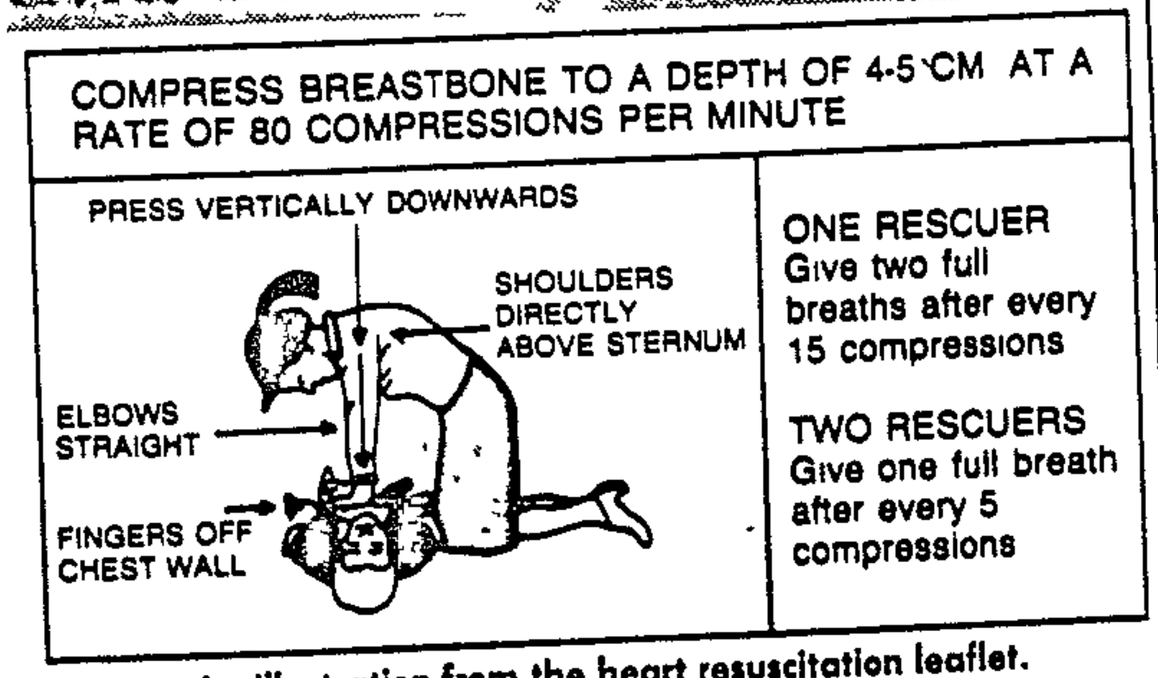
In Seattle in the United States, the number of accidental deaths dropped dramatically when it was decided to train a large portion of the population in CPR.

"We can do the same in South Africa and I believe we could save many lives if we just knew how," said Dr Kloeck

He pointed out that in recent months there had been two reports of people drowning because bystanders did not know how to apply CPR.

In Munich, Germany, 20 people watched as three small boys struggled for their lives after falling through ice covering a lake. They all died Shortly before Christmas a man drowned in a lake in Kensington, Johannesburg, while a crowd of onlookers stood by helplessly

The SA Resuscitation Council, founded in 1987, is launching a public awareness campaign this year during which it hopes to get as many laymen as possible trained in simple principles.



An illustration from the heart resuscitation leaflet.

"CPR is a simple technique which could save many lives every day. We urge the public to learn these basic principles."

The leaflets will be available from St John Ambulance, the Heart Foundation, SA Lifesaving, the SA Noodhulpliga and the SA Red Cross Society.

'Bad blood' needle causes Aids fear

MBABANE — Leaders of a Swazi church who draw "bad blood" from people they consider sick are causing alarm because they use the same needle to treat many people. There are fears that this could spread Aids.

The practice is reported to be common in the Zion Christian Church.

A woman member of the church told a local newspaper that a hypodermic needle was used by church leaders who treated as many as 20 people with the instrument A government official condemned the practice and said there would be an inquiry. — The Star's Africa News Service

Council loans 3 motorcycles to Canaries

Municipal Reporter

Johannesburg City Council has loaned three motorcycles to the Canary Islands to be used during the Pope's visit from today until Saturday and the Democratic Party has claimed that a senior traffic departmemt official has accompanied the bikes

DP council leader Mr Ian Davidson claimed the management committee's decision to agree to a request by the Foreign Affairs Department was clear proof that the council was subsidising Mr Pik Botha's department.

But Mrs Marietta Marx, deputy chairman of the management committee, dismissed the criticism, saying the loan would not cost the city a cent and would improve relations between South Africa and the Canaries.

She said the report to the committee had not mentioned that any staff would accompany the motorcycles but she would investigate Mr Davidson's claim.

Mr Davidson said if the committee was unaware of the fact that a certain Mr John Nicol had gone to the Canaries, it was proof that there was no control over the situation.'"

It was clear the council had lost sight of the need to operate on a business basis.

"The latest move follows other instances where Johannesburg's traffic officials had escorted Ministers and guests of the department on trips around the country," he said.

Lectures on legal services to the poor in 'new' SA

By Ramsay Milne
The Star Bureau

NEW YORK — A University of Maryland professor, a champion of legal services for the poor in America, is collaborating with the University of the Witwatersrand to sketch the framework of a legal system which he says will not only look after the interests of South Africa's post-apartheid poor but also be seen as a "protector" and not a prosecutor of all citizens

Professor Clinton Bamberger says that within the next few weeks some 160 Wits students will begin taking his clinical legal education course,

In an interview in the *Baltimore Sun*, Professor Bamberger said "This is a generation of students who are going to design a post apartheid legal system.

"It would be unfortunate if they had no prior experience in the legal needs of the poor."

His initiative began last year when he used a sabbatical to set up the Johannesburg clinical legal education programme at the invitation of Wits University.

He described as one of his dreams the introduction of black students to a legal system that would protect them from apartheid's injustices.

The university has confirmed that Professor Bamberger will spend four to five months at the Wits Law Clinic early this year and teach final year law students

He will also assist at the Law Clinic.

"We will be making use of his considerable expertise," a university spokesman said.

The search for the useful economist

(248) B/Day 25/1/90

NEIL YORKE SMITH

WHAT is an economist?

Merton Dagut will approach his secondment to Wits University's economics department with this question

"It is easy to define an accountant or lawyer, but I want to know what an economist is and how he can be useful," he said

Dagut is Nedbank's executive committee member responsible for strategic planning and one of SA's most respected corporate economists

His acceptance of the Wits post, which will see him become head of the university's economics department, is in his own words a first.

"I view this as a valuable opportunity for the neccesary interchange between corporate and academic English language institutions," he says

He is convinced that in teaching economics, both content and approach should be designed to create practical, real world economists

"It would be arrogant to say I will walk in and turn things upside down However, there is scope for improvement by distilling the best elements of the course, as well as introducing fresh content and people

"With this attitude we can produce real world economists, prepared either to make a valuable business contribution, or to continue as valued academics," he said

"Part of the challenge will be developing existing strengths as well as getting rid of the unnecessary barriers that impede communication between the current academic islands"

Dagut says he will devote about 20% of his time to Wits and 80% to Nedbank this year Next year, when he becomes full-time head of department, this will reverse

"I will make time for this involvement by shedding peripheral responsibilities which one accumulates over time and which others, both in and out of the bank, can probably do better anyway"

Dagut says he went to Wits planning to do law but found economics easier "This gave me more time for my real interests at that time, like theatre, politics and being foreign editor of Wits Student — that was in the grand old days of politics

"I suddenly found I had an honours degree, which was quite pleasant"

His duties as Nedbank's corporate planning head involve what he terms the very fundamentals

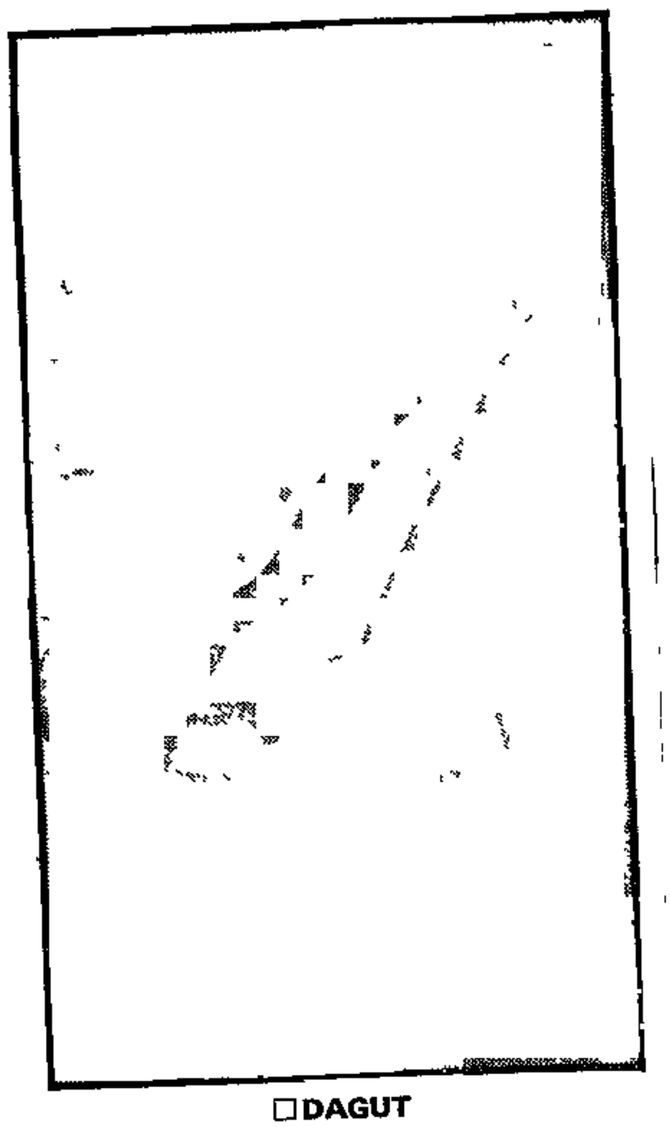
"These include asking what we want to do in the future and deciding what we need to do to achieve our goals Our planning horizon is a revolving three to five years, so we are looking at 1993 to 1996 at the moment."

Dagut plans to involve the private sector in his attempts to define and produce useful economists.

"From the corporate side one can't just say we need decent economists and not be involved in their development The success of this experiment depends on how well we can get economists to interact with each other

"I hope we can pool and share resources The enthusiasm and support already shown by my colleagues fuel optimism that it will work

"Maybe this is one of those ideas whose time has come," he says



□DAGUT

REVIEWS

'Para-legal' help mooted

THE Transvaal Law Society will consider a plan to introduce "para-legals", on the lines of paramedics, to provide cheaper legal services.

The chairman of the standing committee for legal education of the Association of Law Societies, Tony Hutchinson, said there had been concern for a long time that legal assistance could be afforded only by the top income group.

The qualified para-legal would be able to assist the public with cheaper but less specialised service than a lawyer or advocate (248)

PIERRE DU PREEZ

The Transvaal Law Society will discuss the plan at a meeting in Pretoria on February 3

The office structure of para-legals would enable them to produce fees at a low rate. Bpam 26/1/90

Two of the areas in which para-legal services could be utilised were criminal law and debt collecting

Hutchinson felt it unlikely that Latin would be part of para-legal training

Quenching a thirst for knowledge

BIPA 29/1/90

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THE new Wits Business School dean Keith Yeomans is pressed for time

"If I face one problem it's that there are too few hours in the day," he says

"This is a multi-faceted job involving communication with the various business school areas, the university itself and the private sector"

"I am also determined to make at least one academic appearance at each of our courses It is important for students to see this as the hands-on operation it is"

Yeomans exudes enthusiasm about his role as dean, as well as about the broader need for business education in SA

"I would like to see a major thrust towards expanding this and other business schools This does not imply empire building but is simply a recognition of the dire need for management development"

He says the specifics of some expansion plans have received too much media attention

'Details aside, we are awaiting approval of expansion plans In principle there has been definite support What matters most is timing, and of course we must account for space implications and the allocation of resources"

It is strategically necessary that SA develops every avenue available, he says

"Here we have one manager looking after 40 to 50 people The ratios in Europe and America are between 10 and 14 to one"

Yeomans attributes the shortage of business teaching skills to various factors, including emigration and inadequate training resources

'At graduate level we have four to five applicants for every person accepted We are skimming the cream I am certain there are many prospects who could derive enormous benefit from our courses, but who don't get the chance"

NEIL YORKE SMITH

Indicative of the overwhelming demand and inadequate facilities is the huge success of private sector management schools, he says

Yeomans believes SA is neglecting two major management resource pools — blacks and women

"How many blacks or women represent top companies at board level? It is unrealistic to blame inadequate skills for these resources being under-utilised"

He says traditional prejudices work from both sides "On the one hand is the 'You can t' and on the other the 'I can't' attitude Both contribute to a drained human resources pool"

MAN IN THE NEWS



Keith Yeomans . . . believes business could play bigger role in education. Picture ROBERT BOTHA

Yeomans agrees part of his job involves inspiring the enthusiasm which is necessary if SA business training resources are to be developed This involves convincing the business and academic worlds of the importance of developing adequate resources

That facilities are over-utilised is obvious, he says The Wits school operates to capacity on five days and four evenings a week, as well as on Saturday mornings

"No other area of the university can claim that type of asset utilisation," he says

Yeomans reckons business should play a bigger role in funding management education Predecessor Andy Andrews took a different line, he admits, but adds this is one stance he is unlikely to change

"We get some support, but nothing like what I'd like to see" Most of it comes via bursaries for underprivileged students and prizes for top achievers

Yeomans is to visit America in April, when he will meet academics and businessmen, as well as cement relationships developed by Andrews

"Andy was invaluable in developing international ties and enhancing the image of the school," he says

"I intend to continue this philosophy which ensures our access to fresh ideas and creates opportunities for valuable people-interchange"

He is delighted with the school's development of SA case studies which "will be far more relevant and offer wider project alternatives than previously used American and European studies"

"I have a vision of SA which operates in terms of the hugely successful Pacific Basin nations," he says "In realising this vision businesss schools have a vital role to play"

BDay 31/1/90

Reform pro deo system, govt urged

GERALD REILLY

PRETORIA — The Association of Law Societies (ALS) and the General Council of the Bar (GCB) have asked goverment to urgently reform the pro deo system, according to a statement issued jointly.

This was especially needed in cases where the death penalty could be imposed, it said.

In all such matters, it added, advocates should be assisted by attorneys and proper instruction given to the advocate and the attorney by the Legal Aid Board (248) (249)

The ALS and the GCB stressed it was a top priority to bring the pro deo system under legal aid without delay

Both organisations also restated the need for the creation of an ombudsman "in the classical sense".

In the current debate on a new constitutional dispensation "it is imperative that fresh attention be focused on the administrative side of goverment".

A classified ombudsman, it was stated, should be an independent commissioner with the authority to investigate any complaint concerning the administrative actions of public officials and to report the result to Parliament.

The advocate-general did not have sufficient powers to fullfil the role.

□ Sapa reports from Pretoria that the Association of Bar Societies (ABS) differed from Justice Minister Kobie Coetsee on the issue of Latin as a required subject for admission as an advocate

Coetsee indicated last week he would table a Bill stipulating that higher grade matric Latin — or a special one-year course at university — remain a requirement for an LLB degree

ABS president Nico Coetser said yesterday that the body supported the majority of bar councils in SA in considering that Latin should not be a requirement for any branch of the legal profession.

The Latin requirement is of advantage to anyone wanting admission as an advocate.

handled AK-47

Fight against inflation to focus on labour next

8/10 cm 2/2/90

GRETA STEYN

THE labour market will become the next focus in the fight against inflation because of unemployment and the inflationary effects of high pay rises

Until now, the emphasis has been on tight monetary and fiscal policies. But Reserve Bank Governor Chris Stals sees the labour market as an essential third element in the anti-inflation drive.

In economics, there is no such a thing as a free lunch. Crushing inflation in a vice-grip of monetary and fiscal policy will lead to some unemployment

Adherents of some forms of the "rational expectations" theory would argue that unemployment flowing from tight money policies is necessary to illustrate seriousness about fighting inflation.

People will adjust to the new environment and accept lower wages — unemployment will be a temporary phenomenon. In due course, wage rates will decline to a level where the supply of labour will equal the demand.

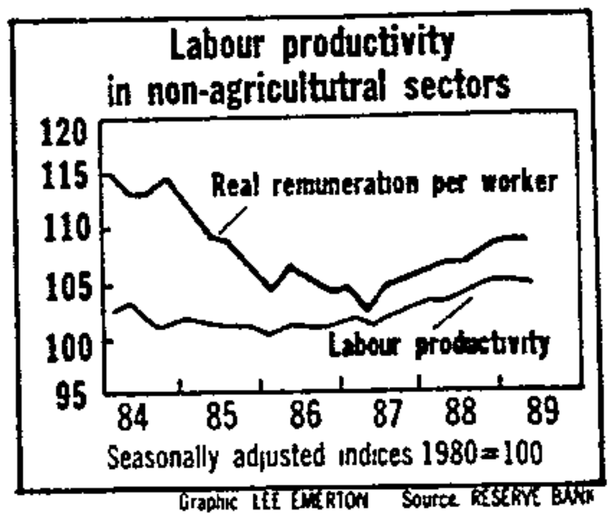
In other words, the slower the rise in pay, the less the unemployment flowing from an anti-inflation drive. The "real world" implication of the theory is that restraint in pay rises would cut down on the casualties of a war against inflation.

It can also be argued that restraint helps in the actual battle against inflation, as wage increases in excess of productivity increases have a cost-push effect on the inflation rate.

Labour productivity is a factor in the inflation equation that sometimes goes unnoticed, while money supply, budget deficits and exchange rates get all the attention. But higher unit labour costs have a ripple effect throughout the economy.

Real unit labour costs declined from 1985-1987, according to the Reserve Bank's Quarterly Bulletin, but rose 0,3% in 1988 and at a year-on-year rate of 0,5% in the first quarter of 1989.

"Because of broadly similar rates of increase in labour productivity and in the real wage per worker in the second quarter of 1989, real unit labour costs subsequently showed little further change during that period," the bulletin said.



But maintaining pay rises in line with growth in productivity will be difficult in a period of economic slow-down and still-high inflation.

Built in to demands for pay rises is an informal "indexation" principle, whereby wage rises are linked to increases in the Consumer Price Index.

While productivity could decline in a slow-down, wage increases linked to the inflation rate will simply help perpetuate inflation.

SA's economic policy makers have not ignored labour market implications for the battle against inflation.

Stals cannot be accused of having a narrow Friedmanite "money supply is all" view of inflation But as a central banker, he naturally emphasises the monetary aspects of the inflation problem.

"Restrictive monetary and fiscal policy remain the two most important elements in the anti-inflation drive. But the success of these policies will depend on the third element — the labour market," says Stals.

"We can achieve much with really strict financial discipline, but rising labour costs in the current economic environment will put pressure on firms' profitability The result will be higher unemployment levels"

If labour costs could be contained, unemployment flowing from anti-inflation policies could be kept to a minimum, he believes

Stals has been reading about the Chilean inflation experience, and how reducing wages in nominal terms helped that country.

With a chuckle, he says "Of course, they do have a military dictatorship It helps when you want to introduce pay cuts"

Omar takes up UWC law post

(248)

South 15/2 - 21/2/90

UNITED Democratic Front vice-chairperson Advocate Dullah Omar has been appointed Director of the Community Law Centre at the University of the Western Cape.

The Centre aims to monitor, research and publish on human rights issues, support people and agencies involved in these issues, conduct limited litigation in human rights matters of public interest and run community education programmes.

Omar, a leading human rights lawyer who qualified at the University of Cape Town in 1957, was an attorney for the Pan-Africanist Congress in the early 1960s.

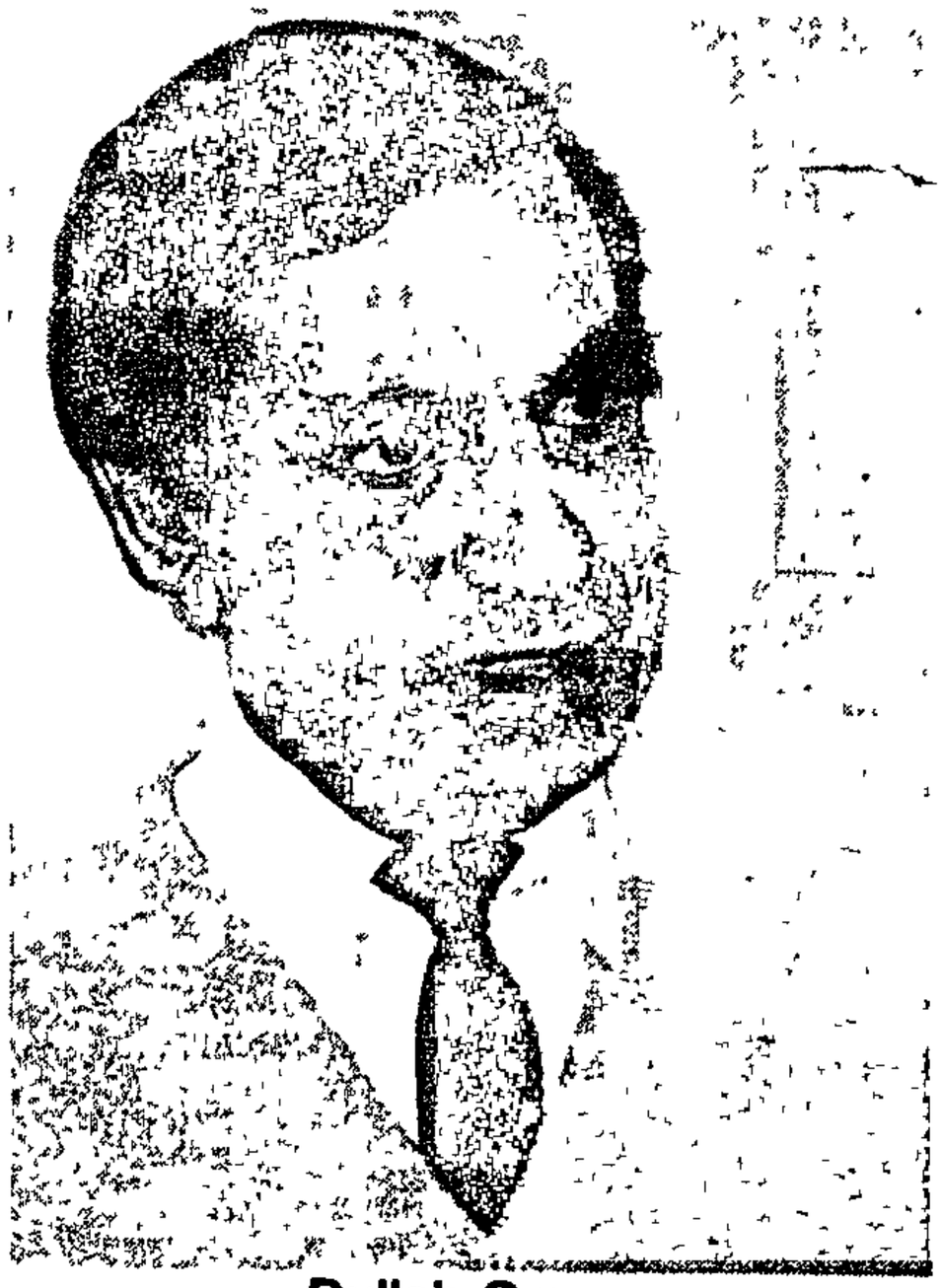
Sabotage

He later became the legal representative for the Coloured People's Congress and members of the African National Congress.

He represented trialists in the first sabotage trial in South Africa which followed the Paarl uprising in 1962.

During the 1970s he acted for the Black People's Convention and Black Community Programme until both were banned by the government.

Omar has since defended many activists and is a familiar face at terrorism and other political trials.



Dullah Omar

EDUCATION FILE

BY NKOPANE MAKOBANE

Khanyile heads student affairs

Sowetan 23/2/90

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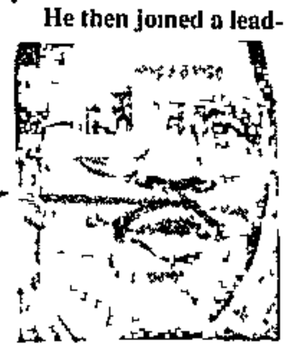
The University of Cape Town has appointed Mr Vusi Khanyile as deputy registrar head of the student affairs department He previously occupied the vice-chancellor's special assistant post at the university

Khanyile, who is an executive member of the National Education Co-ordinating Committee (NECC) was born in the Natal Midlands and went to school at St Augustines in northern Natal

He later obtained a Bachelor of Commerce degree from Birmingham University in Britain on an Anglo American scholarship

On his return to South Africa, he worked in the Anglo American financial planning department

He then joined a lead-



VUSI KHANYILE

ing firm of accountants as a manager before taking up his initial appoint ment at the UCT

The 39-year old Khanyile has been detained several times since 1977 His most recent detention was in December 1986 when he was held for nearly two years without being charged

His subsequent dramatic escape from Johannesburg Hospital to the American consulate in Johannesburg in 1988 - along with prominent UDF leaders Mohammed Valli Moosa and Murphy Morobe - made international headlines

As head of student affairs Khanyile will be responsible for supporting and fascilitating student activities, in particular the activities of student government and student clubs and organisations

He will also be responsible for managing the university's undergraduate financial programmes, the student advice office and the students health service

His new job is as a member of the administrative staff According to him, although he will be removed from the policy-making sphere, his position as head of student affairs will enable him to see whether the university's policy meets the needs of its students.

"My immediate priority is to combine the various diverse components of my department into a coherent unit,' he said



MANDELA another degree

Degree for Mandela

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Sowetan 23/2/90

MR Nelson Mandela will be among five prominent South Africans who will be conferred with honorary degrees by the University of Cape Town

He will be awarded an honorary degree of Doctor of Laws (LLD) The other recipients are Dr Chris Garbers (Doctor of Science) Mr Rene de Villiers (Doctor of Laws) Professor Tony Honore (Doctor of Laws) and Dr Vera Buhrman (Doctor of Medicine)

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Salaries up

(248)

UNISA staff can look forward to 'salary increases in March Sowetan 23/2/90

University of South Africa principal, Professor Cas van Vuuren, said a "very satisfactory" recommendation regarding salary increases would be made to council next week

Attorneys prepare for a new SA

THE Association of Law Societies has resolved to contact all parties who will participate in a negotiated settlement.

The move, ALS said, was suggested "so as to equip the attorneys' profession to contribute to the maintenance and structuring of the legal system".

Resolution

A communique from the ALS said that the resolution was taken during a debate held after the association's annual general meeting in Cape Town last week.

"The debate was organised to discuss the profession's role within the legal structure of the new South Africa," the communique said.

not accountable to residents.

The call for the council's resignation because it was

... to stop plans for privatising the hostels.

No council comment could be obtained.

Lawyers gather evidence for commission

(248

CHARLENE SMITH

LUSAKA — Two lawyers are interviewing the ANC and former police hit squad members for evidence to be submitted to the Harms Commission into political killings.

The lawyers, who did not want to be named, are representing Cosatu, the independent Board of Inquiry into Informal Repression, the Human Rights Commission and families of people who have died in assassinations or disappeared

They said they had collected a substantial amount of evidence during four visits to Lusaka, and had interviewed many people about hit squad activities

It was known that they had met ANC international affairs director Thabo Mbeki and intelligence chief Jacob Zuma, who said they believed the commission might have to travel to Lusaka to interview people reluctant or unable to travel to SA to testify

Several alleged hit squad members have defected to the ANC in recent months. They include members of Pretoria Security Branch's C1 unit.

Two weeks ago two Piet Retief policemen with knowledge of hit squad activity also defected to the ANC. Both have given evidence at an inquest in SA.

The Harms Commission begins on Monday.

RUBBER OPERATIONS

PEOPLE AT THE TOP
ARE ON THE MOVE
SEE PAGE 11

APPOINTMENTS

MANPOWER MIRROR by ROBYN CHALMERS



PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Only 25 black CAs in the pool

S|Times 4|3|90

248

SOUTH Africa, which is estimated to require 20 000 chartered accountants by the year 2000, has only 25 practising black CAs.

There is one black women CA Association of Black Accountants of SA (Abasa) executive director Mashudu Ramano believes certain aspects of the accounting profession will have to be changed if SA is to meet the 20 000 goal.

Mr Ramano says We will never achieve this with the present system. For example if we fund 200 CA bursaries a year over 10 years only 120 students will graduate out of the entire 2 000 sponsored because the attrition rate is so high '

One reason for the high failure rate is the strict standard set by the accounting profession both at university level and when the graduate sits for his board examination.

As the graph shows, the national pass rate of the 1 399 who sat the Public Accountants & Auditors Board (PAAB) examination in 1989 was 55%, marginally down from the previous year's 55 1%

These figures are the highest in several years. But the fact that only 1 399 candidates sat for the examination shows that not nearly enough are entering the profession

Mr Ramano says one of the most important matters is the system of accreditation. He believes the entire system should be reviewed and a more appropriate method implemented.

At present, the structure of the accounting profession is irrelevant in a changing SA. It is vital that we look at professional deregulation and other matters to adapt it."

Mr Ramano met Harmful Business Practices Committee chairman Louise Tager to discuss these issues and to seek ways of deregulating the profession.

Mr Ramano says poor education is the root cause of the lack of black CAs. Development of career awareness at schools has been undertaken by Abasa through a series of workshops, but there is still a long way to go

Abasa developed a community organisation support programme to introduce accounting and other skills to local communities Mr Ramano says the programme is designed to give a balanced idea of what a CA does

"Several misconceptions circulate in the black community Many believe that the development of black skills is inimical to the strength of labour, which is incorrect. It is essential that there be black managers in a changing SA.

"There is also a mistaken belief in the business community that Abasa is trying to set up a trade union for black CAs But we say that the SA Institute of CAs has existed for 75 years and there are only 25 black CAs, so obviously there is a need for us."

Natal University department of management and economic sciences head Peter Seneque agrees with Mr Ramano on the question of education, focusing particularly on university studies.

Based on the premise that SA is evolving at an unknown pace towards a new socio-political-economic environment, he says the role of professional accountants, their training and education, will have to be transformed.

"SA accountants have been educated and trained in the political context of neo-colonialism and within the philosophies of neo-classical economics.

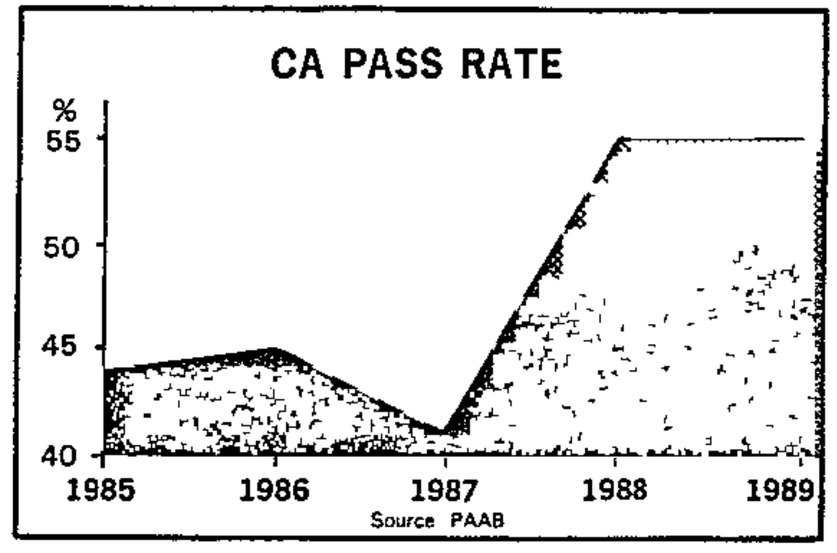
"The professional groups and academics who serve them by virtue of their role as the promoters of the interests of the monopoly capitalists, have entrenched inequalities.

"The education and training of accountants is primarily aimed at meeting the needs and interests of the dominant business interest groups"

Professor Seneque says accounting and finance curriculums should include courses on small business, the operations of small and medium cooperatives, not-for-profit organisations and the agricultural and public sectors.

"The accounting profession must recognise that it has a positive contributory role to play in changing socio-economic conditions.

It cannot be neutral Accountants must redefine their function in terms of the country s total needs and readdress themselves to the basic principles and concepts of their discipline to ensure their survival as a respected set of professional bodies in a new SA



Lawyers condemn action

THE Black Lawyers Association (BLA) yesterday condemned the continued incarceration of political prisoners, some of whom are on hunger strike at Robben Island.

Mr Dikgang Moseneke, publicity secretary of the BLA, said: "We condemn their continued incarceration because it is related to and emanates from the undemocratic, repressive and racist nature of our society".

Lawyers have been appointed to meet senior officials in Cape Town this week, to make representations to Mr F W de Klerk for the release of political prisoners.

When words become weapons

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South 15/3 – 21/3/90

"THE writer as artist and activist," was the subject of a heated seminar at the recent annual general meeting of the Congress of South African Writers (Cosaw), Western Cape region

"Writers as artists and activists should take note of their own special role to enrich the fabric of our greater humanity," one participant, Brian Williams, said

"For writing to be meaningful, it must address itself to the context of struggle in which words become weapons to activate and mobilise forward elements of the resistance movement"

"However, this should not be the only form of literary or artistic activity

"Why write only about 'swaarkry' and not about 'lekkerkry'?" he asked

George Weideman, poet and member of the Afrikaner Skrywersgilde noted "There is one important factor that one can never ignore about a group of writers — their common belief in the unassailability of their domain as artists, of their art A writer may betray his political or cultural background and even compromise his sympathies, but never his art"

He spoke of the fears many Guild members had — that the pressure to become more actively involved in cultural politics might lead to the end of their writing careers

A high school student asked whether one should not write poems about school struggles

"Write what you like, as long as it is honest and critical," responded a member of the audience

For Zuberda Jaffer, journalist, unionist and activist, the role of activist and writer merges as one

"It is of utmost importance that the South African nation be forged and nurtured by writers who carry in their belly the pain of that nation," she said

"I heard how the police had forced a man to suck the blood of a young man who had been shot to prove it was his brother I heard and saw so much more — only half of which was eventually published But I had heard, seen and written"

Weiderman quoted Cosaw president, Professor Njabulo Ndebele, at the end of the debate

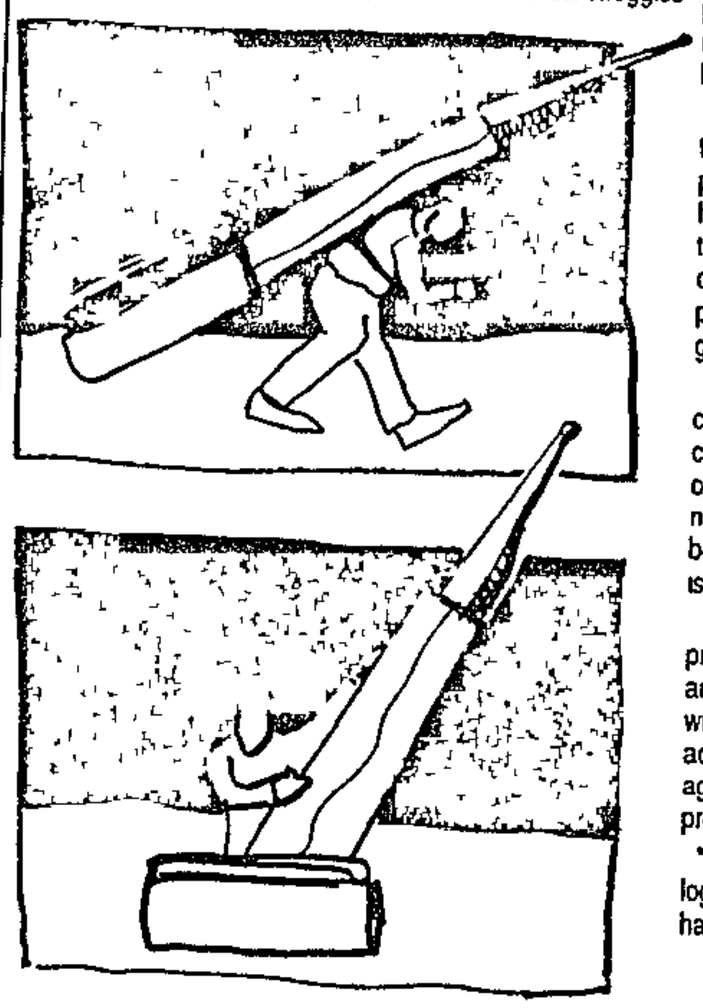
"One accusation that has often been levelled at writers, particularly in those countries hungry for radical change, is that many of them have not offered solutions to the problems they may have graphically revealed

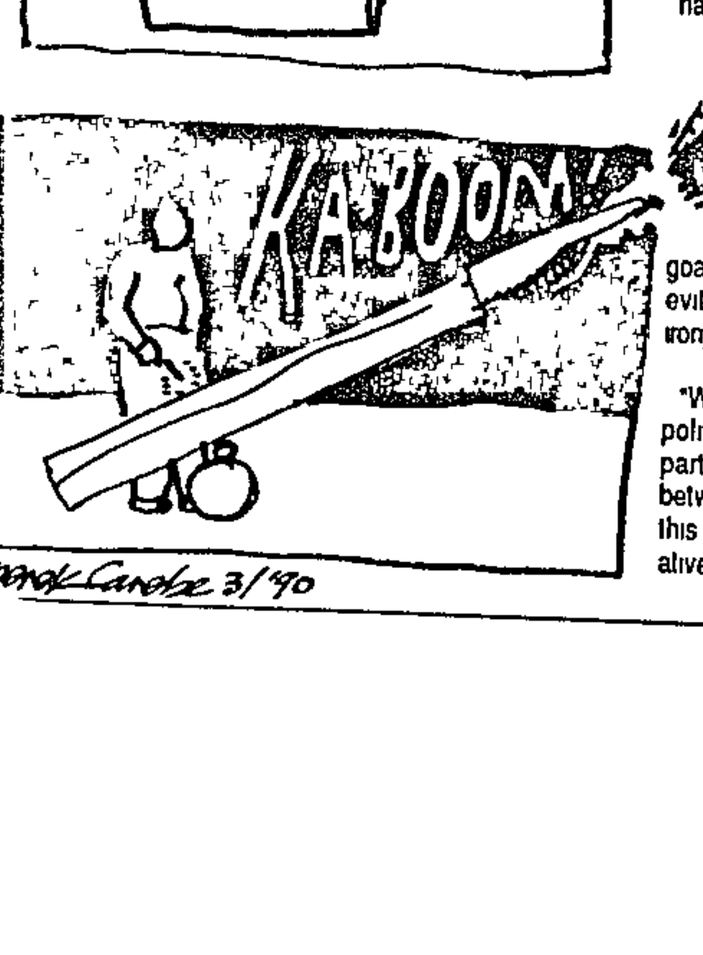
"It seems to me that this accusation has always revealed a certain confusion, on the part of the accusers, on what the nature of the relationship between art and society really is

"The accusation has been premised on the demand that artists produce works that will incite people to political action That — we will all agree — is the task of the professional propagandist

"If the writer has an ideological goal — and he always has — he has to reach that goal through a serious and inevitable confrontation with irony

"We do not choose between politics and art, rather we participate in the dialectic between them To understand this is to understand the creative possibilities of both"





Derek Caroline 3/'90

It's back to school for the 'professionals'

SI Times 18/3/90

THE emergence of the professions into the glare of competitive marketing has created a demand for a new form of training

Attorneys are now following the route of accountants and stockbrokers, who recently won the right to advertise their services

But selling a professional service demands much more than placing an advertisement in the newspapers or on radio and television

"We realised just how vital specialist training is after we ran a practice

Business Times Reporter

development training course recently for the Association of Law Societies," says Mel Stamelman, managing director of Johannesburg-based Workwise Business Development Group

The advertising ban for accountants and auditors will be lifted on April 2 after a nationwide poll approved the move It has been preceded by a major public relations drive mounted by the larger firms

Attorneys have still to make a final decision on whether they will be allowed to advertise. The move is being strongly resisted by a group of Transvaal attorneys

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Workwise Business Development Group, which provides a marketing, advertising and design service for commercial and professional clients, says its practice development courses can be tailored to meet the needs of a firm and its partners, personal assistants and clerks

HOUSE OF REPRESENTATIVES

QUESTIONS

†Indicates translated version

For oral reply

General Affairs

Hillbrow area: health conditions

*1 Mr T R GEORGE asked the Minister of National Health and Population Development

(1) Whether her Department recently investigated health conditions in the Hillbrow area, if not, why not, if so, (a) when and (b) with what result

(2) whether she will make a statement on the matter?

Hansard 21/3/90 C22E

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

(1) No, in terms of section 20 of the Health Act, 1977 (Act 63 of 1977) it is the duty of the City Council of Johannesburg to take all lawful, necessary and reasonably practicable measures to maintain its district at all times in a hygienic and clean condition and to prevent the occurrence of any nuisance within its district Where any condition which will or could be harmful or dangerous to the health of any person occurs within the district of a local authority, it is the responsibility of the local authority to remedy such condition

Whenever I receive a complaint that the health of any person within the district of a local authority is endangered by any harmful condition however, the Department of National Health and Population Development may take certain steps in terms of Act 63 of 1977 No such complaint has recently been received as far as the Hillbrow area is concerned and therefore no recent investigation was conducted by the Department I am however aware of the fact that the City Council of Johannesburg is at present intensively investigating health conditions in the specific area,

(2) no

Toekomsrus: police station

*2 Mr T ABRAHAMS asked the Minister of Law and Order

(1) Whether it is the intention to build a police station in Toekomsrus, Randfontein, if not, why not, if so, (a) where in Toekomsrus and (b) when is it anticipated that building operations will be (i) commenced and (ii) completed,

(2) whether he will make a statement on the matter?

Hansard 21/3/90 C23E

The MINISTER OF LAW AND ORDER

(1) No, because the need for a police station has up until now, not yet been identified

(a) and (b) Fall away

(2) If the honourable member is of the opinion that there is a need for a police station in the area, on request I am prepared to have a feasibility study carried out for that purpose

Riverlea: post office

*3 Mr T R GEORGE asked the Minister of Mineral and Energy Affairs and Public Enterprises Hansard 21/3/90

(1) Whether any progress has been made in regard to the building of a post office in Riverlea, Johannesburg, if so, (a) what progress and (b) when is it anticipated that building operations will be (i) commenced and (ii) completed,

(2) whether any problems have arisen in regard to this post office, if so, what problems,

(3) whether he will make a statement on the matter?

C24E

The MINISTER OF LAW AND ORDER (for the Minister of Mineral and Energy Affairs and Public Enterprises)

(1) Yes,

(a) A suitable site has been acquired and planning of the building has commenced

(b) (i) May 1991

(ii) November 1991,

(2) no, Hansard 21/3/90

(3) no

UWC: payment of certain staff members

*4 Mr P A S MOPP asked the Minister of National Health and Population Development

(1) Whether an amount of R759 000 is to be paid over to her Department for payment of certain staff members of the University of the Western Cape upon retirement, if so, 248

(2) whether she will furnish particulars of the staff members concerned, if not, why not, if so, what are their (a) names and (b) ages,

(3) whether part of this amount is to be paid out as a result of legal action that was instituted, if so, what are the relevant details,

(4) whether she will make a statement on the matter?

Hansard 21/3/90 C28E

†The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

(1) Yes,

(2) yes,

(a) *Names*	(b) *Ages at retirement*
Mr P P Kirstein	58
Mr J H C Stassen	48
Mr H J Pienaar	53
Prof P J Smith	53
Mr N K Prins	40
Mr A D P J v Rensburg	52
Mr A P S de Kock	59
Mr A J P P v Rensburg	47
Mr E J van Zyl	48
Prof N M du Plessis	53
Prof T J Roos	57
Mr J M Paley	41
Mrs C E du Plessis	49
Mr M B de Kock	51
Mrs C J Strutt	34
Mr G D Bekker	52
Mr F H Boot	52

(3) no,

(4) no

Fire-arm licences, different requirements

*5 Mr A ESSOP asked the Minister of Law and Order.†

Whether different requirements are set for the issue of fire-arm licences to Whites and non-Whites, if not, what requirements are set, if so, what requirements are set for (a) Whites, (b) Coloureds, (c) Indians and (d) Blacks?

Hansard 21/3/90 C29E

†The MINISTER OF LAW AND ORDER

No

Irrespective of race and sex, each application is considered on the basis of the personal circumstances of the applicant concerned and certain general and specific guidelines

Personal circumstance include inter alia the applicant's age, educational qualifications, status in the community, marital status and the nature of the profession or occupation

General guidelines include inter alia the following

Whether the fire-arm is suitable for the purpose for which it is required,

Whether it is required for the protection of life and/or property,

Whether it is required for practising sport

Specific guidelines include inter alia the following

The applicant's knowledge of the handling of the fire-arm concerned,

The applicant's knowledge of the legal provisions regarding the safekeeping and use of fire-arms,

The applicant's previous convictions,

Does the applicant have a safe place for storage of the weapon;

Has the applicant previously been declared unfit to possess a fire-arm,

Has the applicant previously lost a weapon or were any of his fire-arms confiscated,

Does the applicant live in an urban or rural area,

Does the applicant possess any other fire-arm,

Exceptional circumstances which may influence the applicant's application

Sowetan 22/3/90 248

Bursaries for accountants

By JOSHUA RABOROKO

THE Association of Black Accountants of South Africa (Abasa), an organisation facilitating the entry of blacks into accounting professions, has announced the launch of two bursary schemes.

They are the Female Accountants Bursary Scheme (Fabs) and the Accounting Technicians Bursary Programme (ATBP) Fabs will offer R1,5 million for four years, while ATBP will offer R100 000 a year.

In announcing the projects Abasa's executive director Mr Mashudu Ramano said accountants operated at the nerve of the economy, yet there were only 349 African, Indian and Asian accountants out of a total of approximately 13 500 in South Africa.

He said 25 out of those were Africans and that if blacks were to play a meaningful role in the economy of a new South Africa, that ratio needed to be dramatically increased.

Abasa hopes to see 8 000 black accountants by the year 2000. It will contribute to that through its bursary and other programmes.

The ATBP, which is funded by the Canadian Embassy, will provide 30 black high school graduates with three-year bursaries to study an accounting technician's course at a technikon. They will also, in their second and third years, receive training in accounting firms.

The Fabs, funded by the United States Agency for International Development, will provide 20 bursaries to women who have a Bachelors of Commerce or Accounting degrees or are in their final year.



MASHUDU RAMANO

They will study at an accredited university for a CTA or Graduate Diploma in Accounting, after which they will serve articles and write the Public Accountants and Auditors' Board examination to become chartered accountants.

Fabs hopes to overcome the hurdles of racial and sexual discrimination for black females wishing to become accountants. To date, only one African and three Indian women have made the grade.

Ramano said black schoolgirls were unofficially encouraged to study "soft" subjects. "This deprives them of stepping stones to see them into financial or accounting careers. African women entering accounting therefore need all the support they can get," he said.

So far, there have been nine successful candidates applying for Fabs and 15 for ATBP Abasa's student programme will offer back-up for these bursars.

Ramano said: "The student support programme provides black accounting students with a grounding in business and social awareness, leadership and professional development."

For more information please telephone Mone Sehlapelo.



DAVID HALL F/M 23/3/90 248

Into Africa

UCT would appear to have struck the jackpot with the appointment of David Hall as Director of the Graduate School of Business He brings with him not only a wide range of international experience and numerous contacts, but also a lively sense of the school's history and the challenges that he ahead

Hall (54) is British, but has lived in France since 1974 As a visiting professor and consultant back in 1966-1967, he was involved in founding the Graduate School of Business at UCT He becomes only the fifth director in the school's 25-year history, following in the footsteps of Bob Boland, Meyer Feldberg, John Simpson and Paul Sulcas.

Hall is an expert in organisational behaviour and human resource management He has a wealth of consulting experience with major international companies such as Kodak, Hewlett-Packard and General Motors He has designed management development programmes for all of them.

Local colleagues are understandably impressed by his experience and the benefits which should accrue from his overseas contacts But they note that it was probably the unique nature of the SA challenge that attracted him to the job

He has expressed particular concern at the lack of black managers and it seems likely that his arrival will see UCT stepping up its efforts to address this problem Hall is at present Professor at the Institut d'Administration des Enterprises at the University d'Aix-Marseille F/M 23/3/90

He is also visiting fellow and consultant at the Management School, Imperial College of Science and Technology, London University and Professor at the College des Ingenieurs in Paris. 248

Hall's teaching career began at the University of Rochester in New York. He later taught at McMaster University in Canada before moving to France

From 1967 until 1970, he was Professor of Organisational Behaviour at Fontainebleau He then moved on to be Professor of Organisational Behaviour and Director of the MBA programme at Cranfield School of Management in the UK

Hall's own academic qualifications include a doctorate in Business Administration from Harvard Business School; an MA from Oxford, and a diploma in Political Science from Stockholm University. He has co-authored a book, *Accounting Step by Step*, and has another book coming out soon, *The Profit in People*

Married with a young family, Hall will take up his post on September 1. ■

Time not ripe - lawyers

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29/3/90

NEGOTIATIONS between the Government and blacks at this stage would imply compromise, the Black Lawyers' Association said yesterday

Speaking at a Press conference in Johannesburg, Advocate Dikgang Moseneke, publicity secretary of BLA, said the association had resolved that negotiation was not yet an option until certain objectives had been met

The BLA had reaffirmed a commitment it shared with the oppressed section of this country to a society that was based on one-person one-vote in a unitary state - free from discrimination based on race, ethnicity, religion or political beliefs

"The fundamental question therefore is whether the transfer of economic and political powers and the redistribution of resources can be achieved through negotiations?"

Cosaw to host culture day for Mozambique

THE Congress of South African Writers (Cosaw) is hosting a day of culture in solidarity with the people of Mozambique which features poetry, prose and a documentary film that centres on a troupe of travelling players who sing about the humane side of war in their country.

The event, says Cosaw, has been organised in response to requests from intellectuals and artists in Mozambique for support in their struggle to end Renamo's 15-year-old insurgency and will include the work of that country's most prominent poets and novelists.

Writers whose work will be read include Jose Cravereinha, Noema da Sousa, Jorge Ribelo and Marcelino dos Santos. Folk guitarist Vusi Mahlasela from Mamelodi, near Pretoria has set a number of war-time poems to music and will be performing these on the day.

"The documentary — made by a famous South African exile — is a beautiful film about a group of musicians who are determined to keep their creativity alive amidst the troubles and destruction of the war in Mozambique," says Cosaw representative Nadine Gordimer.

One of their songs is a ballad based on an incident in which Renamo rebels ambushed the bus on which they were travelling to perform in the province of Inhambane and killed five members of the group.

The event takes place on Saturday, March 31 from 2pm at the Can Themba Library, 4th floor, Twiga Centre, 68 Central Road, Fordsburg. Admission is free and the public is welcome. For information telephone 833-2530.

ANC veterans join UCT staff

20/3/90

Sowetan

RAY Alexander and Jack Simmons, the first ANC exiles to return to SA, have taken up appointments at the University of Cape Town.

The two veteran activists have taken up visiting associateships with the Centre for African Studies.

They will be carrying out archival research.

Ray and Jack left South Africa in 1965 and

By NKOPANE MAKOBANE

lived in England and Zambia.

Ray worked for the International Labour Organisation in Zambia from 1968 to 1970, when she retired.

Jack was first a research fellow at the University of Manchester and thenProfessor of Sociology at the University of Zambia.

Lawyers call for return to school

THE Black Lawyers' Association has added its voice to calls for pupils to return to classes.

This resolution was taken at the association's conference held in Durban. /eekend.

A spokesman said the conference resolved that education - particularly of the youth - was essential and part of the struggle for liberation.

"We therefore call upon all pupils to return to classes in conjunction in pursuit of appropriate forms of struggle for the true liberation of the oppressed.

"We recognise and support the demands of the teachers and urge them to continue their indispensible task of educating our youth," the resolution said.

Sowetan 30/3/90

Government bars UWC's vice-rector

THE University of the Western Cape has reacted with anger to a shock government ruling blocking a distinguished academic from taking up a post as vice-rector at the campus.

Home Affairs spokesperson Mr Hennie van Heerden confirmed on Wednesday that vice-rector designate, Professor Njabulo Ndebele, had been refused a permit to work in South Africa. He refused to divulge the reasons or elaborate on the decision.

South African-born Ndebele, now a citizen of Lesotho, is presently pro-vice chancellor of the National University of Lesotho.

Ndebele, also national president of the Congress of South African Writers, was prevented from taking up his post at UWC in January this year because of a government delay in granting a work permit.

UWC rector, Professor Jakes Gerwel reacted with anger this week to the government ruling, saying that he had written an urgent letter to Minister of Home Affairs Gene Louw, asking for an urgent meeting.



Professor Ndebele

"Prof Ndebele is one of the most highly esteemed intellectuals in Southern Africa and we were really not anticipating that in the present political climate a person of his stature would be refused a work permit.

"We must register our deepest concern at what this means for openness and negotiations towards a peaceful and prosperous South Africa," said Gerwel.

A renowned literary figure, Ndebele is author of the book, "Fools And Other Stories".

Ndebele said on Tuesday that he was not able to comment as he had not been officially notified of the situation by the university.

No ANC, but Unibo nominates Mandela

By VUSI GUNENE

THE Senate of the University of Bophuthatswana has recommended an honorary doctorate for deputy president of the African National Congress, Nelson Mandela — amid denials by the "homeland" government to allow the ANC to operate in the territory.

The senate, which comprises senior academics at the university, refused to recommend honorary degrees to two nominated supporters of the ruling Bophuthatswana Democratic Party

They are AN Lekgetha, deputy minister of health and services and DP Moloto, former deputy minister for economic affairs

In another dramatic move, 500 members of the university staff recommendated the name of recently deported president of the Unibo Straff, Dr Jon Lewis, in a petition to the senate

However, the executive of the senate removed the name of Lewis from the list of nominations and thus preventing members of the senate to vote on the matter

Mandela's award is, however, not assured, since the senate's recommendation can be vetoed by the university council — a body dominated by political appointee of the "homeland's" president — Lucas Mangope

Mangope appoints 15 out of 24 members of the Council, who according to the Unibo Support Committee "defend the interest of the homeland policy"

The recommendation for Mandela's doctorate reflects the growing dissatisfaction that has swept through the univesity in recent months

The Senate has on a number of occassion differed with the Vice Chancellor of the university, Professor MR Malope, who was directly appointed by Mangope.

The Senate opposed Malope's attempts to ban meetings of the Staff Association on campus and protested against the deportation of Lewis

Last month 443 employees were summarily dismissed following a wage strike by almost all manual, clerical and senior administrative staff at the university.

The demands of the striking workers were supported by students and a large proportion of the academic staff — leading to a two-week strike

Some members of the Staff Association's executive were detained and allegedly assaulted by the "homeland" police while in detention

When the university was re-opened a forthnight ago, all 443 were reinstated with a 20 percent wage increase with a minimum wage at the time of the strike being R240 a month

Although all workers and students have gone back to the university, there is mounting tension as no meetings are allowed on campus

No permit for UWC vice-rector

Bldg $ 7/4/70

CAPE TOWN — Vice-rector-designate of the University of the Western Cape Prof Njabulo Ndebele has been unable to take up his post because government has refused to grant him a work permit, the university said yesterday.

Ndebele, 42, is presently pro-Vice-Chancellor of the National University of Lesotho and the national president of the Congress of SA Writers.

UWC rector Prof Jakes Gerwel said the decision not to grant Ndebele a work permit was taken at Cabinet level. He was informed of the decision on Monday.

A Home Affairs spokesman confirmed this yesterday, saying the move was "well considered".

"He is a citizen of Lesotho. However, his ability to fill the post of vice-rector was at no stage in question," he added.

Gerwel said he was informed of the decision on Monday by an official from the Home Affairs Department.

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Own Correspondent

UWC planned to leave no stone unturned in its bid to obtain a work permit for Ndebele, he said.

"As a first step we have written a letter to Home Affairs Minister Gene Louw asking for an urgent meeting. We will plan further steps after that meeting."

The spokesman confirmed that the department had received the letter, but as Louw had been out of the office, he had not been able to study it, "but he will consider it".

In his statement, Gerwel said: "Prof Ndebele is one of the most highly esteemed intellectuals in southern Africa, and we were really not anticipating that in the present climate a person of his stature would be refused a work permit."

Teachers in unity pledge

WESTERN Cape teachers resolved at a mass meeting on Wednesday night to build teacher unity and fight against poor working conditions and victimisation of teachers

Mr Dullah Omar of the ANC's Internal Leadership Core who chaired the meeting, said the ANC regarded the building of unity in action as a "prerequisite" and an "important facilitator" for liberation in South Africa South 11/4 - 18/4/90

"Headquarters asked that I convey to you the good wishes of the movement and urges that unity be accomplished without further delay," he said

Cosatu's national education officer, Mr Chris Seoposengwe, criticised the poor attendance at the meeting Fewer than 300 teachers were present.

He said Cosatu was formed after four years of discussion Teacher unity was being discussed for almost three years already

National Education Union of South Africa president, Mr Curtis Nkondo, said teachers had been silent for more than 40 years.

"The time has come for us to form a national teachers' union which will work with Cosatu, the UDF and other political organisations," Nkondo said

arresting people They were charged with attending an illegal gathering and released on R50 bail the next day.

Determined

Olifant said residents decided at a meeting on Friday to continue the consumer boycott until they received a "decent" response from the municipality.

Two people were arrested in Robertson this week when the community took to the streets to protest against the municipality's response to their demands handed to the mayor at a protest march on March 24

Ignatius Davids was arrested on a charge of assaulting a police officer on Monday night and Chris Adams, 18 was arrested on Tuesday night on charges of arson

Barred UWC man speaks out

South 11/4 - 18/4/90

248

BARRED UWC vice-rector-designate, Professor Njabulo Ndebele cannot understand the government's refusal to grant him a work permit in view of the changing political situation in South Africa.

The refusal by the Department of Home Affairs to grant a work permit to the exiled Ndebele to take up his UWC post will be discussed at a meeting between home affairs minister, Mr Gene Louw, and Professor Jakes Gerwel, rector of the university, this week

Speaking from his home in Roma, Lesotho, Ndebele said he found it difficult to understand the government's decision

"Within the context of Nelson Mandela's release, the unbanning of political parties and attempts to normalise the political situation, it is somewhat difficult to understand why they should refuse me a work permit at this point " he said

"On the one hand, the government is still uncertain about how far they really need to go I don't think that granting a work permit for a vice-rector at UWC is more significant than the release of Mandela.

"If the government went that far, I don't see why they can't take a lesser step "

When asked whether he thought the refusal had anything to do with his changing his South African citizenship, he said it was a technicality

Explaining the reasons for revoking his citizenship, Ndebele said "Apartheid itself was ultimately the reason I left "

Ndebele, who is an internationally-respected literary critic and author, said he had been compelled to take up citizenship of another country to pursue his career.

A spokesperson for the department of home affairs said "no further comment" would be made on the reasons for the refusal until after the meeting with Professor Gerwel.

High standards put lid on CAs

SITmes 15/4/90

248

HIGH failure rates among chartered accountancy students bode ill for the future.

SA is faced with a severe shortage of CA's, particularly among the black population where there are only 25 practising CA's.

The accountancy profession has always argued that it is vital to set high standards and students are put through tests tough even by world standards.

The result is that this country's CAs are accepted in the First World. But SA — essentially a Third World country — loses many of these highly paid professionals to England, America and others every year.

Although the SA Institute of Chartered Accountants denies it, many believe the institute imposes a quota on the number of successful candidates who sit for its examinations.

In 1985, 44% of candidates in the board examination passed, 45% in 1986, 42% in 1987, 55,1% in 1988 and 55% last year.

As the graph shows, there is a big difference between the pass rates of the universities. In 1988, RAU had an amazing 100% pass rate for both first-time writers and repeats, and Unisa averaged only 39%.

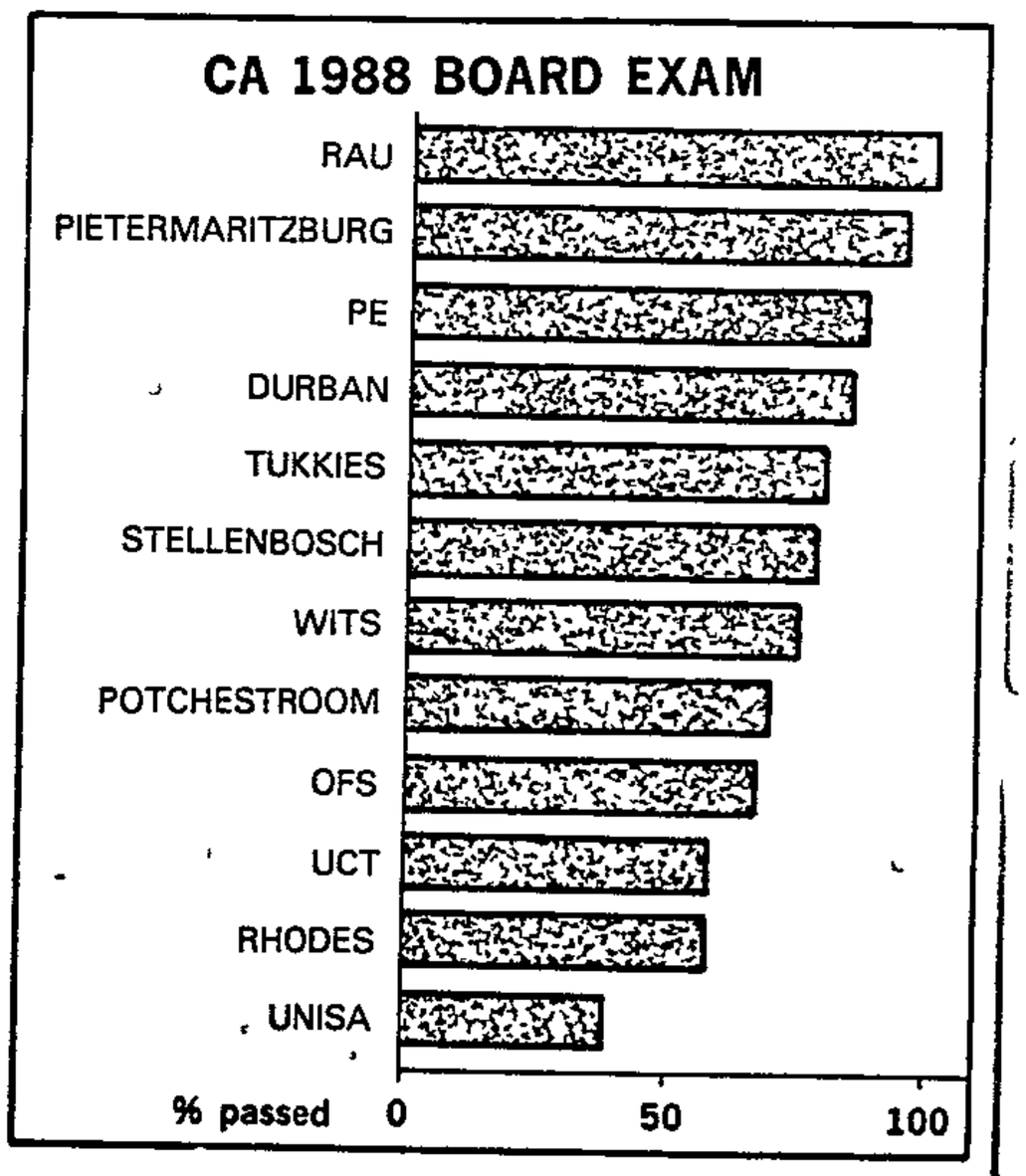
A former lecturer says part of the reason for the high number of Unisa failures is the vast number of people who attempt the examination. But it must also be attributed to inefficiencies in the marking system and extremely high standards.

"The fact that thousands of students attempt the examination each year puts a big strain on the markers. As a result, papers are not always read thoroughly. Students are given a mark on the overall impression of their paper rather than answers.

"In addition, students are not allowed to see their papers after they have been marked, they cannot have a re-mark and so they cannot learn by their mistakes."

If students failed in their first attempt to gain a CA degree, it is highly unlikely that they will be able to repeat their final year at another university because the syllabus is not standardised.

The prospective student must pass a three-year Bachelor of Commerce degree, then a one-year Bachelor of Accounting course. Thereafter, he or she must join a firm of auditors and serve articles for three years during which time the board examination set by the SAICA must be written.



Prof Simkins tipped for new Wits post

Leading liberal economist and author Professor Charles Simkins has been named to fill the new Helen Suzman Chair of Political Economics at the University of the Witwatersrand

According to a well-placed source, the choice for the prestigious position "slipped out" after the selection committee had made its decision

Although the university would not confirm or deny the appointment yesterday, deputy vice-chancellor Professor Peter Tyson confirmed that the selection committee had met. He said certain administrative procedures had to be carried out before an official announcement could be made

● The chancellor of the University of South Africa, Professor Theo van Wijk, has decided to step down. The university council will deal with the resulting vacancy at its May meeting. — Education Reporter.

Athlone police district: offences reported

137 Mr C W EGLIN asked the Minister of Law and Order

How many cases of (a) murder, (b) culpable homicide, (c) assault with intent to do grievous bodily harm, (d) common assault, (e) rape, (f) robbery, (g) theft of vehicles and cycles, (h) damage to property, (i) housebreaking with intent to steal and theft and (j) possession of drugs were reported at each specified police station in the Athlone police district in 1989?

B302E

The MINISTER OF LAW AND ORDER

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Athlone	38	16	263	362	36	279	301	293	730	23
Bishop Lavis	78	60	882	987	126	514	163	1010	684	31
Nyanga	109	22	720	385	66	146	61	212	163	1
Grassy Park	35	24	358	492	101	174	255	291	911	51
Guguletu	151	39	1377	631	109	367	86	460	375	–
Langa	48	6	477	304	46	204	19	130	222	2
Lansdowne	12	10	93	255	38	114	249	196	576	8
Philippi	47	55	390	399	84	255	159	383	513	21
Mannenberg	50	26	592	398	61	369	159	594	618	28
Mitchells Plain	84	32	593	2073	214	717	774	1097	2045	36
Khayelitsha	252	80	1517	887	191	330	97	431	616	–
Durbanville	6	11	61	31	11	10	128	45	363	0
Elsiesriver	87	37	1315	795	117	467	248	955	722	12
Goodwood	7	13	46	141	13	31	411	104	462	0
Kraaifontein	52	34	477	337	64	181	232	347	497	4
Kuilsriver	55	54	662	452	96	202	357	406	1138	5
Parow	11	18	75	199	17	49	549	140	768	1
Ravensmead	57	15	812	431	67	137	118	531	420	6
DF Malan Airport	0	0	2	7	0	1	42	9	7	4
Bellville South	36	26	455	325	81	168	132	471	449	3

Note

Because the South African Police is not satisfied with the crime situation in the RSA, crime tendencies are continuously monitored I wish to assure the honourable member that everything possible is being done to prevent crime When it is apparent that there is an increase in crime, active steps are taken to counteract this tendency

Bellville police district: offences reported

138 Mr C W EGLIN asked the Minister of Law and Order

How many cases of (a) murder, (b) culpable homicide, (c) assault with intent to do grievous bodily harm, (d) common assault, (e) rape, (f) robbery, (g) theft of vehicles and cycles, (h) damage to property, (i) housebreaking with intent to steal and theft and (j) possession of drugs were reported at each specified police station in the Bellville police district in 1989?

B303E

The MINISTER OF LAW AND ORDER

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Bellville	20	16	161	279	23	119	350	152	799	7
Brackenfell	14	20	154	69	18	26	149	69	238	0

Note

Because the South African Police is not satisfied with the crime situation in the RSA, crime tendencies are continuously monitored I wish to assure the honourable member that everything possible is being done to prevent crime When it is apparent that there is an increase in crime, active steps are taken to counteract this tendency

Assault on wives/lovers

190 Mrs C H CHARLEWOOD asked the Minister of Law and Order

(a) How many complaints of assault were laid against (i) Black, (ii) White, (iii) Coloured and (iv) Indian men by their wives or lovers, and (b) how many such complaints were investigated in each case, during the latest specified period of 12 months for which information is available?

B470E

The MINISTER OF LAW AND ORDER

(a) and (b)

The South African Police do not keep record of these statistics, therefore the required information cannot be furnished

SAP: labour disputes

206 Mr P H P GASTROW asked the Minister of Law and Order

In how many instances were the South African Police called to the scene of (a) labour disputes, (b) work stoppages and (c) strikes in 1989?

B486E

The MINISTER OF LAW AND ORDER

(a) 169

(b) 89

(c) 589.

Workers striking illegally

207 Mr P H P GASTROW asked the Minister of Law and Order

How many workers were arrested for striking illegally in 1989?

B487E

The MINISTER OF LAW AND ORDER

67 workers

Illegal strikes

220 Mr P H P GASTROW asked the Minister of Justice

How many workers in each race group were (a) charged with and (b) convicted of illegal strikes and related conduct in 1989?

B548E

The MINISTER OF JUSTICE

The required information is not readily available in the Department In an effort to be of assistance to the Honourable Member, the following information was obtained from the Central Statistical Service for the period 1 July 1987 to 30 June 1988

(a)	Whites	0
	Coloureds	4
	Asiatics	0
	Blacks	921
	Total	925
(b)	Whites	0
	Coloureds	3
	Asiatics	0
	Blacks	819
	Total	822

Functional/legal training courses

225 Mr D J DALLING asked the Minister of Justice

How many (a) White, (b) Coloured, (c) Indian and (d) Black persons (i) attended and (ii) successfully completed courses in (aa) functional and (bb) legal training provided by the legal training branch of his Department in 1989?

B553E

The MINISTER OF JUSTICE

(aa) Functional Training

(a) White

(i) 1 133

(ii) 1 133

(b) Coloured

(i) 19

(ii) 19

(c) Indian

(i) 5

(ii) 5

(d) Black

(i) 366

(ii) 366

(bb) Legal Training

(a) White

(i) 229

(ii) 144

(b) Coloured

(i) 4

(ii) 4

(c) Indian

(i) 4

(ii) 3

(d) Black

(i) 28

(ii) 6

Non-White acting judges/judges

226. Mr D J DALLING asked the Minister of Justice:

Whether any persons who are not White were appointed as (a) acting judges and (b) judges within the Republic in 1989, if not, why not, if so, (i) who were so appointed and (ii)(aa) when and (bb) where was each such person appointed?

B554E

The MINISTER OF JUSTICE:

(a) and (b) No

The State President may in terms of section 10(1)(a) of the Supreme Court Act, 1959 (Act 59 of 1959) appoint fit and proper persons as judges of the Supreme Court of South Africa

It is policy to appoint only advocates with the distinction of *Senior Consultus* as judges At present only one Black advocate, namely T L Skweyiya and two Indian advocates, namely

I Mahomed and H E Mall, hold the distinction of *Senior Consultus*

Legal training courses

227 Mr D J DALLING asked the Minister of Justice

(a) How many persons participated in legal training courses organized by his Department in 1989, (b) how many such persons were (i) White, (ii) Black, (iii) Coloured and (iv) Indian and (c) in which courses did these (i) Black, (ii) Coloured and (iii) Indian persons participate?

B555E

The MINISTER OF JUSTICE

(a) 1 788

(b) (i) 1 362
(ii) 394
(iii) 23
(iv) 9

(c) (i) Course for Deeds Office Staff (Investigators Course) 6
Diploma in Registration of Deeds 8
Traffic Officers 197
Magistrate Criminal Court 42
Magistrate Civil Court 27
State Prosecutors 56
Clerk of the Court 30
B Iuris 17
Diploma Iuris 11

(ii) Diploma in Registration of Deeds 3
Magistrate Criminal Court 1
State Prosecutors 12
Estate Controllers 3
B Iuris 3
Diploma Iuris 1

(iii) State Prosecutors 5
B Iuris 4

Milnerton/Maitland/Pinelands: vagrancy/drunkenness

229 Mr J J WALSH asked the Minister of Law and Order

How many (a) males and (b) females were arrested in 1989 for (i) vagrancy and (ii) drunkenness in the (aa) Milnerton, (bb) Maitland and (cc) Pinelands police station areas?

B557E

The MINISTER OF LAW AND ORDER

	(a) (i)	(a) (ii)	(b) (i)	(b) (ii)
(aa)	5	1 097	8	517
(bb)	19	1 429	10	1 197
(cc)	1 153	185	0	1

Brits/Rustenburg road: collisions

236 Mr A GERBER asked the Minister of Law and Order †

Whether any motor-car collisions that have taken place at the junction of road 344 and road N18 between Brits and Rustenburg have been reported at police stations since 1 February 1989, if so, (a) how many collisions have been reported, (b) how many persons have been (i) killed and (ii) injured in these collisions and (c) in respect of what date is this information furnished?

B582E

The MINISTER OF LAW AND ORDER

Yes

(a) 8

(b) (i) 10
(ii) 17

(c) 30 March 1990

Johannesburg police district: offences

240 Mr P G SOAL asked the Minister of Law and Order

How many cases of (a) murder, (b) culpable homicide, (c) assault with intent to do grievous bodily harm, (d) common assault, (e) rape, (f) robbery, (g) theft of vehicles and cycles, (h) damage to property, (i) housebreaking with intent to steal and theft and (j) possession of drugs were reported at each specified police station in the Johannesburg police district in 1989?

B610E

The MINISTER OF LAW AND ORDER

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
John Vorster Square	78	44	388	857	91	1986	2827	590	2230	3
Langlaagte	30	13	83	238	36	192	234	173	325	1
Mondeor	23	71	99	222	33	136	319	168	1003	–
Jeppe	90	53	352	479	84	609	992	349	1413	–
Booysens	41	63	156	809	54	434	2016	480	1952	1
Cleveland	25	14	71	215	19	211	575	145	884	–

Brixton	6	13	65	305	19	74	667	270	701	3
Park Station	14	–	57	121	23	133	59	36	38	1
Genl Johan Coetzee	60	21	291	1123	48	272	531	573	1079	8

Note Because the South African Police is not satisfied with the crime situation in the RSA, crime tendencies are continuously monitored I wish to assure the honourable member that everything possible is being done to prevent crime When it is apparent that there is an increase in crime, active steps are taken to counteract this tendency

Police stations: distance from city centres

245 Mr K M ANDREW asked the Minister of Law and Order

Whether there are any police stations within a radius of five kilometres of the centre of (a) Johannesburg, (b) Cape Town, (c) Durban and (d) Port Elizabeth, if so, which police stations?

B632E

The MINISTER OF LAW AND ORDER

Yes

(a) Park Station
John Vorster Square
Jeppe
Hillbrow
Yeoville
Brixton
Booysens

(b) Cape Town Central
Table Bay
Woodstock
Sea Point

(c) C R Swart Square
Umbilo
Berea
Maydon Wharf
Point
Berea satellite station

(d) Louis Le Grange Square
Setlaar

Boats serving Robben Island

246 Mr K M ANDREW asked the Minister of Justice

(1) Whether there are any boats owned by the State that serve Robben Island for purposes related to the Prisons Service, if so, (a) which boats and (b) which Government Department (i) owns and (ii) operates each boat,

(2) (a) what is each such boat used for, (b) when was it purchased, (c) how much did it cost, (d) who built it and (e) how many persons constitute the crew of each boat,

(3) (a) how many single journeys did each such boat make to and from Robben Island in 1989 and (b) what was the operating cost of each boat in that year,

(4) whether any more boats are on order or are to be purchased for such purposes, if so, (a) what boats, (b) why, (c) when and (d) how much will each of them cost?

B636E

The MINISTER OF JUSTICE

(1) Yes

(a) Susan Kruger
Dias
Blouberg
Penguijn
Proteus
P P I
P P II

(b) (i) and (ii) The South African Prisons Service owns and runs all the above-mentioned boats

(2) (a) Susan Kruger— Transport of passengers and small quantity cargo/supplies
Dias — Transport of passengers and small quantity cargo/supplies
Blouberg — Transport of mass cargo and fresh water
Penguijn — Transport of passengers and small quantity cargo/supplies
Proteus — Transport of passengers and small quantity cargo/supplies
P P I — Patrol and emergency services
P P II — Patrol and emergency services

(b) Susan Kruger— November 1977
Dias — April 1961

Unisa chancellor resigns

Sta-19/4/90 (SM) 248

Pretoria Correspondent

The University of South Africa has been shaken by the resignation of its chancellor, Professor Theo van Wijk, and by his claim that he was asked to leave.

The issue will be discussed by the university council on May 2.

Professor van Wijk, who has been associated with Unisa for 40 years, said he was asked to resign by the chairman of the university council, Dr Gerhard Davidts. He said he was very disappointed by the step.

According to a statement released by Unisa on Tuesday, Professor van Wijk, who was appointed chancellor of Unisa in January 1989 after serving as principal for 17 years, stepped down on April 10.

The secretary of the university council, Mr M H Stockhoff, denied that the council had asked Professor van Wijk to resign.

In terms of legislation governing the university, the council cannot ask a chancellor to resign, and only the Minister of National Education may remove a chancellor from his post.

University sources said it appeared there had been a clash between Professor van Wijk and certain council members over his interpretation of his duties as chancellor, after he had relinquished his post as principal in 1988.

As a result of this dispute, it is thought Dr Davidtsz had approached Professor van Wijk.

Professor van Wijk said Dr Davidtsz had not given him reasons for the request and added that futher queries should be directed to Dr Davidtsz.

Dr Davidtsz refused to deny or confirm the allegations of a forced resignation.

He said it was an internal matter. Professor van Wijk's resignation would be dealt with at a council meeting on May 2.

One source claimed Professor van Wijk's resignation was definitely forced, blaming a conflict of personal ambition in Unisa's directorate between Professor van Wijk and the principal, Professor Cas van Vuuren.

New moves on barred academic

(248)

South 19/4 - 25/4/90

THE University of the Western Cape is continuing its efforts to pressure the government to grant its exiled vice-rector designate a work permit.

Rector Professor Jakes Gerwel and vice-rector Professor Jaap Durand met Home Affairs Minister, Mr Gene Louw, on Tuesday to discuss the government's refusal of a work permit to Professor Njabulo Ndebele, an exiled South African resident in Lesotho.

Ndebele had been appointed to the post of second vice-rector at UWC.

According to a spokesperson for UWC, Louw explained the decision not to grant the permit had been taken at cabinet level. He said he was not in a position to divulge reasons for the refusal.

Gerwel and Durand explained to Louw that the university would have difficulty in accepting governmental barring of a scholar and university administrator whom their senate and council had found "eminently suited" for the post.

The UWC spokesperson said the university's council would meet on Thursday to discuss a future course of action.

"There is no likelihood of UWC filling the post with another candidate," he said.

"The university will pursue all avenues to have the candidate of its choice installed in the position."

Unisa ceremonial chief resigned over 'friction'

ST Times 22/4/99 (248)

By HERMAN JANSEN

THE surprise resignation of Unisa chancellor Professor Theo van Wijk was the result of "friction" between him and the man who succeeded him as principal, according to university sources

Professor Van Wijk, 73, was appointed to the ceremonial office of chancellor after 17 years as principal, a post taken over by Professor Cas van Vuuren a year ago

University sources said this week that Professor Van Wijk had found it difficult to accept his ceremonial role and continued taking an interest in running the university

Terse

"That's when the friction started, leading to clashes with Professor Van Vuuren," said a highly placed academic source and member of the Unisa council.

He added "There is no scandal involved, no intrigue It is all just very sad"

A telephone call on April 9 from Dr Gerhard Davidtz, chairman of the Unisa board, to Professor van Wijk brought matters to a head, with the chancellor writing his terse letter of resignation the same evening

The burning question is whether Dr Davidtz asked him to resign, as claimed by Professor Van Wijk

Professor Van Wijk gave no reasons for resigning in his letter — he merely stated that he was "vacating" his position the next day.

Internal

Ironically, Unisa graduation ceremonies were held this week in a building on the Pretoria campus named after Professor Van Wijk

"The way I interpreted Dr Davidtz's call was that he wanted me to leave"

Hedeclined to divulge the tone or substance of the call", he said

Professor Van Wijk's wife, Cilna, said her husband was "very disappointed and sad" about the way things had turned out

"Unisa was part of his life for 40 years," she said. "He gave the university his all Dr Davidtz says he did not mean it that way, but that's the way my husband understood him"

Dr Davidtz this week declined to comment He said it was an "internal matter" which would be discussed at the next meeting of the Unisa council on May 2

Professor Cas van Vuuren said "Whatever Dr Van Wijk's reasons, they are private — I respect that I don't want to speculate.

"But in any situation where people work together there are differences of opinion

"People interpret this in different ways — some get upset, others see it as a routine matter

"Professor Van Wijk and I had our differences from time to time

"But I would term them just that — to me they were differences, not clashes."

Unisa staff were this week angry that they were only officially informed of the resignation in a circular headed "Resignation of Chancellor" dated April 18

"Some are quite peeved," said an academic. "We were informed almost 10 days after the fact"

No easy road to divorce

Own Correspondent

A DURBAN professor is pushing for a law which would prohibit couples from getting an easy divorce without their first discussing their disputes with a mediator who may be able to save their marriage.

Prof David Scott-Macnab of the Department of Public Law at the University of Durban Westville, has been researching the system of mediation for five years.

He believes mediation - a system of arbitration between disputing parties - could not only save families pain and anguish, but also the high cost of litigation.

248

Scott-Macnab has been invited to conduct further research on the issue by the Vermont Law School in the United States. He will be a visiting research scholar from May 15 to August 15.

In the majority of American states, there is a statutory provision for disputing parties to undergo compulsory mediation, prior to litigation. Scott-Macnab would like to see such a law passed in South Africa.

Sowetan 26/4/90

"When an American couple contemplates divorce, partners in a law firm would first refer the parties to a mediator within the company to see if the dispute cannot be resolved through discussions Divorce will be allowed only as a last resort," Scott-Macnab said

When he returns, he will submit a report on his research to the Human Sciences Research Council and the South African Law Commission

High standards keep CA numbers low

S/Times 29/4/90

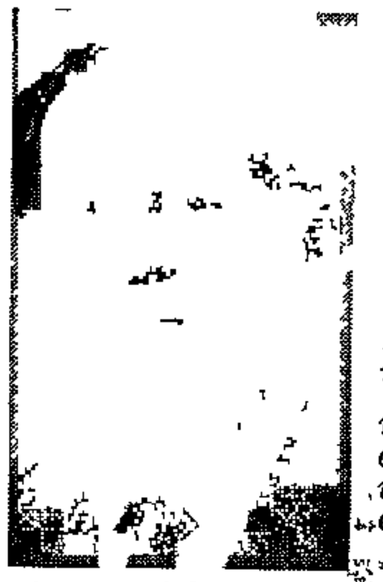
AN article on this page a fortnight ago about the high failure rate among chartered accountants has evoked vigorous reaction

The question of standards in the CA profession, elitism and skills shortages is a touchy one which warrants investigation This is particularly so in the light of a changing SA

The Public Accountants' and Auditors' Board (PAAB) was highly critical of the article, saying the "whole gist of it is so totally wrong that it is ludicrous"

PAAB head Lucas van Vuuren says it is an open question whether SA is faced with a severe shortage of CAs because no scientific study has been done to substantiate the claim

"There is no truth in the statement that a quota is imposed on the number of successful candidates who sit for the examination



Lucas van Vuuren most candidates eventually pass the examinations

"The overall pass rate must be viewed in proper perspective A total of 85% of all candidates who write the examination eventually pass"

The 1989 pass rate was 55% — lower than in 1988 when 55,1% passed and higher than 1987 or 1986 when 42% and 45% made the grade

Mr Van Vuuren says the high failure rate is caused not by the number of people who write the examinations, but by the quality of the students He says "thousands" of people do not write each year as my article claimed The actual number was 1 484 in 1990

[redacted]

"The marking system is extremely efficient Candidates have the opportunity to discuss all their answers with the PAAB"

One CA, who wishes to remain anonymous, has another view of the low pass rate

"For years I have wondered how accounting students who sailed through their school life and passed their university examinations, sometimes even with a distinction, suddenly fail their board examination two, three or even four times"

Responding to allegations that the high standards set by the accountancy profession are inappropriate in a predominantly Third World country, SA Institute of CAs technical director Graham Terry says they must be maintained

"It must be remembered that CAs serve the First World section of SA and this element is on a par with any other in the world

"While I am not saying that the board examination syllabus does not need to be looked at, the current standards must be maintained"

New Cape Society of CAs president Franco Vignazia believes a different approach is needed for both the First and Third World elements

"The profession, universities and commerce are all to blame because they are trying to produce a super-animal in the qualified CA We should be offering two different qualifications."

[redacted]

He believes that many students who drop out of accountancy at various stages of their training would qualify as commercial accountants Training for this should consist of a three-year Bachelor of Commerce course followed by articles leading to a practical examination

Mr Vignazia says that at this point accountants could decide between going into commerce or continuing to study to become specialists in tax, auditing etc

"Many accountants leave the auditing firms with which they have served articles and go into commerce

"Within a couple of years they have forgotten much of the specialised work they have studied and they do not keep up to date with changes in legislation because they do not need to"

The need for more black accountants is a vital factor in reforming SA

The extent of the problem can be seen in that of 10 000 blacks who start school, 27 will receive a matriculation exemption and a single student will get an exemption in mathematics and science

Looking at the relatively low pass rates, University of Cape Town accounting department head Geoff Everingham says the short time between the board's and the final university examinations is cause for concern

"It means that university pass rates are used as a yardstick of the university's performance

"Universities are liable to pass only those students they believe have a good prospect of passing the board examination at the first attempt"

[redacted]

Marking of papers is therefore stricter and university pass rates are lower than they would have been if the student had a year or two of practical experience before writing the board examination

Professor Everingham says the huge growth in the syllabus in recent years has made accounting one of the most difficult professions to enter

As a result, he questions whether the profession is meeting this country's true needs

Fort Hare crisis as chancellor resigns

SOUTH 3/5 - 9/5/90

(248)

From FRANZ KRUGER

GRAHAMSTOWN. — The chancellor and seven council members at the University of Fort Hare in Ciskei have resigned, continuing the spate of resignations of senior administrative officials.

The resignation of Professor PE. Rousseau, who served as chancellor for 20 years, was announced this week. Mr Justice GGA Munnik, Judge President of the Cape and chairperson of the council, is among those who left.

Munnik, a close associate of former President PW Botha, headed the commission of inquiry into Barclays Bank's funding of advertisments calling for the unbanning of the African National Congress several years ago.

The resignations follow the sudden withdrawal of the rector, Professor JA Lamprecht, and six senior officials — including the vice-rector, the three registrars and an assistant registrar.

All were South African officials seconded to Ciskei.

In late March, some weeks after the coup which swept the military regime of Brigadier Oupa Gqozo to power, Lamprecht and the six others requested to be withdrawn from the university.

A few weeks later, Lamprecht suddenly moved to Fort Beaufort, about 20 km from Alice, but continued running the university from his home there.

This week, the university announced the appointment of an acting rector, Prof J B Gardner, dean of the Faculty of Economic Sciences, to take his place.

A spokesperson for staff, student and worker bodies at the university indicated Gardner had the support of these constituencies.

— *ECNA*

police were not simply leaving the people finding each other".

Winds of change blow up a storm at Fort Hare

THE old guard at the University of Fort Hare is being blown away by the winds of change sweeping through Ciskei.

This week, the resignation of the chancellor, the chairman of the university council and six other members of the council was announced. This came only weeks after the rector and six top officials left the university.

Fort Hare is the oldest black university in the country but the top echelons have been dominated by conservatives in recent years. There have been many conflicts between students and the administration.

Since the coup that swept President-for-Life Lennox Sebe from power, tensions are believed to have developed between the university hierarchy and the new military government, which has aligned itself with the Mass Democratic Movement and has met the students and staff.

Among those now resigning is Mr Justice GGA Munnik, Judge President of the Cape, who served as chairman of the university council. He is a close associate of former President PW Botha, and headed the commission of inquiry into what became known as the Chris Ball affair.

By FRANZ KRÜGER
East London

Ball was head of Barclays Bank, whose involvement in the funding of advertisements calling for the unbanning of the African National Congress was probed.

Another official resigning is the chancellor, Professor PE Rousseau, who served in the post for 20 years.

In late March it was announced that the rector, Professor JA Lamprecht, and six senior officials including the vice-rector, the three registrars and an assistant registrar, were all requesting to withdraw from the university. All were South African officials seconded to Ciskei.

A few weeks later, Lamprecht suddenly moved to Fort Beaufort, 20km from Alice, but continued running the university from his home there.

The university announced this week the appointment of an acting rector in his place, Professor JB Gardner, dean of the Faculty of Economic Sciences. A representative for staff, student and worker bodies at the university indicated Gardner had the support of these constituencies. — Ecna

Sowetan 4/5/90

Lawyers withdraw

THE Klerksdorp terrorism trial continues today without two members of the defence team, who withdrew from the case yesterday.

Mr Dikgang Moseneke and Mr Imran Moosa, representing seven members of the Black Consciousness Movement of Azania accused of terrorism, announced their withdrawal at the close of yesterday's proceedings.

They told the magistrate, Mr JD Pretorius, that their mandate had been terminated because of his rejecting their application to have the case postponed.

The defence had applied on the grounds that the instructing firm needed two months to raise more funds for the case.

Pretorius said the parties had agreed to continue with the trial daily until it ended.

Moseneke said the trial had become very expensive. It was heard at a place where none of the

By SONTI MASEKO

accused and their families lived and the defence had to pay for travelling and accommodation.

The accused were released on bail totalling R14 000 last week on condition they remained in the Klerksdorp district.

The decision to increase bail from R5 500 to R14 000 and the lengthy duration of the trial were other factors that contributed to the costs.

The trial, initially put down to be heard over eight weeks, was now in its third month.

The magistrate said it should noted that there were State witnesses who were in jail awaiting to give evidence while the trialist were out on bail

On the financial aspect raised by the defence, he said the accused had decided to pay money for bail This suggested the bail amount could not be a contributing factor to their being unable to continue with the case

Skills of returning exiles will enrich SA

Kerry Swift

senior lecturer in journalism at Rhodes University examines the possibility of a reverse in the brain drain

NOT much good has flowed from the dark recesses of apartheid, but there is one aspect of our great national folly which inadvertently promises to provide a rich harvest for South Africa if the country is awake to the possibilities

It stems from the "separate development" — thankfully this time at the expense of foreign taxpayers rather than our own — of a whole generation of South African scholars in some of the world's leading institutions of higher education.

Among them are some of the country's brightest and best, men and women who chose to join the South African diaspora rather than subject themselves to the consequences of ethnic socialism.

While apartheid managed to stunt a generation of young students at home, it also ensured the loss of some of our finest minds through emigration.

However, this pool of expatriate talent, so desperately needed at home, need not necessarily be lost to South Africa.

Many of our exiled scholars may yet be persuaded to return once Christian National Socialism is consigned to the scrapheap where it belongs — along with the rest of our country's failed experiments in human engineering.

And if they do decide to return home, they could trigger a "veritable" flood of foreign academics, all seeking solutions to the human condition by rooting for intellectual truffles among the ashes of apartheid.

In much the same way as Nkrumah's Ghana became a magnet for the international intellectual community as Africa's first liberated nation, so South Africa could become the next intellectual Mecca.

It could become a mandatory pit-stop for all self-respecting social scientists.

Grabbed

Bizarre as it may sound, apartheid opened up great educational opportunities for South Africans abroad, opportunities which they would never have had at home

For many, exile meant the opportunity of a university education, particularly among the thousands of young township dwellers who left the country during the events of 1976

The doors of universities and colleges in all corners of the globe were opened to exiled South African students

From Moscow to Montreal, from Baghdad to Beijing, South Africans grabbed their opportunities where they found them and pursued the education denied them at home

And many rose, as exiles so often do, to great heights of academic achievement.

Back in South Africa, an international academic boycott — imposed as a symbolic gesture against unequal education — narrowed the options for South Africa's universities, making it difficult for them to recruit academic staff abroad

Recruiting foreign academics was a bit like the SA Cricket Union recruiting rebel cricketers. "Respectable" academics steered clear of South African universities, though a number of valuable people simply ignored the authoritarian tendency of the boycott and came anyway

The collapse in the rand also made recruiting foreign academics difficult.

With the best of British academics already leaping the Atlantic in pursuit of the honeypot, there was little chance of recruiting them to strife-torn South Africa — particularly with an exchange rate of more than R4 to the pound!

The academic boycott and the economic squeeze forced local universities to rely heavily on local recruitment.

The paucity of academic talent at home, however, was in stark contrast to the situation abroad, where an academic explosion took place among expatriate South Africans

Literally thousands of expatriate South Africans were teaching and researching in academic institutions around the globe and gathering degrees like acorns in winter

And when our "winter of discontent" is finally over, one hopes that this rich and diverse intellectual resource will be transplanted to South Africa. If it is, few countries will boast a broader or more cosmopolitan intellectual heritage

Urgent

Bitter though the seed may be, the flowering of knowledge may still be sweet in South Africa

If the exile academics do decide to come home on the back of a political settlement, the hard question of what to do with them still remains

Given the existing system of academic tenure at our universities, returning exiles — regardless of their intellectual pedigrees or prowess — will not simply walk into existing university posts Nor will our universities be able to expand sufficiently fast enough to accommodate them

This suggests either the rapid development of more universities or perhaps some form of "People's Education" which will absorb returning academics into parallel or even alternative educational structures

It would be a rather empty pilgrimage if, having worked themselves into the comfortable wainscoting of academic institutions abroad, our exiled intellectuals decided to renounce any future role in South Africa and opt for the permanent delight of the bourgeois world

As a matter of urgency, South Africa's academic institutions should already be reaching out to them and be working out ways of harvesting apartheid's exile crop of intellectuals so that we can be better prepared for the long and arduous road to nationhood which lies ahead

Mosala retires

(248) Sowetan 7/5/90

Dr Itumeleng Mosala, senior lecturer in the Department of Religious Studies at the University of Cape Town, is among eight members of the university's Council who retired recently.

Mosala was elected to Council by Senate in 1987. He served a three-year term of office.

He completed his BA (Hons) and MA degrees at the University of Manchester and his PhD at the University of Cape Town. He previously lectured at the University of Botswana.

He has published widely on the subject of Black Theology. He has also been a guest at many international conferences. In May 1988, he was a special guest speaker at the 25th anniversary of the United Nations Committee Against Apartheid.

Earlier this year, Mosala was elected president of the Azanian Peoples Organisation (Azapo). He is due to take up a three-year lecturing post at Cambridge University at the end of the year.

last day of each month during 1989, are as follows:

31 January 1989	—	20 082
28 February 1989	—	19 887
31 March 1989	—	19 716
30 April 1989	—	19 521
31 May 1989	—	19 416
30 June 1989	—	18 971
31 July 1989	—	18 901
31 August 1989	—	18 791
30 September 1989	—	18 472
31 October 1989	—	18 498
30 November 1989	—	18 368
31 December 1989	—	18 514

Own Affairs

White State schools: expenditure

109 Mr K M ANDREW asked the Minister of Education and Culture:

(1) How much was spent *per capita* on (a) teachers, (b) administrative staff, (c) grounds, cleaning and caretaker staff, (d) books and stationery, (e) equipment, (f) building maintenance and (g) other specified items in respect of (i) primary and (ii) secondary White State school pupils in the 1988-89 financial year;

(2) whether the above personnel expenditure includes employer contributions to pension funds, if not, what is the employer contribution to pension funds calculated on the same *per capita* basis?

B750E

The MINISTER OF EDUCATION AND CULTURE.

(1) This information is not available as the SANEP system does not provide for information according to these categories,

(2) falls away

HOUSE OF REPRESENTATIVES

QUESTIONS

† Indicates translated version.

For oral reply

Own Affairs

UWC: certain professor

*1. Mr W J DIETRICH asked the Minister of Education and Culture:

(1) Whether he will furnish information on a certain professor at the University of the Western Cape, whose name has been furnished to the Minister's Department for the purpose of his reply, if not, who not, if so, what is the name of this professor;

(2) whether a settlement was made in respect of this professor; if so, (a) why, (b) what were the amounts involved and (c) what were the other terms of the settlement;

(3) whether the will make a statement on the matter?

C86E

The MINISTER OF EDUCATION AND CULTURE

(1) Yes The person in question is Professor J Cohen of the Department of Conservative Dentistry at the University of the Western Cape The information relating to the question is that during 1987 a dispute had arisen between the two parties because of the student stay-away from classes attached to the particular department and the students' demand that Professor Cohen resign

(2) A settlement was achieved between the two partiers — i e the University and Professor Cohen

(a) because it was deemed to be in the interest of the University to settle the matter,

(b) In terms of the settlement the University is not obliged to disclose the amounts involved because the investigation of the matter was regarded as an internal matter for which purpose an "in-house" report was tabled In this connection the Department at the time indicated that it would honour the University's status of autonomy and I have no intention of dishonouring such agreement now;

(c) The other terms of the settlement were that the University apologise to Professor Cohen in public and such apology was widely published in the local media by Professor Cohen

(3) No A Statement on the matter is not deemed necesssary

Why is South Africa's judiciary so white?

W/Mail 11/5 - 17/5/90 (248)

The South African judiciary is criticised for all its judges being 'white and largely conservative' But black legal organisations discourage their members from sitting on the bench There are also very few blacks who are practicing senior counsel, the group from which judges are drawn CARMEL RICKARD reports

CURRENT political developments and the granting of judicial discretion over the death penalty might soon see more white advocates committed to "human rights" accepting appointments to the bench

But it's likely to be some time yet before black advocates agree to serve as judges

The question of black judges has long been a controversial issue in the profession

While the judiciary is criticised for being "all white and largely conservative", influential legal groups such as the Black Lawyers Association and the National Association of Democratic Lawyers (Nadel) have taken firm decisions against their members sitting on the bench

When Hassan Mall, SC, accepted an appointment as acting judge in the Durban courts a couple of years ago he came under pressure not to do so again

Although advocates of his standing are regularly asked to take temporary appointments, he has not acted again, clearly indicating that he has felt the time was still not right to accept

This week the *Weekly Mail* approached a number of senior members of the profession as well as Nadel and the BLA for their views on whether circumstances had changed enough to warrant a re-think on the issue

Asked whether the time had now arrived for black counsel to consider accepting appointments to the bench, they all discussed two major issues the numbers problem and the political principle

There are only three black "silks" (senior counsel) in the country As judges are almost always drawn from the ranks of practising senior counsel, the problem is obvious If there are to be black judges, there will also have to be more black silks

There is little disagreement about the reasons for there being so few black senior counsel

For historic reasons related to the standard of Bantu Education and economics, few black lawyers have become advocates although this is now beginning to change

Even fewer have been at the bar for the 10 to 15 years' experience required before an advocate can seriously think of applying to take silk

For those approaching the required length of experience there is another problem the kind of experience which black counsel is able to obtain

To qualify as a senior, advocates must have established a large practice involving a wide variety of work Many black advocates, however, complain that attorneys representing commerce, industry and other major clients like city councils, tend to be white and tend to brief white counsel

"You brief the guy who belongs to the same club as you do," a Johannesburg attorney confirmed, his comments also partly explaining why there is only one practising woman silk in the country

"You give work to the guy you play golf with, that you went to school with, that you socialise with over weekends"

One result has been that black advocates have tended to specialise in the work black attorneys provide for them — largely criminal cases, particularly political trials Many do comparatively little civil work which puts them at a disadvantage when it comes to applying for silk

Justice Moloto, director of the BLA's legal education centre said that black advocates taking silk also ran the risk of "pricing themselves beyond the reach of their (black) clients"

There seems to be general agreement that the "numbers problem" is gradually being solved several suitable juniors are close to having the requisite number of years' experience, and officials of several bar councils said they expected other black silks would be appointed over the next few years

Chairman of the General Council of the Bar, Milton Seligson, SC, said once a political settlement was achieved it could signal a decline in the number of political trials, thus allowing black advocates to balance the expertise gained in this field, with experience in other areas

The General Council of the Bar and other legal bodies are also trying to interest more suitable people — particularly black people — in the profession, and it is hoped that this encouragement at the school level, as well as bursary assistance during university, articles (for attorneys) and pupilage (for advocates), will begin to redress the balance.

The political principle, however, is more delicate and the solution does not lie in the hands of the profession

Both Nadel and BLA officials said recent political developments were still inadequate to change their organisation's attitudes on the issue

Moloto said "Black judges would still be called in to administer laws they had no part in making — and about 90 percent of these laws are unjust

"They would be cogs in the machinery of their own oppression"

Nadel president Pius Langa commented "The country is undoubtedly in a period of transition now but the so-called new South Africa has not yet taken shape

"It is a question of participation Once the machinery for participation at all levels has been created, then it would be OK (for our members to accept judicial appointments)"

While this attitude appears to be prevalent, there are other voices Charles Dlamini, an advocate and dean of the law faculty at the University of Zululand, agrees the dismantling of apartheid is a "real priority", but argues the appointment of blacks as judges "is part of that process".

Dlamini's view is that black judges could express their views on unjust laws and might influence their colleagues

They would also be more likely, when confronted with a choice to rule in favour of the liberty of the individual rather than in favour of the state

One of the three black silks, asked whether he would be prepared to accept an appointment, said there were a number of problems

"For the time being there would still be pressure (not to accept) We are still at a stage of talks about talks I personally hope some reconciliation will be be possible, but we will go through a difficult period before settlement In that period of transition there could be ugly scenes along racial lines

"At this stage I might not be influenced to take an appointment But if the talks reached a further stage with a coming together of the major points of view, one might then consider it"

An official of the Department of Justice said the minister of justice had called on black lawyers "to prepare themselves so that they could be available in greater numbers for appointment in judicial and other legal posts"

Official policy was that all judicial appointments should be made on merit with the race of prospective appointees playing "no role", he said

Members of the profession have no doubt there are black advocates who would "grace the bench"

Foremost among them must be Ismael Mahomed, SC, who is already a judge of appeal in Swaziland and Lesotho and is currently serving on the Namibian bench

Then there are his two colleagues, Mall and Louis Skweyiya, the most recent silk of the three

In Natal other names mentioned as likely silks and therefore as members of the pool from which judges will be chosen include Zac Yacoob, who acted in the Delmas trial, Nadel's Langa and Marumo Moerane, in the Cape Dullah Omar and Siraj Desai, while in the Transvaal Dikgang Moseneka, who spent 10 years on Robben Island and has seven years experience as an advocate, is widely recognised as a candidate for high office in the future.

Although advocates are presently bound by accepted bar practice, for example on the length of service required before taking silk, these rules could be bent considerably in the future if there is enough pressure for the appointment of black judges

A case in point is that of Zimbabwe's Chief Justice Enoch Dumbutshena, who had less than 10 years experience, and who had not formally taken silk at the time of his appointment to the bench

Since then he has served Zimbabwe with exceptional distinction, winning international recognition including a rare honorary degree from Oxford

STATE THEATRE

HSRC set to pay for its keep

By Charmain Naidoo

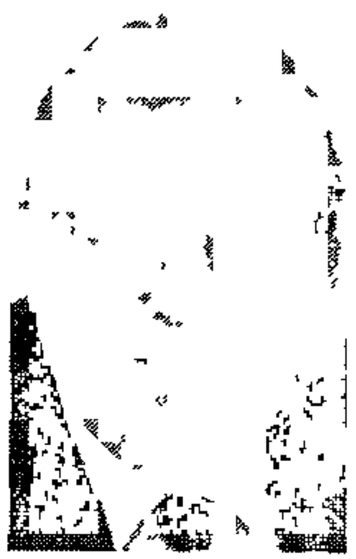
THE Human Sciences Research Council came of age this year.

As a full-fledged adult — the crinkles having been ironed out in the past two decades — the organisation is making major internal changes

One of the more important aims, says HSRC president Tjaart van der Walt, is to make the council 50% financially independent by 1993

At present, the HSRC relies heavily on Government grants for its survival, generating only about 30% of its own income

Professor Van der Walt says. "We want to hone our organisation into a profitable business But we do not want to forget our social responsibility We would like to become more involved in multi-disciplinary problem-solving research



Tjaart van der Walt no longer airy-fairy

"The HSRC is moving in the direction of applied research. We are being used by more businesses

"In 1989 alone, we undertook no fewer than 875 research projects, of which 231 represented new business.

"The council is not yet ready to embark on a marketing campaign to double its workload. But we are gearing ourselves up for it"

He says another aim is to rid the HSRC of its "airy-fairy" research image.

"All kinds of research is necessary. It's a good long-term investment. But in most instances, universities can do that kind of research better than the council can

[redacted]

"Our role has changed. Internally we say: 'A new SA, a new HSRC' So far we have had too much of a university-type structure

"Now we want to broaden our client base, to put ourselves in a position where we can give quick answers to such questions as, 'Can the research required be done?', 'How much will it cost?' and 'How long will it take?'"

As SA moves into an era of openess and change, the HSRC is dealing with new pressing issues

Much more emphasis is being placed on industrial and labour relations, human resources, testing of attitudes and labour-economics research.

Professor Van der Walt says: "Development and change should be managed In this regard, people need information, facts, knowledge and insight.

"The HSRC has built up extensive experience in a wide spectrum of issues which could benefit any decision maker.

"In the past year the HSRC has made a significant contribution regarding the development of the country's human potential from pre-school right through to career level.

"A characteristic of the HSRC's research in 1989 was the success with which it was applied in practice. This I ascribe to the council's more multi-disciplinary, more client-oriented research approach"

For the 1989 financial year, the HSRC exceeded its income target by R76 000 with a 62% increase in self-generated earnings Expenditure rose by only 16% compared with the 1988 financial year

[redacted]

Parliamentary grants fell from 94% in 1986 to 74% of income in 1989 and a 6% fall is expected in 1990.

Professor Van der Walt says· "In the light of the HSRC's change from a primarily discipline-oriented to a market-related research institution which aims to earn 50% of its budget by 1993, the outlook is promising.

At the end of 1989 the HSRC held investments and cash totalling R14-million. Liabilities were R4,5-million

Kruger National Park: by-products

328 Mr R J LORIMER asked the Minister of Environment Affairs

(1) What was the total value of the products produced by the by-products depot in the Kruger National Park in the 1989-90 financial year,

(2) what was the profit or loss shown by the depot at the end of this financial year?

Hansard 14/5/90 B818E

The MINISTER OF ENVIRONMENT AFFAIRS

(1) R4 327 530

(2) A total profit of R2 533 244

Kruger National Park: culling

329 Mr R J LORIMER asked the Minister of Environment Affairs

Whether any animals were culled in the Kruger National Park in 1989, if so, how many head of each species?

B819E

The MINISTER OF ENVIRONMENT AFFAIRS

Yes

Elephants	248
Buffalo	2 366

Regional Services Councils. overseas delegations

333 Mr P G SOAL asked the Minister of Planning and Provincial Affairs Hansard 14/5/90

(1) (a) How many regional services councils sent delegations overseas during the past 18 months, (b) (i) to which countries, and (ii) for what purposes, were they sent in each case, (c) on whose authority did these overseas visits take place and (d) what was the (i) cost and (ii) composition of each of these delegations,

(2) whether any regional services councils plan to send delegations overseas in the next 12 months, if so (a) which regional services councils and (b) (i) at what cost, and (ii) for what purpose, in each case,

(3) in respect of what date is this information furnished?

B823E

The MINISTER OF PLANNING AND PROVINCIAL AFFAIRS

Cape Province

(1) (a) One, namely the Western Cape Regional Services Council

(b) (i) United States of America

(ii) To attend the Sixth International Conference on Aids

(c) The Regional Services Council, with the approval of the Administrator

(d) (i) R20 000 was estimated

(ii) The delegation consisted of the Medical Officer of Health only

(2) Only one application has been received up to date Hansard 14/5/90

(a) The Western Cape Regional Services Council

(b) (i) R63 532 was estimated

(ii) Attendance of the Annual congress of the International Institute of Municipal Clerks

(3) 25 April 1990

Transvaal

(1) (a) Two Regional Services Councils
Pretoria
West Rand

(b) (i) Canada, USA and Portugal

(ii) *Pretoria Regional Services Council*

Attending the International Institute of Town Clerks' Congress and International Parks Congress in the USA and Canada

West Rand Regional Services Council

Attending the International Housing Congress in Oporto, Portugal

(c) The Pretoria Regional Services Council decided to send a delegation abroad

The West Rand Regional Services Council, obtained approval in terms of section 79(33) of the Local Government Ordinance, 1939 (Ordinance 17 of 1939) from the Administrator of the Transvaal to send a delegation abroad

(d) (i) Pretoria Regional Services Council — R50 000
West Rand Regional Services Council — R96 377,72

(ii) *Pretoria Regional Services Council*

Mr P Delport (Chairman)
Mr H J Tshungu (Member of Executive Committee)

West Rand Regional Services Council

Mr F Mulder (Chief Executive Officer)
Mr K Nel (Deputy chairman)
Mr H Jacobs (Chairman Management Committee, Weston-area)
Mr J Baard (Mayor of Khutsong)

(2) Yes

(a) Pretoria Regional Services Council
West Rand Regional Services Council
East Rand Regional Services Council

(b) (i) Pretoria Regional Services Council — R32 500
West Rand Regional Services Council — R233 000
East Rand Regional Services Council — R172 500

(ii) The objectives of the visits are as follows

Pretoria Regional Services Council

(a) Attending the International Institute of Town Clerks' Congress and International Parks Congress

(b) Participation in "Citizen Ambassador Programme Of People To People International"

(c) Two day visit to London to inspect a light rail transport system (GEC Traction Company) with a view to the regional transport function.

East Rand Regional Services Council

(a) Attending the Congress of the International Institute of Municipal Clerks to promote the idea of regional services councils

(b) Gathering information about fire brigade and computer services on a regional basis

(c) Attending of a seminar on land use planning and transport services in metropolitan areas

(d) Studying methods and technology for the recovery of urban waste for recycling

(e) To promote the recovery of usable materials from waste, and to establish a consistent demand in the open market for such materials on behalf of the industry

West Rand Regional Services Council

Attending, among others, the congress of the International Institute of Municipal Clerks in Little Rock, Arkansas, USA

(3) 30 April 1990

Natal

(1) (a) No Regional Services Councils have been established in Natal and the question is therefore not applicable

Orange Free State

(1) (a) None The rest falls away

(2) No The rest falls away

(3) 25 April 1990

Advocates: Latin qualification

337. Mr D J DALLING asked the Minister of Justice Hansard 14/5/90

Whether he intends to introduce legislation in 1990 to abolish the requirement of a qualification in Latin for admission as an advocate in the Supreme Court, if so, when, if not, why not? 248 B827E

The MINISTER OF JUSTICE

No

However, the Admission of Advocates Amendment Bill, 1990, which was introduced in Parliament on 25 April 1990 relaxes the language requirement in respect of Latin required at present by the Act The following minimum standards are laid down in the Bill

(a) Matriculation Latin at the higher level as required by the Joint Matriculation Board, or

(b) a special course in Latin which is prescribed or recognised by a university in the Republic for a *baccalaureus* degree which is not a law degree

This Bill is presently receiving the attention of the Parliamentary Joint Committee on Justice

Legal Aid Board: suspension of legal aid services

339 Mr D J DALLING asked the Minister of Justice

Whether any legal aid services were suspended by the Legal Aid Board in 1989, if so, (a) (i) which services and (ii) for what period and (b) why were these services suspended?

B829E

The MINISTER OF JUSTICE

Yes

(a) (i) The suspensions were applicable to the following matters

1 Criminal and civil appeals

2 Civil matters where the *quantum* of the claim amounted to R2 000 or less

3 Instructions to advocates in the lower courts and senior advocates in the Supreme Court

The Board also had to impose restrictions on legal costs for the duration of 1989 in the following cases

1 The legal costs in respect of divorce cases and related cases were restricted on legal aid tariff to a maximum of R750 if one attorney was involved and R1 000 if two attorneys were involved Provided that if permission was granted for the institution or defence of interlocutory actions, the legal costs thereof could be allowed in addition to that of the main action Provided further that the legal costs for the interlocutory action should not exceed R500 if one attorney was involved and R750 if two attorneys were involved

2 Legal costs in respect of applications or petitions after imposition of the death penalty were restricted on legal aid tariff to a maximum of R500 per application or petition

3 Industrial Court matters were restricted as follows For a consultation if section 43-proceedings were not instituted—the fees as prescribed for a consultation on scale C of the tariff in the Magistrates' Courts Rules, less 20%, if section 43-proceedings were instituted—the fees as prescribed on scale C of the tariff in the Magistrates' Courts Rules, less 20%, to a maximum of R500, if the Legal Aid mandate was extended to include section 46-proceedings—the fees as prescribed in scale C of the tariff in the Magistrates' Courts Rules, less 20%, to a maximum of R250 (The Director of the Legal Aid Board has the power to grant legal aid in deserving cases and to increase and suspend restrictions)

(ii) The restrictions and suspensions were imposed on 1 April 1988 and are still in force (The restrictions in respect of Industrial court matters were imposed on 1 December 1988 and are still in force)

(b) The restrictions and suspensions had to be introduced by the Board in an attempt to stay within the appropriated budget

New group areas proclaimed

342 Mr A J LEON asked the Minister of Planning and Provincial Affairs

(1) (a) How many new (i) White, (ii) Coloured and (iii) Indian group areas were proclaimed in each province in 1989 and (b) what was the extent of these group areas in each case,

(2) (a) how many (i) White, (ii) Coloured and (iii) Indian group areas were re-proclaimed in that year and (b) for which race groups were they re-proclaimed in each case?

B832E

The MINISTER OF PLANNING AND PROVINCIAL AFFAIRS

(1) (a) and (b) See Annexure A

(2) (a) and (b) See Annexure B

Annexure A

Transvaal

Town	*White (ha)*	*Coloured (ha)*	*Indian (ha)*
Pietersburg			8,7
Piet Retief		15	46,8
Kinross		47,45	
Bronkhorstspruit		70	124
	None	132,45	179,5

Summary	Transvaal
White	None
Coloured	3 areas — 132,4 ha
Indian	3 areas — 179,5 ha

Cape Province

Town	*White (ha)*	*Coloured (ha)*	*Indian (ha)*
Ladismith		1,68	
Macassar		3,3	
Blanco		8	
Elandsbaai		1,1	
George Sandkraal		213	
Idasvallei		11	
Goodwood	2,2		
Cloetesville		33	
Koekenaap		6	
East London			2
Somerset West		55	
Leeu-Gamka		35	
Elliot		0,12	
Kylemoore		69	
Postmasburg		130	
Macassar		37	
Retreat		127	
Heidelberg		1,2	
Op Die Berg		37	
Wellington		18	
Ocean View		0,38	
Kirkwood	130,2	126,4	
Prieska		330,7	
Jansenville		2,5	
	132,4	1 246,38	2

Summary	Cape Province
White	2 areas — 132,4 ha
Coloured	22 areas — 1 246,38 ha
Indian	1 area — 2 ha



Dr Mamphela Ramphele

Sowetan 14/5/90

248

Prize for academics

Two academics at the University of Cape Town, Dr Mamphela Ramphele and Professor Francis Wilson, authors of the Second Carnegie Inquiry into Poverty in South Africa, have been awarded the Community Development prize of R15 000 for their report.

Prizes worth R60 000 were handed over to six winners by the Claude Harris Leon and Percy Fox Foundations in Johannesburg recently.

The two foundations annually reward academics for excellent contributions in the fields of science, technology, health, education, social and community service.

New accountancy chief looks to major changes

ST Times 20/5/90

248

A NEW broom is sweeping the cobwebs out of the SA Institute of Chartered Accountants (SAICA)

Rand Mines financial director Des Arnold, only the second president to be elected from outside an auditing firm, is set to start with major changes to the accounting profession

During his year-long term of office Mr Arnold hopes to bring CAs into step with the

By Charmain Naidoo

New South Africa by re-evaluating their relevance in a changing land

Mr Arnold says "There are no black members on our provincial councils It's a problem we have to attend to

"We have to have more black CAs — there are only about 25 We must find ways of doing that without dropping standards"

Diversity

Maintenance of high standards is important But he questions the need for what he terms "an unnecessarily broad body of knowledge" which CAs have to possess to pass their examinations

"Every year we add to that body of knowledge I believe we should narrow it down and introduce specialisation after initial qualification Not every CA has to know everything"

Mr Arnold says South African accountancy standards are among the highest in the world

"Is it right that SA — between the First and the Third Worlds — should boast such high standards? Mr Arnold says there is diversity of opinion among the 13 000 members of the institute about the standards issue

He would like to eliminate duplication by rationalising the Public Accountants and Auditors Board — constituted through an Act of Parliament — and the institute

"The board has a role to play as a buffer between the profession and Parliament It should, however, act purely as a review board while the SAICA does the rest The institute must be independent and not seen to be associated with the Government in any way"



DES ARNOLD .. between First and Third Worlds

Mr Arnold also believes that the run-up to presidency of the institute is "too long — five years and more"

"You have to go through the ranks in the provincial societies first It's something I want to look at because I do not believe that people want to get involved if it takes so long"

As the president of the Transvaal society, Mr Arnold says his honorary title took up 25% of his working life

"Today, institute affairs take up at least a third of my time"

Mr Arnold hopes that more senior partners in both large and small firms will play a more active role in decision and policy making for the profession

"The question of ethics and morality needs to be dealt with One of the key issues in the Public Accountants and Auditors Act of 1951 is material irregularities — where CAs are obliged to report any fraud or irregularity they find to the board

Bribes

"Recently the Government wanted to modify the Act to make bribes material irregularities The profession asked to do it differently and has an exposure draft which gives a proposed auditing standard"

One of the major issues in the draft is reinforcement of the auditor's responsibility to observe a degree of scepticism

The threshold of materiality for reporting bribery is lower than for other irregularities

"We are one of the leading professions and must make our stand on the question of ethics and morality known," Mr Arnold says

The profession has changed dramatically since the 1950s when auditing and book-keeping were the only tasks done by CAs

"Today CAs have moved into tax, management services, consulting services and the like. Added to that, members of the profession can now advertise

"Now, more than ever, we need a contribution from members."

Dealing with the computerised age is one of the areas that has had CAs heading for their textbooks

Mr Arnold says an information technology committee assesses what is happening in this field and keeps member firms informed.

Pretoria strikers demo outside lawyers' office

Sowetan 21/5/90

248

EIGHT employees of a Pretoria firm of black attorneys who have been on strike since last Monday, staged a placard-waving demonstration outside their offices in the city on Friday, accusing the company of exploiting and underpaying them

Mr Willie Seriti, director of Seriti, Mavundla and Partners, yesterday confirmed the strike that started on May 14 and said the company obtained a Supreme Court order last Wednesday restraining the eight workers from entering their offices.

The court order was granted after it was alleged that the strikers had removed important documents, deliberately mixed clients' files and tampered with typewriters, some of which are still not in working order.

The strikers were also making a lot of noise, disturbing other workers and neighbours, Seriti added

The workers turned away clients and also interfered with telephones and intercom systems.

Seriti said the strike started while he was attending a political trial in Australia He left on May 4 and returned on Friday to find eight of his 17 employees on strike

"I was never warned about the strike They did not even declare a wage dispute with me", he said

He denied allegations by the eight employees that he was exploiting them. and dismissed as "nonsense" claims that none of the strikers were registered '

He added that one of the strikers, a typist, earned R1 500 a month and the longest serving clerk earned R2 100.

""I also have an endowment and life insurance policy for all but two of the workers. For every rand that they pay towards the policy, I contribute a rand".

He said Wits needed to rationalise its four teaching hospitals — Johannesburg, Hillbrow, Coronation and Baragwanath.

[illegible] Wits medical students in their clinical years

About 210 doctors graduated from Wits every year, Milne said

Lawyers to examine impact of changes

SUSAN RUSSELL

THE 13th SA Law Conference organised by the Association of Law Societies begins in Durban today.

The main focus will be the impact of recent political, social and economic events on the legal profession, and how lawyers can prepare themselves for the challenges ahead. B10-7 21/5/90

Topics to be covered include court decisions regarding measures such as the state of emergency which breach fundamental human rights, and proposals for a bill of rights. A section of the conference will be devoted to a black perspective of the legal profession.

Areas to be examined include the perceptions of law and practice within the black community. 248

Among the speakers are Zimbabwe's retired chief justice Mr Justice Enoch Dumbutshena, and judge of appeal Mr Justice N J McNally who, together with Zambian advocate and chairman of the African Bar Association Roger Chongwe, SC, will lead discussions on the African law experience.

Areas covered by this section include Law and Justice in Africa, acceptance of the role of law and lawyers in Africa, and independence of the bench versus parliamentary sovereignty.

'Rights revolution is sweeping the world'

THE rule of law was on the offensive, Mr William Reece-Smith, president of the International Bar Association, told South African lawyers in Durban yesterday.

The eminent American lawyer was opening the 13th South African Law Conference being attended by lawyers from throughout the coumtry

He said the rights revolution was sweeping many countries around the world.

"It is precisely at this conjunction of rapid social and economic change with the rediscovery of the rule of law that the role of lawyers becomes especially critical

Freedom

"Lawyers have been swept up in these changes, but they have also been its catalysts"

Reece-Smith said that in the United States, Eastern Europe and Africa the special opportunities for lawyers seemed remarkably similar

"And for this very old - and very new - calling, the difficult challenge of balancing political freedom and social order can provide new meaning to professional understanding

"The preoccupation of the lawyer with the values of business can be balanced in the end by their commitment to the values of civic responsibilities," he said

WOMAN

Men biased, says survey

Sowetan 23/5/90

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DISCRIMINATION against women in the legal and advertising professions in South Africa is greater than in others, a research in the Cape has revealed.

A micro-survey conducted for the University of Cape Town Graduate School of Business found that twice as many attorneys as advertising executives would prefer to employ a male and that males in the legal profession were less positive in their attitudes towards women compared with males in advertising.

A higher percentage of lawyers also had stereotyped views on areas to which women were especially suited.

The survey found that, in spite of these attitudes, a higher ratio of women

By WOMAN'S REPORTER

were partners or shared in the profits in the legal profession than in advertising

Of the sample surveyed, 35 percent of women lawyers were directors or partners while only five percent of female advertising executives had similar status

Conservative

There was a stronger correlation of pay with length of service in law than in advertising.

Although it would appear that lawyers are more conservative, and it is harder for a woman to enter law, once they are in the profession they receive fairer treatment in terms of salaries.

The results also suggest that there is a difference between espoused and practiced policies for employment and advancement of women in both professions.

More than 90 percent of males professed to agree that women should be given equal opportunity to attend training programmes; that they have the necessary skills to be successful; that society should regard work done by women as being as valuable as that done by men; that business should accept women in key managerial positions, and that it is acceptable for women to compete with men for top jobs

Discrimination appears to be manifested in the number of women employed, their salary status and evidence to suggest that male domination is sustained by stereotyping women and by relegating them to jobs for which they are considered most suitable

Although 99 percent of lawyers agree with the concept of equal opportunity, only 79 percent felt women were assertive, ambitious and self-confident enough in legal situations that demand these characteristics, the survey found.

The equivalent percentages for advertising executives were 96 percent and 83 percent.

Only 37 percent of males believe that women do not allow their emotions to affect their professional behaviours more than men do

* Article taken from University of Cape Town weekly publication, Monday Paper.

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SA legal structure is not fair, says law professor

Sowetan 23/5/90

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THE present structure of the legal profession had to be examined and changed if it was to regain its legitimacy and represent all South Africans, the Dean of the Law Faculty at the University of Natal said this week.

Professor David McQuoid-Mason said of about 8 000 lawyers, probably more than 80 percent were white and less than five percent black. The judiciary in the superior courts was all-white.

The scrapping of apartheid legislation would help restore the legitimacy of the legal system but, if the legal profession and the judiciary were to have credibility, it was necessary to change their composition to reflect the broader South African community, he said

Speaking at the 13th South African Law Conference on Monday, McQuoid-Mason, also said some form of land re-distribution was necessary if the "new South Africa" was to correct current social, economic and educational imbalances

At present 87 percent of the land was owned by less than 20 percent of the population

The ANC's Freedom Charter wanted this land to be re-divided among those who worked it It also stated that "all shall have the right to occupy land wherever they choose"

He added the Law Commission recognised the need of the State to be able to expropriate property and the means of production against fair compensation and that the "objects of affirmative action" should be allowed to be taken into account when exercising such expropriation powers

The Law Commission described affirmative action as remedying the "continuing consequence of past wrongs and the future consequence of present wrongs".

Resources

"In social, health and educational services in South Africa the minority white population has enjoyed a much higher per capita level of resources allocation than other race groups.

"Likewise probably 90 percent of capital and economic wealth is controlled by the whites. As regards the public service almost one in four working whites are employed in the public and parastatal sector.

"Furthermore, since 1948 there has been an Afrikanerisation of the public service, police force, defence force and prison services with almost all the top positions being held by Afrikaners

"In a new non racial South Africa these imbalances will have to be corrected," McQuoid-Mason said.

Call for blacks to play a role in law

DURBAN — Black people had to take a meaningful part in the administration and application of the law in SA if it was to regain the respect of the majority of the community.

This was said by attorney and Black Lawyers' Association director Justice Bakone Moloto at the 13th SA Law Conference in Durban yesterday.

Moloto said the political situation in SA as well as the entire socio-economic setting had to be radically changed to alter the negative perspective the black community had of legal practice.

"The legislature, various government departments, the offices of the masters of the Supreme Court, deed offices, the judiciary — both in the superior and lower courts — commerce and industry and law societies are a few examples of areas in which black lawers ought to be employed," he said.

SUSAN RUSSELL

Moloto said blacks also had to take a meaningful part in making the laws that governed them.

They would then be in a position to bring their own value system and ethos to impact on the law and would respect it instead of hate it, he said.

When the practice of law was not seen as an instrument of oppression but as one of development and advancement, he said, there would not be a different black perspective of legal practice but a single one shared by the entire community.

"If we accept that in civilised communities it was never the purpose of law to subjugate the community but to regulate behaviour to ensure order and advanced development, then we must change the way we have organised our profession," Moloto said.

Public interest law shows the way

DURBAN — The growth in public interest law in SA had kindled a respect for the non-violent resolution of conflict, former Durban Legal Resources director Chris Nicholson said yesterday.

Speaking at the 13th SA Law Conference in Durban Nicholson, a lecturer at Natal University, said public interest law had served a very important sociological function.

"There is no doubt that clients who are not able to obtain a resolution to their problems in the courts often harbour resentment and sometimes take the law into their own hands.

"The growth of public interest law has kindled a respect for the non-violent resolution of conflict.

SUSAN RUSSELL

"The utilisation of the court structure and other dispute-regulating machinery for the resolution of conflict at various levels must lead to a restoration of respect for the law in circumstances where large sectors of our society have lost faith and hope in the police and the courts."

Nicholson also called for more resources and lawyers to handle public interest cases.

"Only the politically naive or intransigently conservative and stupid would not acknowledge the total imbalance of fundamental rights and economic and social advantages in SA today. If public interest law is to adequately address our problems then litigation must be undertaken which looks at those deprived of fundamental rights and economic advantages," he said.

"The government expenditure on legal aid is at present some R17m for the current financial year which is grossly inadequate. It is essential to entice and harness the profession to assist in serving clients who cannot afford lawyers."

B Dam 25/5/90 (248) (RR)

Judicial redress vital to defend economic rights'

SUSAN RUSSELL

DURBAN — The right to judicial redress where economic rights were in jeopardy was a crucial concomitant of the right to participate in the economy, Competition Board chairman Pierre Brooks told delegates to the 13th SA Law conference on Wednesday

In a paper titled The Role of the Law in Economic Development and Growth, Brooks said the finest legal system was of little use if litigants could not afford to mount an effective challenge against a wrong-doer

"At a time when we, like the countries of Eastern Europe, stand on a the threshhold of momentous change, it seems strange that the legal profession in SA has not, either in sufficient numbers or with sufficent courage and vision, been prepared to subject the rules governing it to close objective scrutiny," he said

"Until such time as the two branches of the profession do so openly and honestly and come up with meaningful suggestions for reform, they will not be able to complain if they are perceived as an obstacle to effective participation in the SA economy rather than facilitators"

Brooks said while it was unrealistic to expect a government to ensure every citizen had a job it was encumbent upon it to see that legal impediments obstructing prospective employess or employers were removed

Brooks said removing statutary discrimination would not immediately solve all the problems relating to black participation in the economy

It was necessary to distinguish between negative legal constraints which hampered economic growth and those necessary to limit abuse of the enviroment and the exploitation of participants in the economy

Business Day 25/5/90 (248) (2500)

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It was necessary to distinguish between negative legal constraints which hampered economic growth and those necessary to limit abuse of the enviroment and the exploitation of participants in the economy.

In fact, all four provinces funded pre-primary education from available funds of such a Department with relation to the pupil/teacher ratio on the basis of stipulated regulations under the ordinances The hon member is very much aware of the fact that money is not generated for pre-primary education within the formula Each province, each education department, is able to use some money for pre-primary education within the available funds he receives, because it is a very important part of education

The Natal Education Department used a stipulated amount for pre-primary education He continued with the same amount for the funding of pre-primary education until the beginning of January this year The other provinces started scaling down at previous occasions, as the Natal Education Department already did from 1986 with regard to other financial posts within the Department because the finances became less The Natal Education Department felt however to continue until the beginning of January What happened then?

At the beginning of January the Director of Education realised that he must run his Education Department in the best manner possible with his limited funds He then thought it proper to take a little money away from pre-primary education which is not compulsory education He then dropped 80 posts which were all temporary posts in which temporary teachers served

There is in other words no question about the fact that he terminated the service of 80 people The contracts of the 80 people who were in those temporary posts expired, and the contract was not renewed because there were no more posts That is why I stress that Nobody suffered any loss I can assure the hon member if my memory is not playing tricks with me that of those 80 people who were in these teaching posts, there are only 23 who are not filling teaching posts, that is in a school or in pre-primary education or wherever it may be

Business interrupted in accordance with Rule 180C (3) of the Standing Rules of Parliament

White old-age pensioners: means test

*4 Mr B B GOODALL asked the Minister of Health Services, Welfare and Housing

Whether any steps are being taken by his Department to adjust the means test for White old-age pensioners, if not why not, if so, what steps? B1130E

The MINISTER OF HEALTH SERVICES, WELFARE AND HOUSING

The income leg of the means test was extended as recently as 1 April 1990 when social pensions were increased

The Mouton Commission is currently investigating the whole question of the payment of social pensions and in particular the further extension of the means test The outcome and recommendation of their investigation are being awaited and until such time no further announcement in this regard will be forthcoming

J G Strijdom Hospital: application for certain post

*5 Mr M J ELLIS asked the Minister of Health Services, Welfare and Housing

(1) Whether a certain person, whose name has been furnished to the Minister's Department for the purpose of his reply, applied for a post as part-time consultant surgeon at the J G Strijdom Hospital in November 1989, if so, what is the name of this person,

(2) whether he was considered for this post, if not, why not, if so,

(3) whether he was appointed to this post, if not (a) why not and (b) in what manner was he informed of this decision? B1131E

The MINISTER OF HEALTH SERVICES, WELFARE AND HOUSING

(1) The person referred to and whose name is known to the member, was interviewed by the Superintendent of the J G Strijdom Hospital during November 1989 At this interview he was requested to submit a Curriculum Vitae and a completed Z83 application form This request was never acceded to and he was therefore not considered for this post

(2) and (3) Fall away

Teacher Education for the 21st Century

*6 Mr M J ELLIS asked the Minister of Education and Culture

(1) Whether his Department received from the Natal Education Department a copy of a document entitled *Teacher Education for the 21st Century*, if so, (a) why, (b) what is the purpose of the document, (c) what is his response to its contents and (d) what are the future plans for the document,

(2) whether he will make a statement on the matter? B1132E

The MINISTER OF EDUCATION AND CULTURE

(1) No, but the Department is aware of the document which has not been finalised,

(2) no

Johannesburg College of Education lecturer: appeal

*7 Mr A GERBER asked the Minister of Education and Culture

(1) Whether, with reference to his reply to Question No 3 on 14 March 1989, the appeal case of his Department against a court judgment in which a decision of his Department in respect of a lecturer at the Johannesburg College of Education was set aside, has been concluded, if not, when is it expected to be concluded, if so, what is the outcome thereof,

(2) whether he will make a statement on the matter? B1141E

The MINISTER OF EDUCATION AND CULTURE

(1) No, the appeal will be heard on 13 June 1990,

(2) no

For written reply

General Affairs

Development Bank of Southern Africa decentralisation

371 Mr H H SCHWARZ asked the Minister of Finance

What total amount did the Development Bank of Southern Africa in 1989, (a) invest in and/or (b) grant in loans to, each specified development region where decentralisation concessions or incentives are applicable? B899E

The MINISTER OF FINANCE

In the 1989/90 financial year, which ended on 31 March 1990, the Development Bank of Southern Africa had the following loan commitments for projects in the implementation and negotiating phases in the nine development regions

Region	*Number of loans*	*Amount (R'000)*
A	3	1 625
B	11	269 148
C	13	90 295
D	94	384 878
E	52	374 721
F	15	50 905
G	120	332 095
H	34	196 754
J	21	219 270
Total	363	1 919 691

Notes

(i) Each of the above development regions has two or more industrial development or deconcentration points for which different concessions or incentives apply The Development Bank loans per region are not necessarily for projects at such points

(ii) Apart from the abovementioned development regions, the Bank in the past financial year also had commitments of almost R300 million for 18 loans for projects in neighbouring countries

Government: amounts owed

410 Mr H H SCHWARZ asked the Minister of Finance

What amounts were owing to private bodies and persons by the Government, other than on bank facilities and stock issues, as at (a) 31 December 1989 and (b) the latest specified date for which information is available? B957E

The MINISTER OF FINANCE

(a) 31 December 1989 — R1 649 580 314 96

(b) 30 April 1990 — R1 228 120 406,89

(Foreign loans, stock issues and Treasury bills excluded)

Moulding a legal system to serve the country's needs

SUSAN RUSSELL B|Day 29|5|90

THE crisis of legitimacy faced by SA's legal system and the profession in the eyes of the majority of its citizens was one of the main themes of the 13th SA Law Conference in Durban last week

It is generally acknowledged by lawyers that the legal system and the administration of justice are often identified as instruments of oppression by people who have no access to the law because they cannot afford it.

The profession itself faces a crisis of legitimacy in that most lawyers in SA are involved in commercial First World practice and are unable or unwilling to take on cases peculiar to a largely Third World community

A recent resurgence of informal people's courts in poor communities like Alexandra is a troubling indication of the crisis facing the system

The relatively few lawyers engaged in public interest work through the Legal Resources Centres (LRCs) and other legal aid organisations do their best with the limited resources available.

However, from what emerged at the conference, it became clear that what is needed is the integration of mainstream legal practice with the marginalised areas covered by LRCs and similar organisations

Lawyers at the conference, most of them in commercial practice, were asked to consider how the profession could meet this challenge.

Advocate Paul Pretorius told delegates that if the legal system and practitioners were to make any contribution towards the special problems of poor communities in SA, then both the law they practised and the institutions within which they did so had to be meaningful and accessible to those who needed their assistance.

Lawyers needed to become scientists of conflict and to assess the effectiveness of the present system of the administration of justice within that context, he said. They also needed to recognise that adversary litigation was only one method of dealing with conflict

"The need for lawyers to become proactive legal engineers has already been recognised within the legal profession at the highest level," Pretorius said "Our role as a profession must be dynamic — proactive, not reactive"

Pretorius said many of the solutions offered by lawyers in response to the legitimacy crisis amounted to providing more of the same. "More black lawyers, more legal aid, a better pro deo defence structure, more judges and more courts of a specialised nature

"Necessary and commendable as these moves may be, they do not address a fundamental and logically primary problem and that is to what extent the whole system of administration of justice itself in whatever quantity, is suited to deal with conflict and other problems in poor communities"

Pretorius put forward a number of proposals for discussion. These included the formation of institutes for the study of conflict within university law departments, the concept of judicial activism adapted for SA as has been in India and the training of lawyers in forms of conflict resolution incorporating negotiations and mediation.

At the same time, lawyers were called on to involve themselves in public interest litigation, most of which until now has been handled by organisations like the LRCs

Durban's former LRC director Chris Nicholson told delegates it was essential to entice and harness the profession to assist clients who could not afford lawyers.

Nicholson, now a lecturer at Natal University, defined public interest work generally as cases which resulted in rulings that benefited not only the litigant, but other oppressed and indigent members of the community

"While I was director of the Durban LRC I calculated that every file the LRC opened throughout SA cost R1 600 in resources In agreeing to act for a client one had to realise that the matter had to justify such expenditure in the light of public interest goals," he said.

Natal University law professor David McQuoid Mason calculates that every legal aid case costs the taxpayer an average of R603

Nicholson said it was therefore crucial to ensure that cases taken up benefited the public interest and had the widest possible consequences in combating injustice

The main fields of public interest law in SA at present are labour and administrative law

"It is felt that it is in the public interest that fairness be maintained in the field of labour relations, and that people who, for example, are dismissed for belonging to a trade union or without an adequate or fair reason and without a fair procedure should be represented," Nicholson said

"Similarly the public interest is clearly well served by exposing and remedying the injustices flowing from a delinquent bureaucracy"

Nicholson said in most Western countries public interest law was financed by the government on the grounds that legal aid was a basic human right.

"The government expenditure on legal aid is some R17m for the current financial year, which is grossly inadequate," he said. "Even if one adds to this the private funding of public interest law and national budget for the LRC for the financial year ending February 1990 (some R6,2m), it is still impossible to deal with more than a small percentage of the needs of the community"

Nicholson said the LRC employed 35 lawyers full time. He pointed out that SA had about 8 000 lawyers, of whom 10% were advocates and 80% white, while more than 80% of the population was black.

"Most of our white lawyers are engaged in First World commercial practice which seldom, if ever, contemplates Third World law or problems"

Nicholson went on. "Last year some 130 000 prisoners were sent to jail without legal counsel David McQuoid Mason has advocated the appointment of public defenders modelled on the institution in the USA He calculates that the legal aid budget paid for some 16 000 cases in 1989 in SA and the same budget divided among 200 salaried lawyers would have handled 40 000 defences in the lower courts"

Nicholson put it to delegates that there was a real need for legal services in rural areas where, for example, large numbers of people are not paid pensions

"Properly trained paralegals would serve a crucial role in addressing the deluge of problems facing the polarised and marginalised clientele"

Ultimately, however, Nicholson said, the legal profession needed restructuring if it was to serve Third World problems

□ Washington correspondent Simon Barber has been away and unable to write his weekly column. It will resume next Tuesday

DIDay 29/5/90

Estimates of SA's brain drain doubled

248

TIM COHEN

CONSCRIPTION was a major factor encouraging the brain drain, which was almost twice as large as official figures indicated, a Centre for Policy Studies (CPS) report released yesterday found.

The report, which proposed a civilian national service system, said over the decade to 1988 there had been an average of 11 000 "formal" emigrants a year.

During the same period there were about 10 000 "informal" emigrants a year who did not inform the authorities of their intention to leave and who gained access to other countries by posing as visitors with return air tickets.

The report, headed by David Shandler, established this figure by determining from tourism figures provided by Central Statistical Services (CSS) the surplus of tourists leaving SA over those who eventually returned.

Of those who left, about one-quarter were graduates

Of 100 000 people who left between 1980 and 1985, 23 000 were white graduates, about 25% of all annual graduates from SA universities.

"The rate of emigration for medical doctors appears to be some 50% higher than for all other graduates".

The loss to domestic income of those who emigrated amounted to about R15bn annually, or 9% of the GDP. An additional R4,9bn was lost in taxes not paid and productivity not gained, the report said.

Surveys showed that there was no single motivating factor causing the brain drain, but that "it is clear from these surveys that conscription is a major factor encouraging the brain drain, especially among young graduates".

The report notes that the respondents were surveyed on their responses to the then two-year period of military service

It proposes a civilian national service model to provide a policy which meets the SADF defence manpower requirements while also accommodating the limits of current policy.

"To this end it is not proposed that the current system of conscription be discarded," it said

"Rather it needs to be developed through the establishment of a parallel national service programme providing for civilian or non-military service," the report concludes.

Alternative

"Civilian National Service would become a fully-fledged wing of the National Service system and would provide for service in a civilian or non-military capacity"

President's Council member Willem Steenkamp said that the country could not afford a full time professional army, either in terms of pay or in terms of pulling educated people out of the workplace, and so the only alternative was national service

He said at the moment it would not be practical to consider extending conscription to those other other than white people but in the future the potential national service manpower pool would be "infinitely larger".

Write on! African authors won't be ignored

THE African Writers' Association this week claimed it was a victim of "political bias and a non-supportive media" — but that it would continue nonetheless as a non-aligned independent writers' body.

At a press conference, an AWA representative claimed the group's "positive contribution had been deliberately ignored for political reasons", because it was seen as a black consciousness or Africanist organisation The representative criticised moves "aimed at isolating AWA from the mainstream literary issues through the holding back of funds aimed at developing our members".

On the non-alignment issue, AWA secretary Nhlaganiso Dladla said "A conference decision emphasises the right of members to choose their political homes, but also states that AWA has to facilitate the literary expression of the African or black experience"

He said the association's 10-year existence has been marked by severe state harassment He cited two members, Duma Ndlovu and Moropodi Makalapanye, detained and now in exile, and founding AWA member and Skotaville editor Jaki Seroke, who is serving a 10-year sentence relating to Pan Africanist Congress activities but who was also detained and questioned several times over the years.

"The security police raids on several of our workshops are only a few examples of the harassment suffered by AWA's members," he added

The government's denial of a work permit to South African-born academic, author and literary critic Professor Njabulo Ndebele was labelled "an unjust curtailment of human rights and freedom of movement" Ndebele, national president of the Congress of South African Writers and pro-vice chancellor of the National University of Lesotho, was offered the post of vice rector of the University of the Western Cape

The AWA officials dismissed the impending Grahamstown Arts Festival as "perpetuating the 1820 Settlers colonialist mentality As far as AWA is concerned," said a representative, "it is a non-event"

Max Sisulu heads for UWC

South 7/16-13/6/90

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By MONO BADELA

MAX Sisulu, head of the ANC's economics department, is to take up a research appointment at the University of Western Cape later this year.

Sisulu, 44, will take up the four-month appointment at the university's faculty of economic and management sciences in October

Sisulu "came home" from exile at the weekend after 27 years with a "deep sense of trepidation"

One of the lesser-known members of the Sisulu family, Max Sisulu has had more than his fair share of violent threats and intimidation from South African agents during his exile

"I never felt safe and I don't know if I'll ever feel safer in South Africa," says the man who has escaped at least two attempts on his life

After a a stint in South Africa's police cells, at the age of 17, Max Sisulu reluctantly left the country in 1963

In an exclusive interview this week, Sisulu told SOUTH that the exiled mission of the ANC had ordered him to skip the country after his father and seven others were captured in Rivonia



Max Sisulu

"When I finally decided to skip via Botswana my mother was still detained by the authorities I left my younger brothers, sister and other members of the family in the care of our neighbours "

"They followed me to Botswana I joined other members of the movement and Swapo in Francistown On the eve of our departure for Tanzania, an aircraft specially hired to transport us was blasted by a bomb," he said

He managed to get a lift in a small aircraft especially hired to transport two Rivonia ANC fugitives, Arthur Goldreich and Harold Wolpe On arriving in Tanzania he joined Umkhonto we Sizwe and underwent military training After serving in the army, Max studied economics for five years in Moscow

He came back to Africa and worked for the ANC's youth secretariat After 1966 he went to Zambia to work in ANC structures, specialising mostly in political work

Sisulu said while working in Lusaka in 1974, he survived another assassination attempt A letter bomb from South Africa exploded in the hands of his friend, John Mvemve Dube, killing him on the spot

"The entire office collapsed on us I suffered burns and lacerations My left ear is still partially deaf as a result of the blast "

Sisulu, and his family jetted into South Africa last Friday on a temporary indemnity permit issued by the government

Writers' Association won't be aligned politically

By VICTOR METSOAMERE

THE African Writers Association has emphasised its non-alignment to any of the existing political organisations

And the reason for this position, in AWA's view, is that as an organisation of writers its primary role is to facilitate the literary expression of an African/black experience.

According to AWA, writers, among other social players, have an important role in expressing our hopes, strengthening experiences (historical and cultural), follies and weaknesses.

Here are the principles that will guide AWA in its future operations, which follow a special conference held this year by the AWA membership:

* AWA should be a pro-active, non-aligned writers association (not aligned to any political organisation);

* Shall vigilantly guard against the violation of its autonomy and independence;

* Observe the principle of non-collaboration (that is not participate in activities that celebrate our enslavement and conquest);

* Should voice itself on issues affecting writers across the political spectrum (especially its members) among the oppressed;

* Should allow its members to retain the right to affiliate to any political movement of their choice, as long as it does not reflect negatively on the association (AWA);

* In cognisance of the association's primary role (facilitating the expression of an African/black experience) the leadership shall be drawn from the ranks of its membership who are an integral part of this experience.

* The AWA shall have relationships with all progressive cultural/political organisations.

Meanwhile, the closing date for the African Writers Association's short story and poetry competition is June 30.

The contest, to encourage budding writers, is open to those whose works have not been published yet.

The contest judges are Professors Es'kia Mphahlele, Njabulo Ndebele and Bob Lehaoai.

Prizes for the first three winners are R1 000, R500 and R250 and the results will be announced in Johannesburg on November 23.

For further information telephone AWA at (011) 403-2342

AWA is to open a reading room at the association's offices in Braamfontein this month Two other AWA projects, the writing workshops and public readings, are to be continued soon.

The on-going book service project, which provides books at well below the retail price to the public, also continues in earnest.

The AWA also intends to revive its two publications, the newsletter and a magazine, *The Classic* The writers organisation also realised the need for an AWA research service and a comprehensive writers training course. Both of which can only emerge when there is ample finance.



Senior counsel George Bizos of Lawyers for Human Rights, far left, and Prof Arthur Chaskalson of the Legal Resources Centre listening to Walter Sisulu of the ANC at the Lawyers for Human Rights AGM in Johannesburg yesterday. Picture ROBERT BOTHA

ANC reviews sporting, cultural links

PETER DELMAR

THE ANC was striving to normalise international sporting and cultural links and was involving SA artists in its internal investigation of the issue, ANC internal leader Walter Sisulu said last night

Sisulu indicated in an interview that ending SA's cultural and sporting isolation would not necessarily be contingent upon government satisfying the full requirements of the ANC's Harare Declaration But he said he could not commit himself or the ANC to a timetable.

He acknowledged the selective lifting of these boycotts was one of the options being studied by the ANC

Earlier, while speaking at the Lawyers for Human Rights AGM, Sisulu paid tribute to the organisation, saying its members had inspired him and his colleagues during their imprisonment.

The ANC and the LHR, he said, had a common commitment to a bill of rights and did not believe in guaranteeing rights on the basis of ethnicity

Sisulu said the ANC was committed to guaranteeing cultures.

Sisulu said the ANC's economic policy was being closely questioned because many whites feared revenge "There is a fear that by saying there will be nationalisation of some kind you mean confiscation of people's property," he said

However, when the Freedom Charter was drafted, the intention was not to take advantage of specific groups of people, he said

Asked whether the ANC would allow independent observers to investigate allegations of torture made by former ANC members, Sisulu said the ANC had not yet decided in detail how it would handle such an investigation

In his address, LHR chairman Peter Leon said SA continued to have a statutory arsenal which ensured government by law but not government under the law

Leon said in the present government's final years of rule the goal of a justiciable bill of rights was no longer utopian

"Indeed, it now appears to be supported by the government in principle."

ANC academic think tank told to 'freeze'

CAPE TOWN — All activities of the ANC's academic think tank, the Centre for Democratic Studies (CDS), and its bank accounts were frozen as an academic uproar on university campuses country-wide came to a head this week.

CDS projects involve 11 commissions researching the restructuring of SA in a post-apartheid era.

Project leaders were told this week to halt their activities and regard all CDS bank accounts as frozen.

There have been unsubstantiated claims of financial irregularities. The allegations were denied by senior CDS members.

The trustees of CDS, under the chairmanship of Abie Nkomo, will hold an urgent meeting at the University of the Western Cape (UWC) on Sunday

Own Correspondent

The suspension of activities was announced by CDS national co-ordinator and UWC history lecturer Randi Erentzen on Monday after he submitted an audit to trustees last week. BDay 7/6/90

Erentzen said the CDS budget for the last three years was R450 000 and it had R54 000 in its accounts at present

Urgent meetings of the CDS project leaders were called in Cape Town, Johannesburg and Durban last night

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The judge then read from a letter

Unisa appoints new chancellor

PRETORIA — CSIR president Chris Garbers has been appointed the new chancellor of Unisa

His appointment follows Prof Theo van Wijk's controversial resignation earlier this year.

He will take office on July 1 and occupy the post for five years, after which the Unisa Council can appoint him for a further five years.

Garbers is already a member of the council. He is retiring as the president of the CSIR later this year.

Last year he received the State President's Gold Class Order of Meritorious Service — Sapa.

(248)

Academics need business support

TANIA LEVY

BRIDGING programmes were probably not the most cost-effective way for the private sector to intervene in university education, Natal University's Prof James Moulder said in Johannesburg on Wednesday

Moulder was speaking at the end of a two-day workshop addressing business's role in education bridging and support programmes.

Lecturers should rather be trained to give disadvantaged students more assistance and support, he said

The whole curriculum had to be looked at and more emphasis placed on lecturers' problems in dealing with students' difficulties, rather than addressing those difficulties in special programmes

A central problem was the source of finance for the increasing number of black students, Moulder said

Natal University had estimated that 67% of its student population would be black by 2010 and would need a fivefold increase in bridging finance. BD 8/6/90

Another problem raised at the conference had been what the private sector could do at school level, especially to increase the number of matriculants with subjects such as maths and science

Academic tyranny

ST Times 10/6/90



David Welsh, Professor of Southern African Studies at UCT, discusses the crisis of academic freedom

AS South Africa moves slowly in the direction of a more inclusive democratic system, it is vital that the liberal heritage — that which has survived — be built upon and expanded

Universities serve many functions repositories of learning, educators of the rising generation, transmitters of skills, custodians of cultural heritages, and so forth.

Their prime role, however, is the pursuit of knowledge, places where people can, without fear of sanction, search for the truth.

Ludicrous

At the core of the liberal idea of the university is the notion of university neutrality This has been assailed from both the right and the left In earlier times one heard a great deal from Afrikaner Nationalists about the "volksuniversiteit" This concept asserted that the university embodied the highest ideals of the volk it was bound in service to

From the left this argument has been more subtle Usually, its assertion has been that the universities (especially the elite ones) have been a bastion of class privilege whose class-bound selectivity in admissions reproduced the class-stratified society

Neither the right nor the left critique can be dismissed out of hand Universities have, historically, embodied national(ist) aspirations

Similarly, there is more than a grain of truth in the typical left critique historically, the universities of Western societies have been elitist institutions.

No less is there truth in the critique that fallible mortals are not always capable of resisting (or even recognising) this and at least trying to limit harmful influences

In short, there is a good deal of evidence that casts doubt on the empirical validity of the neutrality principle But how should one respond? By abandoning the principle altogether?

If neutrality is abandoned the logical alternative is to espouse some or other form of partisanship Thus, the University of the Western Cape has recently described itself as the "intellectual home of the left"

If the university is to be the "intellectual home of the left" then does not consistency require that selection committees apply an ideological test to candidates for vacant posts?

Should not lecturers with left-wing persuasions be advantaged in promotion? And should not certain disciplines (for example, sociology, economic history or political science) be taught through a "left" paradigm, to the total, or partial exclusion, or at least eclipse, of alternative or rival paradigms?

The conclusion I draw is that while the idea of neutrality is a troublesome one, probably incapable of full realisation, even its imperfect realisation is preferable to the 'logical' alternatives

It is, of course, the case that the peculiar circumstances of South Africa impose an additional set of difficulties in the way of upholding even an imperfect notion of neutrality

Could, or should, a reputable university maintain "neutrality" in the face of so abhorrent an ideology as apartheid, any more than German universities should not have acquiesced in the horror of Nazism?

The "neutral" university must protect the expression of all conclusions derived from scholarly inquiry, however much they go against prevailing intellectual currents inside the university or in the wider society Heretics must be accorded institutional protection

Academic freedom is also a subset of rights that are of general application It is essentially freedom of expression in the academic context, but it is also the freedom of members of the university to hear

Thus, in the German formulation, academic freedom had two dimensions the freedom to teach and the freedom to learn

There has been a strong tendency in recent South African debates about the (contested) rights of visiting speakers to discountenance academic freedom as a "subsidiary" right of little consequence to those who were engaged in what were literally life and death struggles.

Dangerous

If the claims of academic freedom and the demands of "the struggle" clashed, then academic freedom had to give way

This has been an unfortunate and potentially highly dangerous development

At the very core of apartheid was its authoritarian intolerance it shut people up (in more ways than one) and treated them as units of population groups rather than as individual human beings It would be both tragic and ironic if the opponents of apartheid acquired a similar authoritarian intolerance.

● *This is an edited excerpt from a chapter in Values Alive, a book published this week to honour Mrs Helen Suzman (Jonathan Ball R79,95) A deluxe limited edition is available at R790, with proceeds going to Wits Alumni Trust*

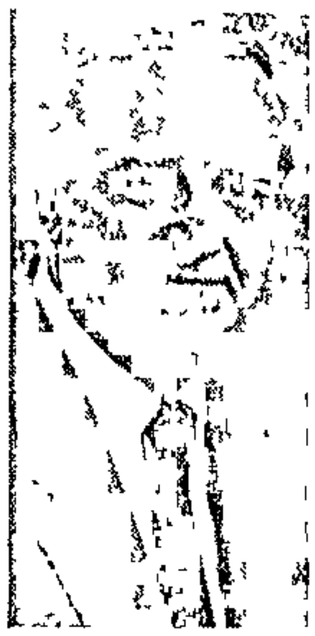
See Page 5

New Unisa chief details role

EDYTH BULBRING

CSIR president Chris Garbers sees his appointment as new chancellor of Unisa from July 1 as a "job without line-function responsibility", an honorary position with no influence on Unisa policy or curriculum

However, during an interview at the weekend Garbers said he would use the podium of the largest university in SA to promote the ideals which had chartered the restructuring of the CSIR under his 10-year presidency.



GARBERS

Garbers believed the real battleground in SA was to obtain technical supremacy in the international marketplace in those areas where SA enjoyed a specific advantage, like mining and agriculture

To achieve this competitive edge depended largely on the training of high-level manpower, he said Realising that realities facing Unisa might dictate alternative arrangements, and speaking in his personal capacity, Garbers said he saw Unisa as a key player in this exercise

Unisa was involved in training two out of five of all SA university students each year, he said

The important difference was that Unisa educated people while keeping them in their work place, ensuring "the employer and the emloyee benefit immediately"

Unisa's role in training SA manpower was seen by Garbers as crucially important in the light of the future student population

According to forecasts there would be 444 000 black matriculants a year by 2020, and if education was improved this figure would almost double

Once relationships between SA and Africa became normalised, there would be a bigger traffic of knowledge between the different countries and the demand from Unisa would increase, he said

Garbers said he had dedicated 45 years, through study and work, to science and technology in SA and would use this expertise to bridge the gap between education and science

An idea which excited him was the link beween education and business He wanted to take the financial and technical muscle of First World countries and blend it with the expertise on Africa available in SA organisations to make successful African investments and developments

However, although Garbers believed southern Africa could not move without SA expertise, he wanted any future partnership to be devoid of colonialism, relying instead on the knowledge of the different countries.

Garbers will retire from his CSIR presidency on September 30, the eve of the completion of the restructuring of the Institute into two independent statutory councils devoted to manpower and to science and technology.

SOWETAN BUSINESS

Training of accountants in SA vital - Rasethaba

sowetan 14/6/90 248

SELLO Rasethaba of Seshego in the Northern Transvaal will shortly be returning to South Africa from Britain with a PhD degree in computerised information technology with specific regard to accountancy.

By MOKGADI PELA

Rasethaba (32) is studying at the University of Hull and is in South Africa for three months to do field work research.

Routine

Rasethaba, who is also president of the Association of Business Studies Students in the United Kingdom, said the use of computers in accounting has resulted in improvements to the quantity and quality of accounting information.

"This is causing a shift in the manner in which accountants have traditionally performed their work. More time is spent on scrutinising information rather than preparing it.

"The routine work that an accountant used to perform is now being done by the computer.

"The research objectives are to determine the extent to which accountants are involved in the use of information technology (IT) and test the hypothesis that accountants, in their use of IT, are not well placed to be involved in the formulation of IT strategy.

"The research will also establish whether there are other managerial classes involved in the formulation of IT strategy and test the hypothesis that the accountants' vision of IT strategy is limited to the automation of tasks and learning how best to use IT," he said.

Interviews

Rasethaba said his research was justified because the use of computers affected the conduct of certain activities.

"The study will be descriptive rather than prescriptive The research will also include on-site interviews with accountants of organisations which were more advanced than the general state of the art with respect to the use of IT," he said.

Rasethaba, who is based at the accounts department of Times Media Limited, said his fieldwork is sponsored by IBM-France while his accommodation and lodging are covered by the Commonwealth Nassau Fellowship.

ISM paid the costs of his trip to and from South Africa.

Before leaving for the UK, Rasethaba spent two years at the University of the North. He worked for Lebowa Transport between 1977 and 1979 and in 1980, he joined the Azanian People's Organisation as an organiser.

A few years later, he studied towards his BA Accounting degree at the University of Northern Iowa in America.

In 1987, he was employed by Dupont and Company in Wimington, Delaware, and in 1988, he worked for Hodgson Impey, a chartered accountants institution.

He received a scholarship to study further at the University of Hull.

Remedied

Rasethaba said he was concerned that there were not many black accountants and managers trained in South Africa and he would like this situation to be remedied.

"There is some commitment from some companies towards the training of black accountants. But this is largely in theory and not in practice.

"The accountancy profession in South Africa effectively excludes the black majority

"This situation carries with it great dangers for the future healthy development of our country Actions taker by the accountancy profession in South Africa to facilitate the training of black accountants, should be encouraged.

"But in addition there should be increased pressure for the deregulation of the profession

"This will help get rid of the present exclusivism. The profession should be independent and self-regulating.

"In my opinion this will result in the establishment of more accounting professional organisations which will enable aspirant accountants to choose from the various levels and different approaches to accountancy, as is the case in the UK

"The importance of accountancy and other skills should not be underestimated.

Training

"Most countries have realised this fact and are sending an increasing number of their nationals to the UK and USA for training as accounting technicians, auditors and management accountants and local and national government accountants



Sello Rasethaba

"At the University of Hull, we have students from the People's Republic of China, Egypt, Ethiopia, Saudia Arabia and other countries

"The activities of the Association of Black Accountants of South Africa should therefore be encouraged since Abasa seeks to develop a cadre of committed accounting professionals, managers and public administrators who are also committed to work towards our liberation."

Black journalists have reason to fear future pressures

P/Day 14/6/90

248

THAMI MAZWAI, business editor of The Sowetan

TODAY's debate among journalists, particularly black journalists, is will we also be expected to be the apologists of government policy in future? Was the struggle not against this?

Black journalists have cause to be worried. They know what harassment is, having suffered it all of their professional lives.

The pressure on us the past four years was from government, elements in the liberation movements and newspaper proprietors. These generated a fourth evil, self censorship.

Government was prepared to enforce self censorship by ruthlessly dealing with first offenders under the media emergency regulations. However ways and means of beating the system were found.

The demands from community organisations were three dimensional, and it is necessary to state that at the time there was fighting among black organisations.

We were expected to ignore news concerning certain organisations while highlighting those of others. We were expected to publish the atrocities of the one and ignore those of the other. This was a period of class boycotts and necklacing Criticising these acts was taboo.

The Sowetan was not prepared to abdicate its responsibilities as a newspaper. Human dignity is inviolate. Killing political activists is inhuman whether it is done by the CCB or comrades. As we refused to accede, there was a strong anti-Sowetan feeling in certain circles. We were accused of being anti-ANC.

We have never been anti-ANC. Our newspaper has supporters of the ANC, PAC and BCM on its staff. They know a high value is placed on professional integrity, and we see that professional standards are maintained.

Things came to a head when one of our journalists was accused of publishing a story that sowed division. A boycott of the paper was announced though the newspaper was not called to any meeting.

It was only after meetings with officials of unions and community organisations that we put our side of the story, but by then the damage had been done.

Anti-Sowetan feelings were whipped up.. Trucks carrying our newspaper were barred from one or two townships City Press suffered similar pressures. Strong sentiments were expressed against the Weekly Mail and New Nation.

We had played right into the hands of government. Stoffel Botha wanted these newspapers closed down, and now his job was being done by black peoplethemselves. There were more serious incidents.

At a funeral in Soweto a group of youngsters, all armed to the teeth and carrying the trusted tyre, came looking for any reporter from Sowetan. At this stage the newspaper was not sending reporters to certain areas, and this included Soweto.

In the Northern Transvaal a Sowetan reporter and photographer were cornered by a group of activists to be necklaced. Fortunately some comrades intervened. Quite a lot of black journalists wanted to leave the media. A few did.

The third type of pressure was from newspaper bosses. Many newspapers took the easy way out and avoided political news like the plague In general the proprietors of those liberal English language newspapers serving the black community were supportive of the campaign against the Press censorship.

However, the sting in the tail was that the newspaper had to make more use of lawyers. It reached a stage where we told our lawyers that instead of telling us a story could not be published they should tell us how it could be worded for publication.

The above three pressures led to self censorship. Newspapers and journalists tended to become more severe on themselves than government would. This, coupled with pressures from community elements, made coming to work a nightmare.

The self censorship caused by pressures from the government and community organisations was severe Satisfying one could open us to attacks from the other.

Many stories were simply ignored I would say more than 60% of what was happening did not reach the public

Pressures did not come from one political tendency, but from ANC, PAC and BCM supporters When reporting on township violence we stopped quoting names of organisations This was for the safety of our reporters, but the reader suffered.

This was partly solved when leaders in political camps were approached by a special committee consisting of reporters from the Sowetan, Star and City Press. By and large pressures were reduced.

Pressures on black journalists from community organisations were surprising, for we have over the years been at the forefront of the struggle for human dignity By being part of the struggle for civil liberties we were part of the struggle for the freedom of the Press.

The black on black violence that made our lives a misery in 1986/7 is with us again. The rivalry between political organisations is once more going to be the bane of our lives We are however heartened by the fact that political organisations are now doing something to bring it under control. Perhaps it has dawned that this violence affects their images inside and outside SA.

However, the battle for control of the media continues. Because government succeeded in getting sectors of the Press as its apologists, all organisations to try to do the same

This thinking is given credibility by most of Africa, where governments control the media The reasons given are noble, but the practice is ignominious Governments manage to get the atrocities they perpetrate ignored

Idi Amin and Adolf Hitler took control of the media and went on to unleash unheard-of brutality on their people I am not saying this will happen should an ANC or a PAC government take over; all I am saying is that the Press must stay independent. Freedom of association and press freedom are still at risk

We believe that by being independent of any political bias we will best serve SA From that position we will be able to criticise fairly and objectively Our readers will be the ultimate judges

Freedom of the Press is indivisible It does not change from situation to situation, neither is suppression of the media by a black government less severe than that from a white government

Both abuse my rights as a human being.

☐ This is an excerpt from an address at the conference Winning against Apartheid in Johannesburg yesterday.

THE retrenchment of

University rectors/registrars: salaries

521 Mr J A JORDAAN asked the Minister of Education †

(1) (a) What persons are at present occupying the posts of (i) rector, (ii) vice-rector, (iii) registrar and (iv) assistant registrar at each of the universities falling under his Department, (b) for what period (i) was each of these persons appointed and (ii) has each of them occupied his present post and (c) what is the total remuneration package, including salary and fringe benefits, of each of these persons,

(2) (a) on what date did each of these persons last receive a salary increase, (b) what percentage salary increase did each of them receive and (c) what percentage salary increase was granted at each of these universities to each category of (i) academic and (ii) administrative staff on that date?

B1229E

The MINISTER OF EDUCATION

(1) (a) *University of Zululand*

(i) Prof Dr A C Nkabinde

(ii) Prof Dr H J Dreyer
Prof Dr A J Thembela

(iii) Mr H P de Jager
Mr E W Redelinghuys

(iv) Mr A Engelbrecht
Mr R J Mbuli
Mr C Y Mkhize
Mr E T S Z Mthiyane
Mr J J P v d Westhuizen
Mr B M Zulu

University of the North

(i) Prof Dr P C Mokgokong

(ii) Mr M J Malatji

(iii) Mr H J J Kirsten (up to 30 April 1990)
Mr M J Masemola (acting)

(iv) Mr G du Toit*
Mr J H du Toit*
Mr S R Galloway
Mr P Hagen
Mr P C H Jansen*
Mr S C Mokgoka
Mr M C Makumbila
Mr M A Mashego*
Mr F M Mogoba
Mr M A Phoshoko
Mr J B Richards

Medical University of Southern Africa

(i) Prof L T Taljaard

(ii) Prof E L Karlsson

(iii) Mr P D Hartzer

(iv) Rank does not exist at this university

Vista University

(i) Prof Dr S W B Engelbrecht

(ii) Prof Dr E W Neuland

(iii) Mr A N P Lubbe
Mr C S van Niekerk

(iv) Mr J C Coetzer
Mr B de Wet*
Mr I J Meyer*
Mr J H Peyper*
Mr D J Retief*
Mr J Rheeder#
Mr K O Russel*
Mr L R Tau*
Mr D Troskie
Mr W J van Zyl

senior deputy registrar
* deputy registrar

(b) No information in this regard is at the disposal of the Department Conditions of appointment and the total remuneration packages of personnel are dealt with by councils of universities as a confidential matter

(i) and (ii) Fall away

(c) Falls away

(2) Falls away See (1) (b)

Legal abortions: applications

530 Mr A J LEON asked the Minister of National Health and Population Development

How many applications for legal abortions were (a) made to and (b) granted by (i) private doctors and (ii) clinics or hospitals in 1989?

B1265E

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

(a) and (b)

(i) Applications for legal abortions are usually submitted to the superintendent of a hospital — statistics in this regard are not readily available No statistics are available with regard to legal abortions granted and done by private doctors,

(ii) 698 legal abortions were granted and done at provincial hospitals and private hospitals/clinics during 1989

Deaths due to miscarriages

532 Mr A J LEON asked the Minister of National Health and Population Development

How many (a) White, (b) Black, (c) Coloured and (d) Indian women died as a result of incomplete and septic miscarriages in 1989?

B1267E

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

No statistics are available with regard to the death rate as a result of incomplete and septic miscarriages

Own Affairs

Cape Town Gardens: Group Areas Act

525. Mr K M ANDREW asked the Minister of the Budget and Local Government:

Whether, with reference to the reply by the Minister of Planning and Provincial Affairs to Question No 72 on 18 April 1990, there have been any applications since 21 July 1989 for permits in terms of the provisions of the Group Areas Act, No 36 of 1966, in respect of residential land or premises in the Cape Town Gardens constituency; if so, (a) how many such applications had been (i) granted and (ii) refused as at the latest specified date for which information is available and (b) what were the reasons for (i) granting and (ii) refusing each application" B1097E

The MINISTER OF THE BUDGET AND LOCAL GOVERNMENT

No applications for permits have been received for the suburb Cape Town Gardens for the period 21 July 1989 to 30 April 1990 Statistics are not kept for parliamentary constituencies

(a) and (b) Fall away

ANC lawyer 'humiliated'

(M&G 22/6/90 (248)

THE National Association of Democratic Lawyers yesterday strongly condemned the treatment apparently meted out to the head of the African National Congress's legal department, Mr Zola Skweyiya, and four others by immigration officials at Johannesburg's airport on June 6

According to a statement from Nadel, Mr Skweyiya was detained for two days at Jan Smuts Airport and was on the verge of being deported to Lusaka when lawyers intervened on his behalf.

"Nadel is shocked by the humiliating and embarrassing manner in which a senior ANC member was treated in spite of an agreement between the Governmentand the ANC.

"It is clear that despite the indemnity accorded to certain members of the ANC, government officials and especially immigration officials are not being instructed properly."

Nadel called on the government to investigate the matter.

Write on realities of black life - professor

Sowefan 22/6/90

By MATHATHA TSEDU

BLACK writers should take advantage of the prevailing atmosphere of openness in the country to write books reflecting the realities of black life that publishers have hitherto been too scared to handle, a Unisa academic and author said this week.

Addressing about 50 guests at a prizegiving ceremony for the best Northern Sotho author held at a Pietersburg hotel on Wednesday night, Professor Maja Serodu of Unisa'a department of African languages, said for too long black writers have been forced to write to suit the whims of white publishers.

As a result, he continued, books in black languages that chronicle historical events such as the 1976 uprisings were conspicuous by their absence.

Black writers using indigenous languages never write science fiction because publishers only look to the school curricula for the market, he said.

With the political shackles coming off, black writers have to take the advantages available to write not only fiction but also political history.

Mr PM Lebopa, a student at the Setotolwane College of Education, was awarded first prize of R750 for his book 'Ba ile batho'.

Mr HML Lentsoane, a lecturer at the University of the North and a student at the same university, Mr PS Nkomo, were both awarded second prize of R250.

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Saturdays 9 am to 2 pm Sundays 9 am to

Research post for Max Sisulu

Sowetan 22/6/90

THE head of the African National Congress' economics department, Mr Max Sisulu, will take up a four-month research post at the economics department of the University of the Western Cape in October.

Sisulu (44) "came home" last weekend after 27 years in exile.

On arrival in Tanzania he joined Umkhonto we Sizwe and underwent military training. He then studied economics in Moscow for five years.

While working in Lusaka in 1974 he survived an assassination attempt. A letter bomb from South Africa exploded in the hands of a friend, John Mvemve Dube, killing him instantly.

When the ANC established a department of Economics in 1987, he was appointed to head it.

Role

"Our role as an economics department is to continue with the planning process towards an alternative economic system for a new South Africa.

"Political freedom without economic emancipation is meaningless. Therefore, the whole struggle must of necessity encourage the creation of a new and just economic order."

Sisulu said the basic goal of economic policy should be "to achieve economic growth through a process of increasing equality in the distribution of incomes, wealth and economic power". - Sapa

Law courses will focus on human rights

THE Law Faculty of the University of Pretoria is to present a comprehensive course on human rights during the latter part of the year.

The course forms part of the LLM programme, but other interested parties may also enrol They may attend the classes only or also write the examination for which they may earn a certificate. Sowetan 25/6/90

A spokesman said the lectures will be presented from the end of July on 13 consecutive Tuesdays. They will be from 5,15pm to 7,15pm and will focus on the protection of human rights in South Africa with reference to the international context

The lectures will include, "The Freedom Charter and the ANC Constitutional Guidelines", "Human Rights and States of Emergency", "The namibian Constitution", "Women's Rights" "Access to Justice" and "Humanitarian Law" 248

Course fees are R274. There are a number of bursaries available to students who would like to attend the course only. 248

Those interested in attending the course should contact Advocate Cecile van Riet, Faculty of Law, University of Pretoria, Pretoria, 0002. Alternatively telephone (012) 420-3151.

Academics in bid to resolve crisis

Sowetan 25/6/90

248

THE Council for Black Education and Research recently hosted an academic conference whose purpose was to take an in-depth look at the education crisis in the country.

Professor Es'kia Mphahlele, the centre's founding director, said the closed meeting was held at a Johannesburg hotel. It was attended by a group calling itself the Concerned Educators' Forum - 13 men and women out of 20 who had accepted the council's invitation.

The forum came out with some proposals for short-term and long-term solutions.

Those present included: Prof Mphahlele, Mr Fanyana Mazibuko, director of the University Preparation Programme, Mr John Samuel of national director of Sached Trust, Prof Botlhale Tema, Associate Professor of Biology at University of Bophuthatswana, and Mr John de Jager, principal of Sagewood School.

Failed

Those who failed to make it included: Ms Sheila Sisulu, Professor Alex Thembela, Mr H H Dlamlenze, Mr Curtis Nkondo, Mt L Mthabathe, and Mr T W Kambule and Ms Elizabeth Mokotong.

All the participants had been invited as individuals, carrying no brief from their respective constituencies, if any.

Some of the short-term solutions proposed were the establishment of teachers' centres in various urban and rural districts.

Here members could share ideas about their professional triumphs, failures and difficulties.

Evaluate

The centres would also work in close cooperation with subject associations. They would evaluate textbooks, develop curricula, discuss and seek to resolve the triangle of conflict in teacher-parent-pupil relationships.

Another suggestion was that teachers should be helped to master study skills as an upgrading process in their academic and professional roles. It was said teachers should consider the repercussions of strikes and marches before they launch them

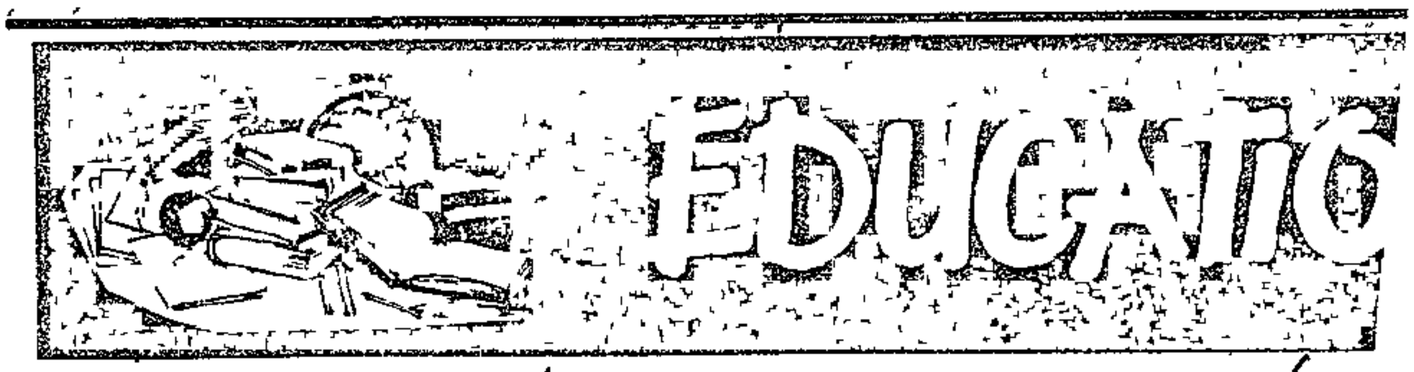
Furthermore, teachers were to be encouraged to join neighbourhood education projects.

In its preamble to its report, the Forum states that it acknowledges that students/pupils and teachers have lost all confidence in each other, in themselves and in education generally.

"The present situation has gone beyond a point of crisis and reached catastrophic dimensions, that it is imperative that we look for, find and define core objectives for national education that will cover the present state of dislocation and project a vision for the future."

Talks

The convening council was instructed to form a small committee that will assign tasks to people towards the realisation of some of the objectives. The Forum will meet six months from now to review reports from the task forces. Then, the forum will seek to enlarge its membership.



MR Vusi Khanyile, who was recently appointed deputy registrar of the Student Affairs Department at the University of Cape Town, has left the university to join the ANC offices in Johannesburg.

Sowetan 28/6/90

Vusi Khanyile takes ANC job in Johannesburg

He will head the newly-established finance department of the organisation.

Khanyile, who was formerly the special assistant to the vice-chancellor, has been associated with the university since 1986.

During that period, he spent two years in detention until his dramatic escape to the American Consulate in Johannesburg in 1988.

Challenge

When asked to comment on the role of UCT in a new South Africa, Khanyile said UCT has to redefine its role in the unfolding South African situation and its contribution to a post-apartheid South Africa.

"I see my new post as a challenging one which has to be integrated with the existing one in Lusaka," he said.

He holds a B.Comm degree from Birmingham University in Britain and previously worked in the Anglo-American financial planning department



MR VUSI KHANYILE

Academics elected to Fort Hare Council

Sowetan 25/6/90

TWO academics from the University of Cape Town have been elected to the Council of the University of Fort Hare.

Professor Francis Wilson has been elected chairman of the council while Dr Mzobz Mboya was elected a member.

Mboya was also elected president of convocation.

Wilson is the director of the South African Labour Research Development Unit (Saldru), and Mboya senior lecturer at the School of Education.

Wilson said the appointment of the new council marked the end of Bantu education as far as the university was concerned.

He said the appointments were a highly significant development in this time of momentous change for South Africa

"In drawing strength from the great history of Fort Hare, the Council is looking forward to an exciting period of transformation , growth and working together with all members of the Fort hare family," he said.

Mboya said his position would enable him to help formulate policies regarding the progress of the university.

"Fort Hare is not a homeland institution. It is an institution of higher learning for all people of South Africa.

"One only has to look at the graduates of Fort Hare to verify that the university has transcended the limitations of the homeland system. Nelson Mandela, Kenneth Kaunda and Robert Mugabe were all graduates of the university."

councillor Clive Gilbert at the weekend

Gavin Relly elected chancellor of Rhodes University

(248)

FORMER Anglo American chairman Gavin Relly was elected as Rhodes University's next chancellor at a special meeting of the university's Council in Grahamstown late last week

Rhodes spokesman Mary Burnett said Relly would replace Ian Mackenzie when he completed his second term of office at the end of November B10 ay 417 90.

"I'm very grateful and feel exceptionally honoured to be able to serve

DANIEL FELDMAN

the university in this manner," said Relly yesterday He said he had no specific plans for the university since his was a "mostly honorary appointment".

Burnett said Relly had a particular interest in the International Library of African Music, which moved from Johannesburg to the university a decade ago.

Relly was educated at the Diocesan College for Boys (Bishops) and read for a degree in politics, philosophy and economics at Oxford University before joining the Anglo American Corporation, where he succeeded Harry Oppenheimer as chairman in 1983 Though he retired from that position earlier this year, he continues as a "roving ambassador" for the corporation

Big rationalisation of SA universities on the cards

SWEEPING changes to SA universities are in the pipeline following the decision of the Committee of University Principals (CUP) to investigate the rationalisation of six as yet unnamed departments

Two pilot studies conducted on the departments of surveying and librarianship have already been completed and await the decision of the councils of the universities concerned

The academic planning committee of the CUP has recommended that the Universities of Natal and Cape Town should continue their training of surveyors, while the Universities of Pretoria and Wits should consider discontinuing their training, according to the latest CUP newsletter.

It is also recommended that Pretoria, Unisa and Natal should continue offering librarianship, while the others should continue offering the course, either in a different format or for a trial period, the newsletter reports

Centres

The committee also recommended that Wits, UOFS and "other" western Cape universities should consider closing their departments, while it noted that Durban-Westville and Rhodes had already done so.

According to CUP director Johan Brink, it will be recommended at a CUP meeting later this month that a further six unnamed departments should be investigated

In a separate report, the University and Technikons Advisory Council has also recommended that the existing 11 university centres for pharmacy training be reduced to six

A CUP document, which lays down the principles for its rationalisation investigations, notes that "state funding has become inadequate to fund the SA university system"

"The state was, and is, prepared to take measures if necessary to implement steps in this direction," the document says, adding the CUP had undertaken to investigate the isssue instead.

Brink says the main advantage of the CUP investigating the issue is that it can be done in a mutually acceptable and academically sound way.

The disadvantage is that any final decision rests with the councils of the universities themselves and hence the recommendations of the CUP could be derailed by any of the universities

The rationalisation of universities is taking place on three levels, on a national level by the CUP, on a local level by universities geographically close to one another, and by universities internally

The CUP had undertaken a survey of all universities and found that the extent to which universities had done away with degrees, diplomas, subjects and options within subjects not in demand "came as a surprise", according

TIM COHEN

to a CUP newsletter

"It is difficult to quantify this due to the variety of categories, but if all are added up, a total of more than 300 is obtained

"Similarly, it was found that nearly 200 departments or institutes were either closed or amalgamated with other departments or institutes," the newsletter records

According to Natal University deputy vice-chancellor Prof Chris Cresswell, the issue of rationalisation is fraught with difficulties — a view shared by other university administrators.

The difficulties include cultural differences, including language, the necessity for adequate regional distribution of departments; that younger and smaller universities are especially vunerable to rationalisation and encroachment on university autonomy by government

Creswell adds to this list universities' desire to include "prestige courses" like medicine and engineering.



● JOUBERT

He makes a plea for a "value for money" approach, and points out that rationalising departments, in the sense of dropping courses, causes a high level of staff despondency

SA universities are no longer "carrying fat", he says. The staff to student ratios in most European universities are about 14 1 000, while in SA the ratio is about 11 1 000 Recent cutbacks at European universities were caused by low population growth, while cutbacks in an expanding situation like SA's are illogical, he says

But in order to avoid duplication, the Eastern Seaboard Committee, including the universities of Zululand, Natal and Durban Westville, meet regularly, he says

As a consequence of these meetings, his university decided against forming a business school, despite the high quality of the university's commerce and accounting departments

Pretoria University rector Prof Danie Joubert says the perception that the universities are carrying fat is simply not true. He points out that the universities have never received their full subsidies in terms of the subsidy formula implemented about five years ago — Pretoria University has received only about 78% of what was due because of the shortage of funds.

Nevertheless, the university has rationalised extensively, both in the sense of operating more efficiently and cutting down on departments, without retrenching staff.

Co-operation does take place, including the sharing of resources and staff, with universities geographically close, he says

In the future, it may only be possible for a student to do post-graduate work at one university in the country, but it will be possible for the student to study at the university of his or her choice at an under-graduate level

One department that illustrates the difficulties of rationalising departments across universities is found in the veterinary faculties at Pretoria University and at the Medical University of SA (Medunsa)

Pretoria has just built a veterinary hospital at the cost of about R45m which caters for the university's veterinary students' clinical study needs The universities are geographically close, and the Medunsa faculty only graduates about 10 vets a year.

Negotiations

Prof Joubert says there is a tremendous need for black vets but speaks of "political overtones" as one of the problems facing the merging of the departments

He says negotiations are under way to share the resources at the hospital, "especially in the critical clinical years".

Citing financial considerations, he says "we will be forced into (merging the departments) in the end"

However, Medunsa rector Prof Leon Taljaard disagrees and says if that happens "the whole object (of Medunsa) will fall flat"

"Surely the African community would have to have a say in that decision," he says.

Few, if any, veterinary students registered at Medunsa would satisfy the entrance requirements at Pretoria University, and there would also be cultural reasons why they would not wish to, he says

MOSS GHIRANE: ...worthwhile ... at festivals ...

No to call to help 'reform Bantu education'

South 12/7 - 18/7/90

From MONO BADELA

JOHANNESBURG. — Black educationists have spurned a call by education and training minister Dr Stoffel van der Merwe for them to cooperate in implementing a new education deal for blacks.

Mr Curtis Nkondo of the National Education Union of South Africa (Neusa) has flatly rejected the government's proposed new education deal for blacks in which the government committed itself to regenerating black education.

Van der Merwe made a declaration of intent in Welkom on Monday, saying no preconceived ideas were attached to his call His new initiative was simply to end the disruption of black schooling, he said

But Nkondo responded to the offer by accusing the government of trying to "reform Bantu education"

"We are not prepared to be partner in that kind of reformation. We want to negotiate as equal partners. The government should have person-to-person negotiations

"We all have to work together and try to resolve the impasse," Nkondo said.

Neusa had handed in many demands, but not one had been fully met.

"It is all very well to talk about R8-million set aside for books The books should have been delivered in January — so talking about R8-million is unimpressive"

Nkondo said Neusa had asked that damaged schools be restored and upgraded "Not one is being repaired"

He rejected a government claim that schools could not be repaired because school inspectors are being chased away These officials did not build schools.

The African National Congress has also reacted with scepticism to the announcement of a new deal in black education.

Referring to the R8-million said to be put aside for textbooks, Mr Pallo Jordan, head of the ANC's Department of Information and Publicity scoffed at the school-book grant.

"The sum mentioned is an insult It won't even address the problem in one town"

Azapo's publicity secretary, Mr Strini Moodley, said Van der Merwe should not appeal to the black community to assist him in legalising his education system which "has been responsible for the way in which this society has developed over the last five decades"

Meanwhile, a slow return to school marked the official start of the third term under the Department of Education and Training (DET) on Tuesday.

Most schools in Soweto and Alexandra did not close when black schools closed for winter holidays on June 15 These schools will close on Friday and are due to reopen on July 31, the same day as the white Transvaal DET schools.

In Mamelodi, Pretoria, no pupils turned up for school on Tuesday.

Mandela to address lawyers

South 12/7 - 18/7/90

From MONO BADELA

JOHANNESBURG. — ANC deputy leader Mr Nelson Mandela, now on his last leg of his tour of Europe, America and Africa, will deliver a keynote address when the National Association of Democratic Lawyers (Nadel) hold its fourth annual general meeting from August 3 to 5.

The meeting, to be held in Durban, will focus on the role of lawyers and the judiciary in the 90s. 248

Mandela, who trained as a lawyer, is the association's honorary life president. Other speakers during the opening session will include Albie Sachs

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Call for advocates to aid poor

PORT ELIZABETH — Delegates to the 45th AGM of the General Council of the Bar of SA at the weekend recommended that individual Bars create structures to enable advocates to voluntarily represent poor defendants free of charge.

A Bar council spokesman said this would ensure that the indigent were not deprived of specialised legal representation.

The council agreed to "seek an assurance from government that proper legal aid, or at least pro deo defence, will be provided to poor persons".

The council announced its support for the introduction of "a system of independent public defenders to provide legal representation to indigent accused persons in criminal cases in the lower courts".

Delegates expressed concern that accused persons who could be tried for murder in the Regional Courts and sentenced to imprisonment for up to 10 years, might not be afforded legal representation as the pro deo system operated only in the Supreme Court.

The council also resolved to identify with the ideals, aspirations and challenges of a new democratic SA.

The meeting committed the Bar to the maintenance of an independent judiciary and to ensuring that the Bar was representative of all sections of the population.

Delegates from Johannesburg, Cape Town, Pretoria, Natal, Eastern Cape, Free State, northern Cape, Transkei, Bophuthatswana and Ciskei attended the AGM.

Delays

The AGM resolved to consider methods of combatting delays in civil litigation and will make "various concrete proposals" to Justice Minister Kobie Coetsee and the Rules Board for reforms in this regard.

Cape Bar SC Milton Seligson was re-elected chairman of the general council. Pretoria Bar SC William de Vries was elected vice-chairman.

Chief Justice Mr Justice Corbett was again elected honorary president. — Sapa.

Hospital escaper eluding us, say police

FRAUD suspect Ernest Hewitt, who escaped from the Johannesburg Hospital on Saturday, was still at large yesterday and police had no leads to follow, said police spokesman Capt Pieter van Deventer.

In an interview Van Deventer said Hewitt, who would have stood trial this week on charges of foreign currency fraud involving about R7m, continued to "elude" the Pretoria commercial crime unit.

Van Deventer added that police had not yet identified the three black men who

OWEN MAUBANE

helped Hewitt escape

Hewitt was admitted to the Johannesburg Hospital from Diepkloof Prison with a heart ailment but managed to escape when three armed men wounded one of the two constables guarding him.

A Johannesburg Hospital spokesman said yesterday that Const S A Masinga, shot in the stomach and shoulder, remained in a "stable" condition.

PEANUTS By Charles Schulz



ANC is set to launch newspaper

THEO RAWANA

A NEW local newspaper sympathetic to the ANC was in the pipeline as a result of the uncertain future of Sechaba, the organisation's overseas publication, ANC spokesman Joel Netshitenga said in Johannesburg yesterday

Netshitenga said that unlike Sechaba, the organisation's official organ abroad, the new newspaper would not be a specifically ANC publication

"It will be an independent newspaper 'gravitating' towards the broader democratic movement The newspaper is being discussed in the ANC's information department and in the movement in general," he said No launching date had been set

But the ANC was in the process of compiling its own journal — to be called Mayibuye, which would be launched in 10 days' time. It would be a continuation of the external publication Mayibuye.

The New Nation reported last week that Sechaba editor Francis Meli told an Association of Democratic Journalists (ADJ) meeting that the future of the East German-produced Sechaba looked "pretty dark".

"Far-reaching changes ... saw the (East German) authorities reluctant to use public funds to support the ANC," Meli said.

He said the ANC had been given a year, from January 1990, to continue producing the paper there

'Enormous' role for lawyers

Bloan 16/8/90

(248) TIM COHEN

CONSCIENTIOUS lawyers will have to shift their focus from resisting apartheid laws to the "enormous" process of dismantling and substituting them, attorney Johan Latsky writes in the latest edition of South Africa International .

Latsky says the technical part of this process will involve evaluating rights and freedoms that do exist.

The other part will involve dealing with apartheid structures and rights acquired under them, preferably before SA has established a new constitution.

One risk in this process will be leaving this process to lawyers, he says

"It is not unlikely that, left to their own devices, certain lawyers, however conscientious, will rely on their training in the laws of white society and assume that white laws are good and appropriate ones"

Mandela statement slammed

SOUTH African Jewish leaders yesterday took strong exception to ANC deputy president Mr Nelson Mandela's statements in Oslo, Norway on Monday about Zionism and challenged him to visit Israel to see things there personally

The leaders said Zionism was not a racist movement but was rather "the national liberation movement of the Jewish people" Sowetan 27/8/90

Mandela, who is attending a four-day conference on "The Anatomy of Hate', is reported to have told delegates the ANC condemned Zionism if it meant the Israeli State had the right to occupy Palestinian lands and refuses to deal with Arab leaders, and that the organisation welcomed Zionism if it meant religious freedom.

His statement drew an angry response from Israeli delegates at the conference - *Sowetan Correspondent*

Honours for leaders

THE Black Lawyers Association is to hold its annual conference and celebrate its 10th anniversary from Friday to Sunday Sowetan 27/8/90

Two special banquets will be held at the Jan Smuts Holiday Inn where prominent leaders who have contributed to the black liberation struggle in South Africa will receive citation awards (248)

The recipients include president of the ANC Mr Oliver Tambo, his deputy Mr Nelson Mandela, PAC leader Mr Barney Desai, prominent leader and founder member of BLA Mr Godfrey Pitje, Mr Dan Nokoe, Mr L Lesene, Mr A Mda and Mr JB Vusani

The awards to the founder of the PAC and lawyer Mr Robert Mangaliso Sobukwe and member of the ANC's Youth League Mr Anton Lembede will be made posthumously.

Border calm - SADF

Sowetan 24/8/90 By RUSSEL MOLEFE (250)

THE security situation in the Northern Transvaal border has changed drastically since attacks from Zimbabwe and Botswana were stopped, a military spokesman has said.

The biggest problem along the border now was an illegal influx of job-seekers, the spokesman told a media briefing session

He said township residents appeared to be less volatile than in other parts of the country and the various security forces deployed in the region were well-coordinated

This was despite the discovery of an Umkhonto we Sizwe unit, known as Nchabeleng, with large quantities of arms caches buried at various places in the region in the past weeks

The spokesman said, however, the SADF was aware alternative structures were being set up in townships.

BLA: building legal trenches for justice

(248)

Sowetan 31/8/90

BLACK Lawyers today occupy plush, and not so plush, offices in the centres of all towns and cities in this country.

They move into courts and use facilities that are no longer reserved.

It was not always like this, as older lawyers such as Mr Godfrey Pitje will tell anyone prepared to listen.

For Pitje was on March 30 1960 charged with using a table in court which was reserved for white attorneys only.

He was fined five pounds or five days in jail, a decision that Pitje contested in higher courts and lost.

Evictions

When the Government decided in October 1977 to start evicting black attorneys from their offices in various towns to implement its Groups Areas Act, little did it realise that the move would spur black attorneys into defiance.

Black lawyers had had enough and they would stand up and be counted.

The defiance and resistance against the evictions led to a black lawyers, discussion group being formed the same year.

The BLDG became the forerunner of the Black Lawyers Association which was inaugurated at a meeting in Seshego, Pietersburg, on September 1 1980.

Realities

The organisation's publicity secretary, Mr Dikgang Moseneke, said this week the formation of the BLA was due to problems encountered by black attorneys, which the white-dominated and controlled law societies.

Although the original intention was to fight Group Areas Act evictions, the realities of black life under white discrimination led to discussions within the organisation which in turn led to a division to broaden the scope of the organisation.

"We were confronted by a situation in which 90 percent of

FOCUS

By MATHATHA TSEDU

the people who appeared in courts were our own black people.

"Eighty percent of the population was also black but black lawyers only represented less than 10 percent of the total number of lawyers in the country.

"This was unacceptable if we were to see to it that justice was done. It was this realisation that led the BLA to decide to institute a Legal Education Centre which runs a bursary to assist law students

"The LEC also encourages law firms to take in articled clerks by subsidising salaries of this group. It is interesting to note that since the establishment of the BLA 10 years ago, the situation has improved," he said.

Perfect

Moseneke is indeed a perfect spokesman for the BLA.

One of the major cases that the organisation had to fight and win in its formative years was when the Transvaal Law Society refused him admission to the Side Bar because, it was stated, he had lost his South African citizenship when Bophuthatswana became "independent" in 1977.

The case was to become a long-standing feud betwen black attorneys and the Transvaal Law Society, with Moseneke, a former Robben Island prisoner for PAC activities, flatly refusing to be admitted to the Bophuthatswana High Court.

Question marks

He argued that he neither recognised the so-called independence nor was he consulted when his citizenship was supposedly taken away.

A close scrutiny of the relevant laws revealed that Moseneke, in fact, did qualify for admission to the South African courts.

The realisation left question marks about the law society's apparent zeal to deny him admission

Moseneke said the formation of the BLA had also given black lawyers a forum to get involved in community issues from a united platform

The LEC has over the years intervened in many pass, labour and rent cases, defending victims of the Government's racial laws for free.

Response

In one such case, litigation officer Mrs Dolly Mokgatle, Moseneke and other advocates responded to a call by Zebediela Citrus workers last year after the latter had been on strike and allegedly beaten by the police.

Paid R60 a month, the workers were threatened with eviction and it was the timely intervention of the BLA that restored the workers to their compounds.

The case is still going on and the workers are on strike again. In a letter from the workers last year, it was stated that the BLA had "saved us from the jaws of death and assisted us and our union to stem the tide of exploitation".

Although the title of the organisation might give the impression that it is a Black Consciousness inclined formation, BLA is actually politically non-aligned.

Membership

Moseneke, however, said the organisation had derived its inspiration from the philosophy of Black Consciousness.

The title is also deceiving as membership is not restricted to black lawyers only. Writing in the recent issue of the BLA magazine, *African Law Review*, national vice-chairman Mr Keith Kunene said while the word black seemed to cause problems in "certain quarters, it appears that certain objectors have no problems with names like the Transvaal Indian Congress, Black Student Society

"It would be interesting to know to which liberation movement these bodies are affiliated to I am made to believe, however, that in one of the university campuses, a Black Student Society has adopted the Freedom Charter".

BLA was also a founding member of the National Association of Democratic Lawyers but has since pulled out, claiming that the decision-making machinery of Nadel was undemocratic

Born out of a spirit to fight, the organisation has been dogged by controversy When eventually the law society decided that it could allow BLA to have a representative on its board, members said this would be collaboration and rejected the notion of a black Law Society member.

Resigned

Although Mr Seun Moshidi accepted appointment to the society, he was later forced to resign Other members serving in other Government-linked structures were also forced to resign from them in line with the organisation's principle of non-collaboration

Funded by American corporations such as the Carnegie and Ford foundations, the BLA's LEC runs clinics and seminars on trials advocacy. It recently launched branches in the Transvaal, Natal, Free State and the Cape, in preparation for its 10th anniversary on Saturday

Does it have a future as an organisation in the new South Africa being prepared and negotiated by Mandela and De Klerk?

The question will be answered by an American lawyer Mr James Ferguson on Sunday when he speaks on "The role of black organisations in a non-racial society - are they necessary?"

But judging from the activities at the LEC and the role that the organisation has set aside for itself, the answer is quite simply yes.

It is an answer that the Zebediela workers would wholeheartedly endorse



Is this the harbinger of unity or a mirage of this much-needed goal? New Unity Movement president Mr RO Dudley, Azapo president Professor Itumeleng Mosala, BLA president Mr Dumisa Ntsebeza, ANC deputy president Mr Nelson Mandela and Cape leader of the PAC Mr Barney Desai linked hands at the BLA 10th anniversary conference.

Lawyers honour black pacesetters

248

Sowetan 13/9/90

THE Black Lawyers Association made history at the weekend when it brought together all the major political forces within the black community to address its 10th anniversary conference in Johannesburg.

By MATHATHA TSEDU

Delegates stood on chairs, ululated and cheered as ANC deputy president Mr Nelson Mandela, Azapo president Professor Itumeleng Mosala, PAC leader Mr Barney Desai and New Unity Movement president Mr RO Dudley shook hands at the podium on Saturday night

The occasion was the climax of a three-day conference that saw the four organisations addressing delegates on the theme, "Unity in action among liberation movements"

Unity

Speaking at the conference, BLA chairman Mr Keith Kunene said his organisation was happy to provide a forum for political forces within the black community to meet and share ideas

This was because the BLA believed, as a non-sectarian organisation, that unity in action by the liberation movements was paramount if freedom was to be achieved for the oppressed black majority.

Azapo president Mosala and the PAC's Desai spoke on Friday, while Mandela and Dudley spoke on Saturday

It is the first time that all four organisations had shared a platform During the recent Five Freedoms Forum conference, the PAC and Azapo refused to attend

All four organisations pledged themselves to work tirelessly for united action

Awards

The highlight of the conference was on Saturday night when awards were presented to BLA founder-chairman Mr Godfrey Pitje, Mandela, ANC president Oliver Tambo (in absentia), PAC founder-president, the late Mr Robert Sobukwe, Mr APS Mda and the late Mr Duma Nokwe.

ANC founder-treasurer, Mr Pixley ka Isaka Seme, Mr Anton Lembede and MR JB Vusani, received posthumous awards which were accepted by friends on Friday night. All the recipients were honoured for their pioneering role as black lawyers

The conference saw seven international speakers from the United States, Kenya, Zambia, Zimbabwe and Lesotho address burning legal and social issues.

Discussing the need or otherwise of minority and or group guarantees in a future democratic constitution, US jurist and constitutional expert Mr Francis Arnolds said race as a factor should never be considered.

The view was also endorsed by Kenyan advocate and member of the International Commission of Jurists based in Geneva, Mr Frans Wako, who said the surest guarantee of rights lay in guaranteeing individual rights



Namibia removes guards

Sowetan 3/9/90

WINDHOEK - Former, Swapo guerillas and SWA Territory Force members would be withdrawn from border guard duty in northern Namibia not later than noon today, Prime Minister Mr Hage Geingob said yesterday

They would be temporarily replaced by trained members of the new Namibian Defence Force until properly trained and equipped police officers took over

Geingob said in a statement that the Namibian authorities had taken reports of undisciplined conduct by the present border guard special constables very seriously

"Urgent and effective action will be taken to remedy this unfortunate situation," he said.

Several reports had been received of the temporarily-untrained special constables harrassing and intimidating tourists and civilians entering Namibia through border posts

South Africa last week formally complained to Namibia about the detention and assault in the north of two South Africans, Mr Shaun Beech and Mr Victor Beech of Kempton Park.

Shaun Beech said his unpleasant experiences included being suspended horizontally from a tree and beaten with a pole to confess he was "a spy" - *Sapa*

UWC honours



ANC president, Mr Oliver Tambo and his deputy, Mr Nelson Mandela, above, have been awarded honorary doctorates in Law by the University of the Western Cape (UWC).

In a memorandum supporting the awards, the university explained its commitment to a "nonracial and post-apartheid South Africa" and how the two ANC leaders had been ignored by the country's educational and professional institutions.

"For much of this time they have been forcibly denied professional or political careers in South Africa".

Mandela was a "living symbol of the South African liberation struggle".

"In conferring an honorary doctorate upon Nelson Rolihlahla Mandela, the University of the Western Cape will demonstrate its admiration and respect for a man whose name has become synonymous with a commitment to basic human liberties".

Tambo's honorary doctorate adds to the list of numerous awards and citations overseas "while he has been proscribed from the land of his birth and vilified by the defenders of minority rule"

"By awarding him an honorary doctorate, UWC can extend formal recognition on South African soil, to a man compelled to spend more than half his adult life as an expatriate, and salute him as an unswerving advocate of nonracialism and democracy during a lifetime of leadership"

of the violence — the Government, the chur- — Mr FW de Klerk. - *Sapa*

Lawyers' group agrees to extend aid to rural areas

248

THE National Association of Democratic Lawyers resolved in Durban at the weekend to extend their advice and legal aid activities to rural areas and have created a post for paralegal services to meet that need.

Nadel president Mr Pius Langa said the association was concerned that they had not been able to reach rural areas in the past.

SOWETAN Correspondent

"We were very concerned that during the countrywide State of Emergency many people who were on the receiving end of the security forces in rural areas needed legal advice and we were not in the field to give it to them," said Langa

He said paralegals were people who had basic legal training, usually through law firms and legal resource centres, who travelled in rural areas advising people on legal matters.

Sowetan 7/8/90

The conference also created the posts of a projects officer for constitutional options and a women's desk

Private hospitals fees up

FEES at private hospitals will go up by an average of eight percent from August 15, the Representative Association of Medical Schemes announced at the weekend

The increase, applicable to all wards, high cost care and intensive care, will range from R7,50 more a day in approved day clinics to R38 more a day for specialised intensive care in major hospitals, according to Rams executive director Rob Speedie

Sowetan 7/8/90

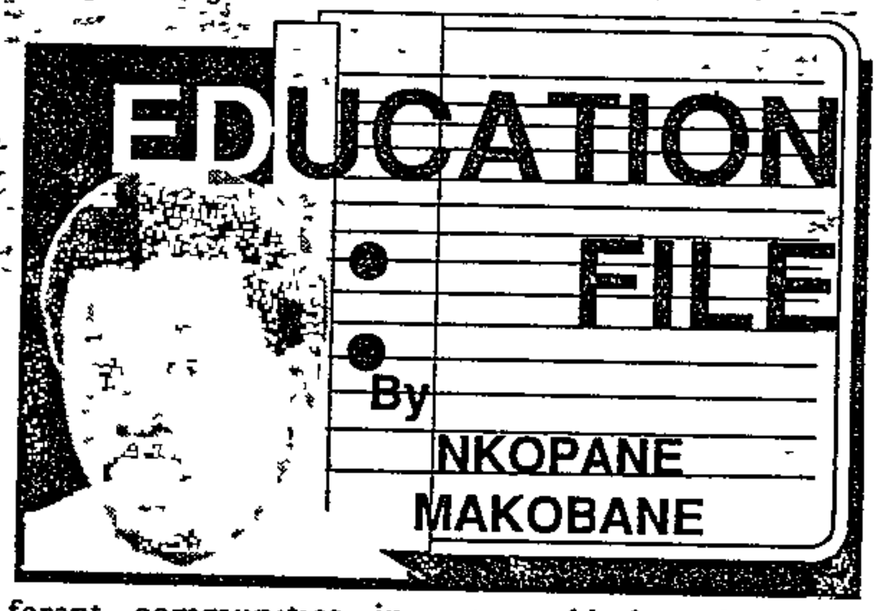
He said the increase was agreed to in order to enable private clinics to raise the salaries of their nursing staff following recent increases at provincial hospitals which had left private nursing staff at a "salary disadvantage"

Speedie said normally Rams adjusted all scales of benefit once a year but since the pay hike at provincial hospitals had forced private hospitals to increase salaries to retain staff, the interim increase was agreed on

Academics help ease plight of poor

Sowetan 17/9/90

EDUCATION FILE



By NKOPANE MAKOBANE

PROFESSOR Harriet Ngubane and Dr Mamphela Ramphele, both of the University of Cape Town Department of Social Anthropology, have been appointed to the R2-billion trust fund set up by the South African Government to address the problems of poverty-stricken South Africans.

The tasks of the two well-known UCT academics would be to sensitise the Government in relation to the allocation of funds, and to create models of upgrading which could be applied in the South African situation.

"The trust is therefore forced to adopt an integrated strategy in dealing with these problems. It is not good enough for rural or urban contexts, but were symptomatic of South African society.

Apart from them, the Independent Development Trust Board comprises top businessmen, health experts and community leaders

Experts

Although it has received wide-spread support from various political movements, including the ANC and Inkatha, the trust will be completely indpendent.

Ramphele said that she, Ngubane and other members would serve as a resource to address the issue of development and help to formulate strategies which would alleviate these problems.

She said the current wave of violence shows up the problems of people living - in dehumanised conditions

She stressed that problems were not confined to the Government to say 'here are the resources and money'.

"Apartheid has created a heritage of poverty and the Government must be sensitive in allocating resources," she said.

Ngubane said all the trust members are very experienced in working with the community. She said development referred to the entire package of housing, employment, health and education.

"The trust will concentrate on reaching those who are unable to help themselves - children, the sick, disabled and the aged," she said.

She explained that the board members were aware of destroyed relationships between different communities in South Africa. They were also aware of the widening credibility gap between blacks and whites.

"We must search for ways to heal the communication gap," she said.

Women get ahead -Rhodes study

24-8

A PIONEER study by a Rhodes University academic has concluded that there is a clear move by men to involve women in all structures that lead to the improvement of their position in society.

The head of the Department of African Languages at the university, Professor Peter Mtuze, recently received a doctoral degree from the University of Cape Town for his work entitled " A feminist critique of the image of women in the prose works of selected Xhosa writers".

His study examines, from a broad feminist point of view, the stereotypical images of women in Xhosa prose fiction from 1909-1980.

Mtuze said he had divided the study into decades.

"In the earlier prose, I noticed that women were largely portrayed as submissive and abused by men, while also seen as tender and lovely," Mtuze explained.

He came across this ambivalence throughout the works, until the 1950s and 1960s when women started moving to the cities to find work

Fort Hare looking for people's rector

(268)
New Nation 21/9 - 27/9/90

AS part of the process of transforming itself into a "people's university", Fort Hare University will soon appoint a new rector.

This follows the appointment of a new council at the university a few months ago.

The decision on the new rector will, for the first time, be reached after consultation with the entire university family of academics, workers and past and present students.

ly-elected council, University of Cape Town economics professor Francis Wilson, the new rector will be sought both inside and outside the country.

"Advertisements for the post will be made, locally and internationally, very shortly," he said.

Major changes have swept through the university since the Ciskei coup which toppled president Lennox Sebe early this year.

Sebe's ousting gave students and workers the opportunity to step up the pressure for senior management officials to resign.

Among those who resigned is the former rector, John Lamprecht, who was reported to have been seconded by the South African government. According to the reports, Lamprecht and other top officials at the university had previously enjoyed Sebe's protection when pressurised to quit.

Reports from the university indicate that it is currently looking at engaging in research to identify areas that need improvement and ways of assisting the community.

Engineering crisis threatens progress

W/E Mail 28/9 - 4/10/90

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The shortage of qualified engineers, and the low numbers of students taking engineering courses at universities and technikons, threatens South Africa's development programme. As the country attempts to move from mining and agriculture-based primary industry to manufacturing industries the lack of skilled engineers could put the brakes on progress, reports ROBERT LAING

ENGINEERS are an endangered species. A worldwide shortfall is predicted, with major industrial economies engaging in a fierce commercial tussle to secure the services of trained engineers.

South Africa is already feeling the effects — the supply of immigrant engineers dried up in 1984 and the country has had a net loss of engineers since.

Wits University engineering dean Alan Kemp says: "It's a crisis which no political party is addressing and the public is largely unaware of.

"A shortage of qualified engineers could undermine the future of technology and lead to economic stagnation."

The Australian government, reacting to the fact that engineers make up only one percent of its workforce compared to two percent in competing Pacific-rim countries and the United States, has initiated a strategy to encourage more people to join the profession.

According to a study by the Engineering Education Committee, South Africa has a quarter as many engineers as Australia and double the workforce.

Both countries, with economies founded on mining rather than manufacturing, face a tough task in persuading young people of the relevance of engineering. While the countries survive simply on the export of raw materials there is no need for a large bank of engineers to devise competitive processing and manufacturing systems.

But as they try to establish an industry that can add value to the goods for export and reduce the demand for imports, the lack of qualified engineers becomes critical.

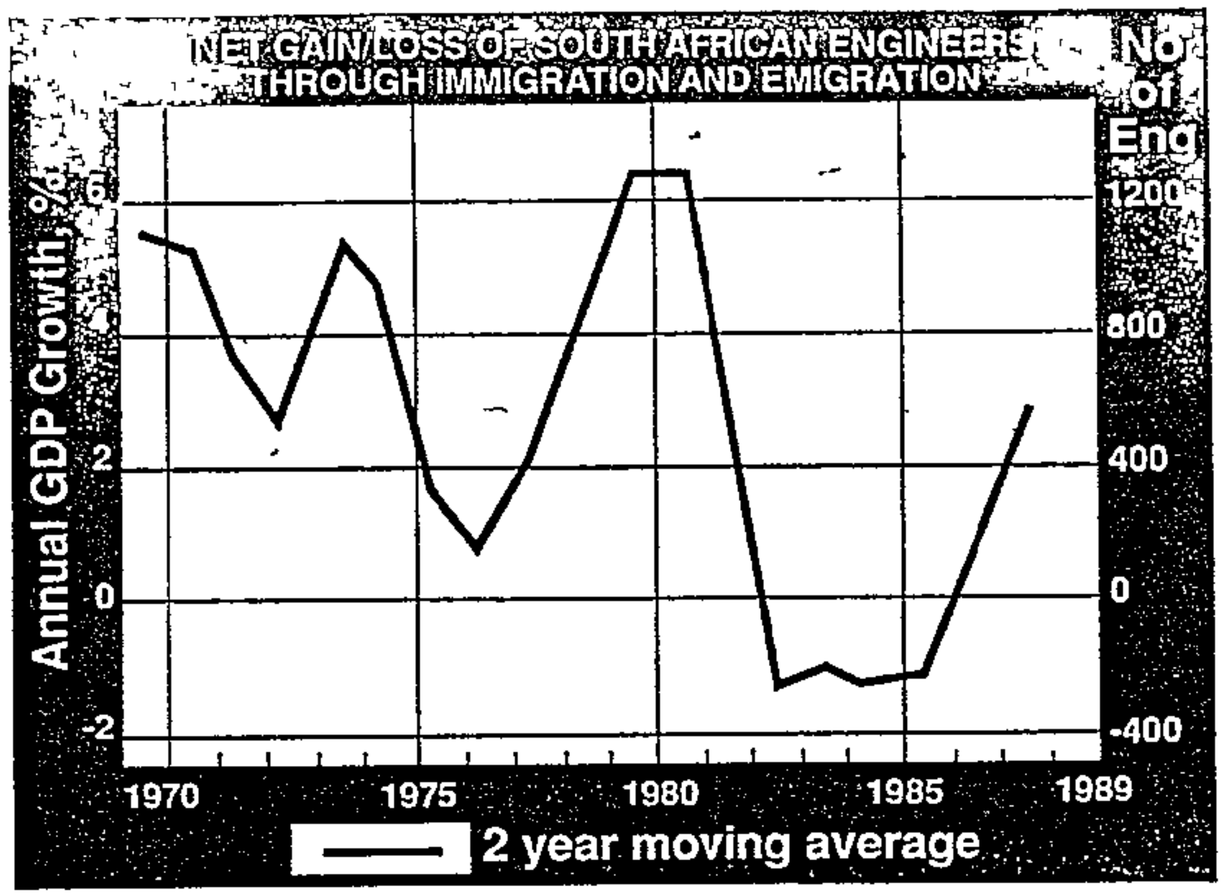
The profession is trying to improve its image by addressing problems caused by mismanaged education, lack of career structure, low salaries and poor status.

Kemp advocates closer ties between universities and technikons to reduce the number of duplicate engineering departments in any geographic area. Rationalisation of institutions and attracting quality staff and students are priorities, he says.

The ratio of technicians to engineers in South Africa is strange, 0,8:1 compared to 20 1 in Hong Kong.

Industry leaders like Altron chairman Bill Venter have called for increasing recognition of technikons to upgrade skills and productivity.

Engineering schools generally have a wide gate in and a narrow gate out. The Engineering Education Committee outlines its method of ensuring its candidates have the right stuff, "In many instances it was found that natural selection takes place by virtue of the large number of applicants."



After reaching a peak at the beginning of the decade the number of engineers in South Africa dropped sharply. This "brain drain" could impede the country's efforts to increase secondary industries

However, in South Africa less than one percent of pupils have matric maths and science, so the number of potential applicants is limited.

New Scientist recently reported the findings of an investigation into the high dropout rate of engineering students done by Noel Entwistle, professor of education at the University of Edinburgh.

Entwistle records that engineering courses have double the dropout rate of other departments He blames both the students and the course.

"Students had no idea what engineering was about or what the courses entailed. There was more physics and maths than they expected They expected to hear more about professional problems of relevance than they did."

Students complained that they were given far too much factual information, much of which would be out of date before they started work. They said their timetables were completely filled with lectures, laboratory work and tutorials; there was no time for background reading.

Entwistle says his lasting impression is: "The experience of being an engineering student is not an enjoyable one."

Sebe's demise sparks new lease of life for Fort Hare

GRAHAMSTOWN: Fort Hare university is looking for a new rector, following the establishment of a new council three months ago.

The appointment will be made in consultation with staff, students, workers and past students of Fort Hare.

According to the chairman of the council, University of Cape Town economist Professor Francis Wilson, candidates will be sought both locally and internationally.

Much has changed at the university since the resignation of rector John Lamprecht and five other top officials seconded by South Africa shortly after the ousting of Ciskei president Lennox Sebe early this year.

Their resignations came after staff, students and workers under the Democratic Staff Association (DSA) seized the opportunity presented by the coup to pressurise top management to resign.

They were accused of undermining the university's autonomy and academic freedom, and of turning it into an "ivory tower" that had no links with the community.

The university will now seek, among other things, to serve its immediate community by encouraging research into the community's needs.

Fort Hare has a history of producing not only intellectuals but also leaders, including Nelson Mandela, Robert Mugabe and Oliver Tambo.

The institution was founded after a campaign by a missionary, James Stewart, to facilitate a high level of education among Africans. Lovedale, Healdtown and St Matthews, missionary schools in the Eastern Cape, had already been set up.

In 1916, a missionary, Alexander Kerr, opened the university college with the support of John Tengo Jabavu, who later started the pioneer black newspaper, *Imvo Zabantsundu*.

In 1937, Fort Hare became a fully fledged institution for tertiary education. A Students' Representative Council was formed which represented students' interests and grievances.

However, in 1959 the institution lost its freedom and autonomy when the National Party government extended its control over black education and passed the Extension of University Education Act.

Fort Hare was turned into an ethnic university, as were the universities of Zululand, the North, Durban Westville and the Western Cape

According to Wilson, Fort Hare previously had links with Rhodes University. "The council had 21 members with representatives from the Anglican, Methodist and Presbyterian churches." After 1959, the minister of education began appointing council members.

South Africa retained control of the university for the first few years after Ciskei became "independent" in 1981. It was only in 1988 that the Ciskei government took full control of Fort Hare, sparking an exodus of staff and students concerned that Ciskei control would lead to even more political interference, and a dropping of standards.

From the start there was conflict between students and Sebe's regime, and Professor John Lamprecht was accused of collaborating with Sebe.

Political activity by students was severly repressed and a large number of students were expelled. The Students' Representative Council was forced to exist in name only.

The university was also characterised by a high intake of students and a high failure rate. — ANA

Udusa affiliates to NECC

Weekly Mail Reporter W/M 28/9 - 4/10/90 (248)

THE Union of Democratic University Staff Associations (Udusa) passed a resolution at its annual congress to affiliate to the NECC, "in order to contribute to the process of developing appropriate educational structures for a future South Africa".

It condemned the establishment and operation of military units on some university campuses and called for them to be dissolved.

Noting "with concern" that the murderers of David Webster have not been brought to justice, Udusa called on the government to disband the Civil Co-operation Bureau.

The congress also called on the government to scrap the different education departments and institute one non-racial department of education for all South Africans.

UWC draws top African specialist

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South 4/10 - 10/10/90

SOUTHERN African affairs expert Professor Robert Davies has joined the University of the Western Cape's Centre for Southern African Studies.

Davies has been appointed co-director to Prof Peter Vale, who joined the university earlier this year.

During his 19 years in exile, Davies worked for 11 years at the Eduardo Mondlane University's Centre for Southern African Studies in Mozambique.

Davies' name appeared on the CCB hit-list which appeared in *VryeWeekblad* last year.

w/Mail 5/10- 11/10/90

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We may have to do away with lawyers - Slovo

JOE Slovo has done it again. Faced with a pressing socio-legal problem, he has come up with a solution which raises more questions than answers and is likely to ruffle plenty of feathers.

General secretary of the South African Communist Party and former member of the Johannesburg Bar, Slovo has suggested that if no way can be found to ensure that all accused are represented in court, the "drastic step" should be considered of not letting anyone be represented by "doing away with" lawyers in most cases.

Guest speaker at the annual dinner of the law students' council at the University of the Witwatersrand Slovo, who chaired the students' law society in his days at Wits, said that the present system was a "travesty of justice.

"If we are unable to put right what is presently wrong we will have to think in terms of entirely new structures, in which the delivery of justice does not depend on the wealth of the person who asks for it."

Slovo also argued for better access to legal advice and representation in the field of civil law, saying that if the legal order were to be just "in substance as well as form", provision needed to be made for those who could not afford to pay for lawyers themselves.

He suggested that some of the worst aspects of the present system could be improved through providing state support for advice centres, law clinics, law centres, public defenders and conventional legal aid.

"I hope that it will be possible to find the human and financial resources needed to achieve this purpose. But if this is ruled out because of the expense involved, then serious consideration will have to be given to the alteration of the system so as to make it more simple, and to do away with the need for lawyers in most cases."

Slovo said the legal system moved into the future "with a most terrible legacy: for the bulk of the population, especially the younger generation, the law and its representatives are perceived as foe rather than as friend."

He listed the statistics of crime, including assassination against left-wing opponents of the government, which had been left unsolved "Not a single conviction has ensued Instead the officer under whom the notorious Civil Co-operation Bureau death squads operated is rewarded with promotion to the highest position in the army."

In a stinging attack on security laws, and particularly section 29 of the Internal Security Act which allows indefinite detention in solitary confinement, Slovo said the 78 000 who had been detained under these laws over the last 30 years knew "from stark experience" that section 29 "is not much less than a torturer's charter.

"It provides a fiat to detain under conditions which in themselves constitute torture. In addition, it enables the interrogator to ignore the factor of public scrutiny and allows for the uninhibited use of illicit methods.

"The Judges' Rules are turned on their head A police officer no longer has to warn an arrested person that he is not obliged to say anything. On the contrary, the section 29 detainee is warned that if he does not say anything he could face imprisonment in isolation and interrogation forever.

"The sole purpose of section 29 is to obtain a confession from a detainee or to pressurise the detainee to turn informer.

"Is it too much to expect our judiciary in principle to regard as inadmissable all confessions and statements elicited during section 29 detention?"

Slovo said over the last three centuries the law had been used as an instrument of coercion through which white governments have sought to impose their will upon the people of South Africa.

More recently, "it has been the instrument through which the apartheid state has attempted to secure compliance with its policies and to quell the widespread resistance to its policies. The courts have been inextricably linked to this process."

Another issue raised by Slovo was the need to ensure that the institutions of the legal system "become more representative of the population", by changing their racial character and by restructuring the institutions to bring them closer to the needs and understanding of the ordinary people

Several options were available, including lay participation through the jury system as used in many parts of the world, or "through the establishment of community courts or the appointment of judicial officers".

However, he said much more debate and discussion was needed on the best way of ensuring lay participation in the judicial system so as to make it "more democratic and closer to the needs and understanding of ordinary people".

CARMEL RICKARD

Summit to focus on hazards of journalism

THE first study of journalists' working conditions will be presented at a summit to be held in Geneva next month

The "Conditions of Employment and Work of Journalists" study was undertaken by the International Labour Office, conveners of the November summit which will involve governments, employers and working journalists

The report defines a journalist as one who is often vilified, although sometimes admired, "one who can influence government policies, mobilise public opinion, expose injustice and act, in many ways, as the watchdog of public morality and, of course, fair play".

With the latter roles in mind, professional journalists face many hazards in their work For instance, notes the ILO report, the registration of journalists exists in several countries.

In 1980 a Mr Stephen Schmidt of Costa Rica was sentenced to three months' imprisonment for practicing as a journalist. His sin was putting pen to paper without being "legally" registered with the Costa Rican College of Journalism.

In Italy one can hardly be called a journalist, or work in the profession, unless that person is registered as a member of the Ordine dei Giornalisti,'a professional association of journalists This, in spite of Italy's 1974 Constitution which proclaims that everyone has the right to express thoughts "in words, in writing and by any other means of dissemination"

The registration of journalists, particularly in Latin America, has recently been the subject of endless legal battles - *Sapa*

Fort Hare council appointment 'old hat' for Oom Gov

w(mail 12/10 - 18/10/90

GRAHAMSTOWN: The appointment of former political prisoner Govan Mbeki to the council of Fort Hare University represents a major turnabout for the campus — but is nothing new for the African National Congress and South African Communist Party leader. (248)

His appointment to the university's governing body comes over four decades after he left it, having served a three-year term in the 1940s as a representative of past students.

The university, which was attended by Zimbabwe's president, Robert Mugabe, and the ANC's Nelson Mandela, Oliver Tambo and others, recently underwent radical changes in its top echelons. The old guard left in the wake of the ousting of Ciskei president Lennox Sebe.

The new council, chaired by University of Cape Town economist Francis Wilson, is dominated by liberals and radicals, and the institution is seeking ways of becoming a "people's university".

"Oom Gov", as Mbeki is affectionately known, was elected on to the council in 1943. At the end of the three-year term, his political activities demanded his time and he resigned.

Mbeki said this week that his role on the council now would be similar to his previous role, although he views the body as still in the process of formation.

Wilson said earlier this year that the council would open its doors to advice from former students — ANA

University shears out in attempt to cut down costs

W/E Mail 12/10-18/10/90

HAVING completed an investigation into the rationalisation of two university departments, the Committee of University Principals (CUP) has started looking at a further six subject areas

The departments in which they will try to find possible areas for cost cutting are. music, professional accounting, geology and geochemistry, speech and drama, fine art and modern European languages (excluding French and German).

Chief Director of CUP, Professor Jos Grobbelaar, said that the committee's proposals concerning cost-effective measures in the departments of Library and Information Science and Surveying had been sent out to the universities concerned for their comments and they were awaiting their replys.

For surveying, the committee recommended that the universities of Cape Town and Natal should continue to offer the subject and that Wits should discontinue, while the University of Pretoria has requested that the final decision for their department be postponed for three years.

While Wits has not made any official comment on the proposal, it is understood that they are prepared to be co-operative to some degree.

In library science, the initial investigation has been completed, but discussions surrounding "regional aspects" are still being finalised, said Grobbelaar

The CUP has taken responsibility for investigations into rationalisation, but it does not have the power (and does not wish to have the power) to enforce its recommendations

The main aims of rationalisation are cost-cutting and cost-effectiveness. The latter seeks to provide just enough places to satisfy not only student demand, but also the needs of society.

The government already allocates 15 percent of its total education budget to universities — where per capita expenditure on each student is about eight times that on primary and secondary school pupils, a high differential in international terms.

With the expectation of an increased emphasis on school education in the future — especially when (and if) there is one education department — tertiary education will probably receive a smaller slice of the education cake — hence the need for rationalisation.

Grobbelaar says that whilst rationalisation will be in the interests of universities in general, it might not be welcomed by individual establishments because of local conditions — such as staff and other commitments which might cause them to ignore the CUP's advice

To ensure their recommendations take into account all the needs of the universities concerned, the CUP has decided to involve the councils and senates of the institutions at a much earlier stage, Grobbelaar said

The university would then be able to — to a certain extent — to make clear at an earlier stage whether such local conditions did exist.

Probe into 'unfair' retailing draws mixed commentary

245

MARCIA KLEIN

MOST major retailers yesterday welcomed the Competition Board's investigation into the supply and distribution of foodstuffs by retail outlets

However, some felt it was an exercise in futility A well-placed industry source said "I am surprised they are doing the exercise" BIDay 16/10/90

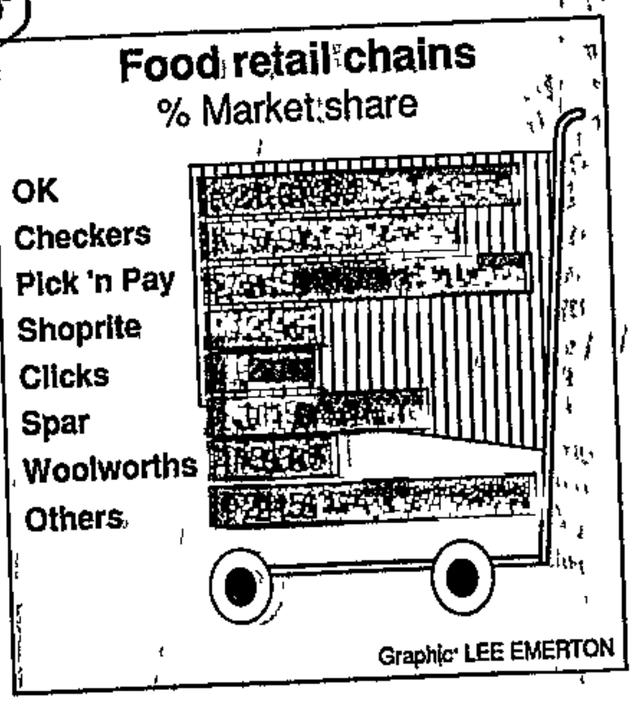
Pick 'n Pay chairman Raymond Ackerman said there had been three investigations of a similar nature in the past 15 years — which had proved to be pointless — and the current probe would be a "waste of time".

The investigation, gazetted on Friday, follows allegations by small producers of monopoly situations, acquisitions or restrictive practices

Competition Board chairman Prof Pierre Brooks said small producers had complained that large retail chains dictated the terms of supply of goods and favoured certain products to the disadvantage of the small competitor

Ackerman said Pick 'n Pay — which had "list after list" of small suppliers — was a company with integrity but firmness — he was tired of continuing attacks on an industry which was the most competitive in the Western world with no price collusion.

He added big retailers were not prepared to buy the wrong lines, and if a small supplier did not get in, "it doesn't mean we are backing the big boys".



Checkers acting MD Francois Rossouw said the group welcomed the investigation.

"At Checkers it is our policy to negotiate in a manner which is firm yet fair, but always in the consumer's interest For this reason we would gladly open our doors to an investigation of this nature, which would lay open retail operations, will put an end to accusations and hopefully allow for the protection of fair trading practices."

An industry source said small players often did not understand that retail groups were busy and had highly developed systems. A chain might not be prepared to take on additional lines, or take a risk on an untested product, he said.

Threat to isolate Bop varsity

Sowetan 18/10/90

By MATSHUBE MFOLOE

The Union of Democratic University Staff has threatened to mobilise local and international support to isolate the University of Bophuthatswana.

Udasa's warning follows a threat by the government and the university authorities to dismiss its members at Unibo for their political affiliations

Its general secretary, Dr Nico Cloete, warned that the days were gone when "we just wait for Unibo or the government to harass, detain and deport our members".

He said three nurses and a social worker were dismissed from the homeland under the "notorious" Security Clearance Act.

The Act allows authorities to dismiss any employee "in the interest of public safety, national security and the maintenance of law and order".

The isolation would be backed up by academic boycotts should any member at university be dismissed, Udasa cautioned.

The union said executives and members of the newly launched local ANC branch in Mmabatho were under threat of losing their jobs at the university

They are. Mr Job Mokgoro (department of administration and management); Mr Mandla Magwetyana (computer centre), Ms Jane Matsomela (internal auditing); Mr Paul Daphne (development studies) and Mr Thaka Seboka of the law department.

Debates

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All are members of Udasa.

Should dismissals go ahead, Udasa also warned to call for an immediate withdrawal of all external examiners from the university.

Udasa said it noted with concern the exposure of a letter indicating that the university authorities had sought legal opinion on the implications of dismissing members of staff for "misconduct", arising out of their political affiliations.

Unibo officials were not available for comment.

BOOKS

The sparks fly at meeting

248
W/E Mail 19/10- 25/10/90

Will Afrikaans survive the transition to the 'new South Africa'? Last week the Afrikaans Writers' Guild met to discuss this and other questions at a conference on how representative South African literature is. GAYE DAVIS reports from Cape Town

THIRTY years ago, Sestiger Jan Rabie was part of a rebellion by Afrikaans writers against a state bid to prescribe what they could and couldn't say.

Last week, Rabie's quills were rattling again.

Angered by what he saw as an attempt to drag Afrikaans into the pow-

Angered by what he saw as an attempt to drag Afrikaans into the power struggle, making it somehow guilty of apartheid's crimes, he wanted to remind people that the language belonged not to any one political party, but to all those who spoke it and loved it. And these weren't only white Afrikaners.

A new threat loomed, said Rabie: a "new censorship", by "mostly black or radical bureaucrats who, from their self-erected cultural thrones want to prescribe for us what may and what may not be" At the very least, there were people who wanted "to push us gently" in that direction — "like Idasa"

Rabie was speaking at the Afrikaans Skrywersgilde's recent three-day conference on the Cape's West Coast, which had as its theme "Inside and Outside How Representative is South African Literature?"

Intending to continue the dialogue begun when Afrikaans writers and academics met the African National Congress at the Victoria Falls last year, Idasa had funded the presence of exiles such as Vernon February and Njabulo Ndebele, and returnees such as Albie Sachs and Keorapetse "Willie" Kgositsile, deputy head of the ANC's department of arts and culture.

It was, as the poet Antjie Krog pointed out, the first opportunity for Afrikaans writers to "look at our literature in a South African context and begin to work out where our voices lie".

And yet, charged Krog, it was the exiles, "the people from outside", who had come with the stories and the poems, "while we sit here cooped up and drink into the night ..."

For her, the conference's theme was no better illustrated than by what had taken place in the hall "The inside and the outside are as clear as daylight," she said. "We don't need exiles to come and confirm it."

She said she couldn't take this "inside" and "outside" any more, nor she could she understand "this aggression towards Idasa, which has pumped in thousands of rands to bring us together"

"We are accusing people of wanting to rob us of our freedom and independence· we never had it," she said.

"The Afrikaans writer never was free, never was independent."

Writers had a duty, said Krog No-one could tell them what to write about, but they could not forever remain in their apartheid "hokkies".

Afrikaans, she said, should be "freed from the guild", which offered no way out from those apartheid hokkies

"It is as if the guild wants to protect something," she said. "What? What are we watching out for?"

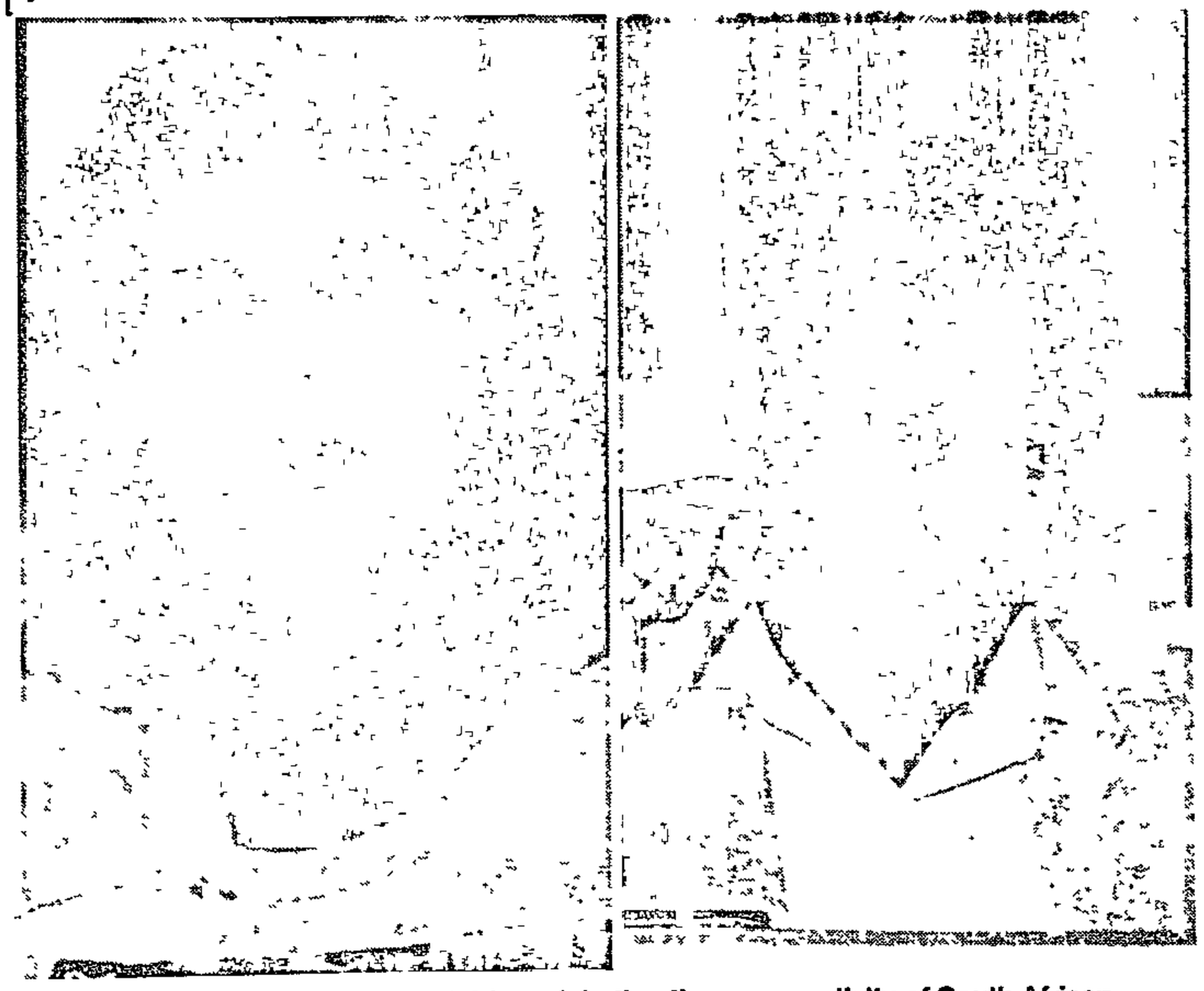
Two voices, both from "inside" When the guild later resolved to work actively towards ending the cultural boycott, Rabie was one of 22 who voted for the motion, Krog one of four against it.

SACHS had earlier noted the "deep and conscientious differences" running through the Guild, during a plenary session which proved a touchstone for the three days' debate

"We shouldn't allow very important interactions here to get submerged We've all fought hard for this We should honour this occasion with our diversity. What's important is that we do speak together, without rancour," he appealed.

Poet Don Mattera couldn't see an Afrikaans culture, "only people who have pushed themselves into a laager". In himself, he found hatred borne of banning and suffering. "I have to learn to jettison the bitterness in myself," he said

But it was a paradox to talk about a guild of Afrikaans writers in a new South Africa· "We should be sitting and talking as fellow Africans in Africa," Mattera said.



Voices from inside and from outside ... debating the representivity of South African

Sachs disagreed "You must be more Afrikaans, not less Foster and develop your language, help lead the many who are frightened and don't know where to go in the new South Africa."

This prompted a question from Sandile Dikeni, one of the Congress of South African Writers' representatives invited to the conference and a "people's poet"

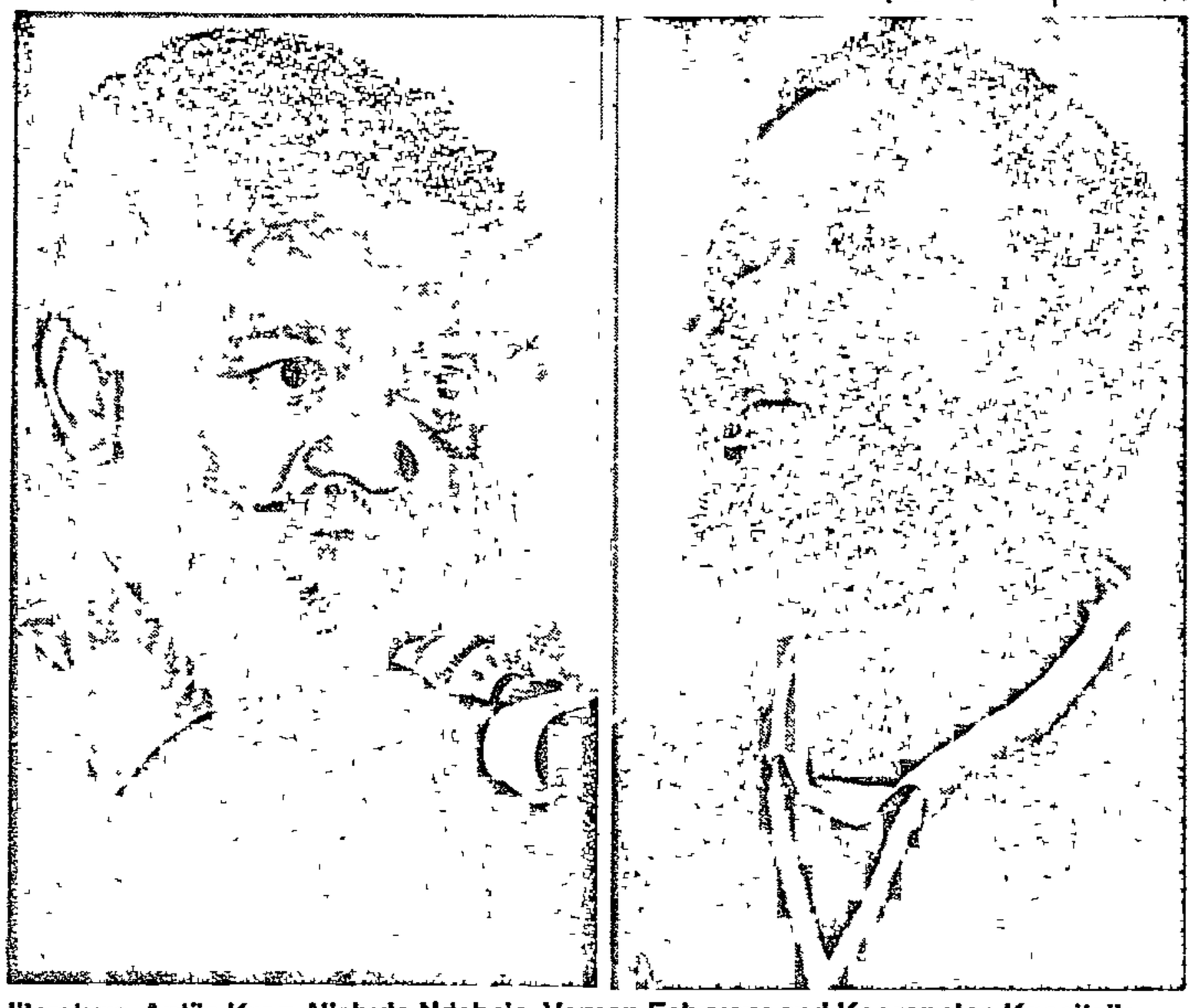
"What does that mean," he challenged Sachs, "in a country with a history of deprivation, starvation and homelessness? What does it mean?"

Those were exactly the questions the guild should ask of Afrikaners, said Sachs "Are they to be the enemy, are we to fight them? We hope Afrikaners will help We must get rid of this feeling of being victims — of apartheid, of history, of politics "

Guild member Charles Malan responded "The guild is accused of dragging in politics, of being an ANC fellow-traveller It was never an

# of Afrikaans writers' guild

W/E Mail 19/10 - 25/10/90 (248)



Literature, Antjie Krog, Njabulo Ndebele, Vernon February and Keorapetse Kgositsile

Afrikaner organisation, it was formed to make Afrikaans more open, without censorship, against apartheid

"But it was important to attack apartheid in our own language, as Afrikaans-speakers rather than Afrikaners"

"I'm an Afrikaans writer," said Dikeni "What is the Guild doing to enable and enhance the writing of Afrikaans? I don't expect a beautiful political programme from you but there's no recognition that people have been denied things and no saying, 'We'll teach you' — yet you've got the skills"

If not for Cosaw, he would never have had the opportunity to write his first poem, said Dikeni

Later, he performed some of his works, including one titled *Guava Juice* A euphemism for the petrol used in Molotov cocktails, it is perhaps the poem for which he is best known in Western Cape townships

Dikeni made no apology for the anger his poetry conveyed it also carried the hope that "this would be the last *kak* in the land" As material conditions changed, so would his poetry, he said.

For Mattera, guava juice "had its place". But the children of Soweto weren't interested in stories of snakes and mice any more. They wanted grenades and guns "When will our children claim back the trees, nature, the rivers — what are our poets doing about that?" he asked.

KGOSITSILE, addressing the question of the writer and his or her language, told how he read a poem in English at the launch of the ANC in Soweto and "felt like a fool, because the majority of people couldn't relate to English".

African languages needed to be strengthened, said Kgositsile, though not necessarily at the expense of Afrikaans, which he acknowledged as "a true South African language".

Elsa Joubert, author of *Die Swerfjare van Poppie Nongena*, had little difficulty with the notion of English becoming South Africa's lingua franca. It did not necessarily mean that Afrikaans would dwindle and die, Afrikaans writers would enjoy less protection, but that would not be a bad thing.

But one should be wary of a wholesale mixing of languages which undermined their grammatical structure, she said.

She echoed February, exiled author and academic based in The Netherlands and a polylinguist who, in his keynote address, urged that all South Africa's languages be given equal status. He also stressed the need for their being learned with due regard for rules and syntax.

"Afrikaans," said February, "is not the problem. But Afrikanerdom is."

SO just how representative is South African literature, anyway?

One of the delegates noted the absence at the conference of "a female black creative voice". the only one heard, she said, was that of Baleka Kgositsile, in a poem read by her husband.

Ndebele, who has spent 21 years in exile in Lesotho, questioned whether there was such a thing as a South African literature "And representative of what?" he asked.

Internationally, white South African writing enjoyed the status of being representative: works by the Nadine Gordimers, Alan Patons and JM Coetzees, "some not even widely read in their own country".

There were South Africans writing outside the country and writers in a form of internal exile, whose works were censored and banned.

Some used English — "the language of power", others Afrikaans — "the beneficiary of a policy which had given it privileged status". Still others wrote in African languages

Writers were thus in search of an "elusive hegemony", said Ndebele "Maybe it's better to look for commonalities, rather than categories."

If a mainstream literature developed, it was going to depend on literacy, awareness and availability "We're talking about the ability of the ordinary South African to participate in literature's enjoyment as well as its production.

"My position would be that we should let the situation unfold: organisations like Cosaw are a symbol of the kind of intervention that we all have to make.

"It brings together writers from different backgrounds: something will emerge"

Perhaps, said Ndebele, the diversity itself was representative.

"We should not submit to a tryanny of representativeness," he warned. "The issue is more the need for a much deeper appreciation of the wealth of art before us.

"We should have open minds and a sensibility that's prepared to absorb the diversity of experiences, because it is that which will afford the possibility of creative growth," said Ndebele

For Larry Pokpas, of the University of the Western Cape's Afrikaans department, one could only talk about a representative national culture once South Africa was redefined, when terms like "inside" and "outside" had lost their meaning

"People tend to think we are already in the new South Africa, that everything has changed We must not live under the illusion that attitudes will change overnight, that our past can be swept away by the words of one or two tricksters

"Apartheid South Africa is still alive — our presence here underlines that. We are still invited in the paradigm of colour, invited from outside to give our views"

Why advertising and the law are at loggerheads

S/Times 21/10/90 (248)

THE legal profession is under serious threat — and the only antidote to its steady decline lies in allowing attorneys to advertise

This is the view of many Transvaal attorneys

Their complaint is that inroads have already been made into areas that were once the closed preserve of attorneys

Tax, wills and estates, industrial relations and arbitration are just some of the fields that are now handled by other professions — who are allowed to advertise and market their services

Swamped

The loss of this peripheral business has tended to increase the cost of work in the lawyers' traditional preserve — the courts — and could partly explain why the law today is too expensive for the man in the street

Still, half the attorneys in the Transvaal oppose advertising their professional services

In a referendum organised by the Transvaal Law Society last year a small majority voted in favour of advertising But the Law Society felt that because there was no overwhelming majority, the existing no-advertising rule would stay in place

Individual attorneys and smaller firms felt that they would be swamped by the bigger firms But statistics show that only about 10% of all attorneys belong to big firms

Bell, Dewar & Hall managing partner Andrew Mitchell feels very strongly about being "bound by professional rules which leave us unable to sell ourselves"

"Unless we change the way we operate, we'll alienate the people for whom we work and our profession will die"

Edwin Letty, president of the Transvaal Law Society, and Ed Southey, president-elect of the Association of Law Societies agree

Says Mr Letty "I personally think we should advertise Everyone else, including actuaries, accountants, stock brokers and the like, are doing it.

"When the industrial court was set up, it was thought that attorneys would be involved Now there are IR consultants who initially knew nothing of the rules of evidence and procedure — even though they've learned"

Mr Letty believes that work reserved for attorneys — such as litigation and conveyancing — does not need advertising

"The problem lies where there is outside competition"

Fools

Natal attorneys voted for advertising and will begin their campaigns within months

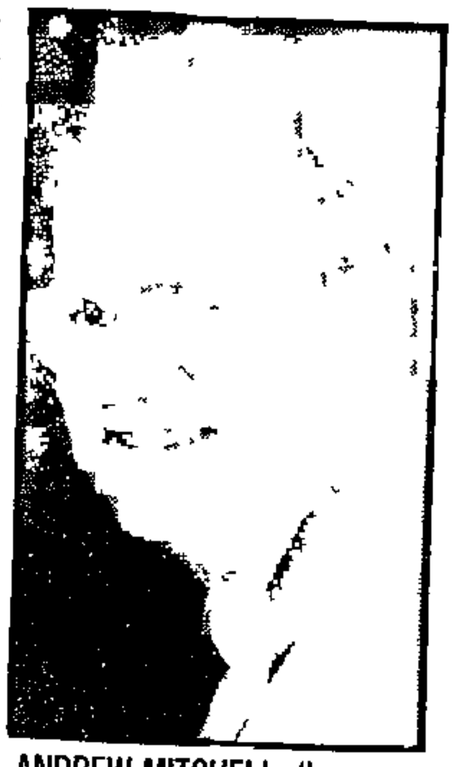
"We'll look like fools when they start advertising," Mr Letty says.

Mr Southey believes that attorneys have lost ground to their competitors in fields not reserved to them

"Advertising is not everything There are other aspects of marketing and we are encouraging our members to market themselves as efficiently as possible"

While Mr Southey does not believe that law as a profession will die, he feels that growth within the profession is being limited

"Profitable areas of work are being taken away The profession is to blame with restrictions on advertising and the perceived restrictions on marketing"



ANDREW MITCHELL 'Lawyers must adapt or die'

Mr Mitchell says "It has to be remembered that we are a business Yet our own professional rules are saying we can compete, but with no legs and arms."

Mr Mitchell cites consulting engineers — who are allowed to advertise — as just one example of how lawyers are hamstrung

"They are now running arbitrations and we can't compete Wills and estates is another area which is now largely handled by banks

"Tax, which used to be the preserve of attorneys, is now done by accountants In fact the public is often unaware that we offer a tax service.

"Merchant banks have got listings and take-overs all tied up"

Rates

The Law Society's response has been to suggest institutional advertising which Mr Mitchell believes does not work

"Individual firms have to be able to say they offer cut-rate divorces, or that they are specialists in tax, or industrial relations or whatever

"In our case, we would like to say we are media specialists and offer our services to newspapers, magazines, and even the man in the street bringing a case against a paper"

He believes that a lack of advertising has led to lawyers being faceless, alien beings

"We need to get into people's homes, to be known."

"Most attorneys have kept up with the changing face of technology. Like most businesses, attorneys have to streamline their operations, find ways to cut costs while keeping fees affordable.

Mr Mitchell contends that legal fees are not too high

Inflation

"We've been badly hit by inflation Our major costs are salaries and rent In 1980, a senior partner charged about R120 an hour Today fees range between R350 and R450 to a maximum of R900 an hour.

"We have not kept pace with inflation Charges have been kept down"

All the provincial law societies hold their AGMs at the end of October

Mr Mitchell's hope is that enough lobbying has been done within the profession to get those against advertising to change their minds

By CHARMAIN NAIDOO

Bop varsity rejects claims

THE acting vice-chancellor of the University of Bophuthatswana has said the institution did not use threats of dismissal to influence the behaviour of employees.

Professor JE Setshedi was responding to a warning by the Union of Democratic University Staff, which has threatened to mobilise support to isolate the university if staffers were dismissed for joining political organisations.

By MATSHUBE MFOLOE

The newly-launched local ANC branch members, who are also members of the university staff, were reportedly under threat of losing their jobs at the university.

They are Mr Job Mokgoro of the department of administration and management; Mr Mandla Magwetyana, computer centre, Ms Jane Matsomela, internal auditing; Mr Paul Daphne, development studies; and Mr Thaka Seboka of the law department.

Setshedi said in a statement Unibo had conditions stipulating procedures which must be observed before an employee's service could be terminated.

He said before any action was taken a commission of inquiry was set up.

The affected employee was then questioned and allowed representation at such a hearing

Headache for Turf

By RUSSEL MOLEPE

THE three-day old strike by the entire black workforce and the likelihood of the Union of Democratic University Staff Association downing tools at the University of the North has placed the examinations at risk.

The workers, all members of the National Education Health and Allied Workers Union, have been on strike since Monday demanding wage increases, recognition of their union and that casual labourers, who have more than two years service, be hired permanently.

LAW AND THE COURTS

Time to strip judicial appointment of mystique

SOME of the mystique surrounding judicial appointment could be stripped away if a new suggestion for changing the procedure is taken up.

An editorial in the latest edition of the attorneys' magazine *De Rebus* urges that the method of judicial appointment ought to be reformed now.

De Rebus editors argue the present system should be replaced by a system which would put judicial appointments "above all reasonable suspicion" as this would help draw the most able people to the bench.

Recently the Association of Law Societies has made strong calls for far-reaching changes to the legal profession and for the re-introduction of the jury system, saying there was a need to make the legal system "more responsive to the needs of all South Africans".

Another major step in this direction will be the introduction of a Bill of Rights, which the ALS believes will add greatly to the responsibilities of judges, who will for example, be able to set aside legislation which offends the principles of the Bill.

"In these circumstances it will be more important than ever that the appointment of judges should be, and should be seen to be, impartial, strictly on merit and above any reasonable suspicion of bias or favouritism."

Seven years ago the Hoexter Commission report noted that "individual merit has not always been the decisive factor" in the appointment of judges and warned that the way in which judges were appointed should not allow "any room for gossip about the independence of those elevated to the bench."

At the moment judicial appointment is the "sole prerogative of the executive".

The minister of justice by custom consults the Chief Justice or the Judge President of the relevant province before recommending an appointment to the state president, but there is no legal compunction to do so.

There have been times in the past when this custom was not observed.

At the time of the Hoexter Commission, the Transvaal Law Society recommended the establishment of the principle that "appointments to judicial office should not be made in the unfettered discretion of a holder of political office and a representative of the executive arm of the state."

Once judges have to adjudicate on constitutional matters and a Bill of Rights, the state as represented by the executive will be even more directly involved as a party and for this reason changes should be made as soon as possible to the mechanism of judicial appointment.

One of the recommendations of the Hoexter Commission was that the minister of justice be legally obliged to consult with the relevant senior judges before recommending appointments to the state president.

De Rebus comments: "We do not believe that recommendation, although an improvement on the present system, goes far enough."

Since the government has never acted on this recommendation of the Hoexter Commission, there is nothing in the way of implementing the "more radical reform" suggested by the Association of Law Societies: the introduction of an independent judicial appointments commission which would advise the state president directly.

The commission, to be chaired by the Chief Justice, "would comprise representatives of the judiciary, the profession, the Department of Justice, and possibly the public or parliament".

"In the public mind, our judges consitute the prime representatives of South Africa"s legal system.

"We hope that they will increasingly come to represent the whole citizenry," the article states.

CARMEL RICKARD



St Barnabas College in Bosmont, Johannesburg, was this week presented with a R60 000 cheque by Mr Immo Starbreit, the ambassador of Germany to South Africa. Starbreit (left) is seen here shaking hands witth Mr Michael Corke, headmaster of the college. The money will be used to assist pupils. Pic by MBUZENI ZULU

Historic Fort Hare appointment

MR GORDON N Zide has been appointed registrar (administration) at the University of Fort Hare. This is the first time the university has appointed a black Fort Hare graduate to this post

Zide obtained a BA degree at Fort hare in 1977 and a BA (Hons) degree in Anthropology in 1978. In 1984, he was conferred with an MA degree in Anthropology for his disertation "The Burial and Funeral Practices in Ciskei: An enquiry into present day practices and associated ideas"

He has attended a number of course and seminars on industrial relations and staff development. 248

Zide has a few publications to his credit and one of them is a poetry book published by Educum. The title of the book is "Esasekuhlaleni", which means "Social Affairs". Sowetan 2/11/90

Zide is an affiliate member of the Institute of Personnel management of South Africa He is married to Nomalizo Lujabe and they have three children.

Legacy of a legal genius

DENNIS DAVIS and HUGH CORDER assess the impact of the famous South African jurist J C de Wet, who died recently

ON the evening of Friday October 19, J C de Wet, retired professor of law, died quietly at his home in Stellenbosch He had just turned 78. English-language newspapers carried three-line notices of his passing

It seems that few ordinary South Africans realised the extent to which his brilliance had touched them

For De Wet's scholarship had shaped and moulded those two areas of the law which profoundly affect the lives of all citizens, namely contract and criminal law.

Forgotten

Of humble background in the rural Free State and Transkei, J C de Wet's extraordinary intellect made a major impact on the Stellenbosch Law Faculty from the moment he arrived to study law in the 1930s.

He earned his first doctorate at Leiden University in the Netherlands and returned to South Africa to take up a lecturing post at Stellenbosch in 1940 After retiring in 1972, he taught briefly at Unisa and then at the University of Cape Town for five years.

He spent his last 10 years at home in Stellenbosch, reading and writing, largely forgotten except for the occasional honorary award and further publication of his work.

In one sense this suited the warm, gentle and retiring nature he displayed in private, so different from a public image shaped by his confident and robust style of writing.

De Wet's profound influence on the legal system can be seen in several areas First, the substantial role played by Stellenbosch between 1940 and 1970 in the development of Afrikaner hegemony in most areas of public life, which ensured that countless judges, magistrates, legal practitioners and teachers of law had their attitudes shaped by his incisive, acute and often revolutionary approach.

Second, he co-authored the first and leading textbooks in Afrikaans in the areas of contract and criminal law These works, which each ran to several editions, were standard purchases in the Department of Justice and in most legal practices.

In the area of contract, De Wet set out a range of principles which gave coherence to that area of the law In criminal law his proposal that an intention to commit a crime be interpreted subjectively came into favour in the courts by the late 60s.

In these works he propagated neither a xenophobic nor nationalistic vision, but one which strove after a principle and system based on the Roman-Dutch authorities and centred profoundly on the individual

But it was perhaps more how he taught than what he taught which is of value to us today He was fearless (some would say arrogant and rude) in his criticism of judges when he thought they had erred. Such was his stature in legal circles that such criticisms often became legal dogma.

His goal in this exercise needs to be clearly understood. it was that judges should be accountable to the law as a purposive enterprise, that the law as a principled system is the servant of the people whose lives it regulates

Fresh

His writing and off-the-cuff remarks, while often devastatingly overstated and deliberately withering, were blasts of fresh air in a mostly smug, pompous and closeted legal profession.

What distinguished De Wet from most of his contemporaries and those who followed was not only the quality of his scholarship but the fact that his work was based on a clearly articulated philosophical model.

In 1948 he set out his approach to the law, namely that there were hardly any legal institutions that were truly modern — for legal concepts were universal and it was only their application which varied according to context.

It was and remains a controversial theoretical framework, but in a changing South Africa it is as relevant today as it was more than 40 years ago

Tested

Arguably De Wet's greatest legacy to the development of South African law is this viewpoint, that although the form of law is an appropriate mechanism for fair and just government, this can only be achieved when the legal content adapts to the period and accords closely with the needs of the people as a whole

At a time when our legal system (along with all our systems of social relations) is being severely tested in terms of radical challenges, we desperately need the creative and courageous genius of people like J C to establish the rule of law and rights in this country. We are all in his debt.

● *Dennis Davis is professor of commercial law and Hugh Corder is professor of public law at the University of Cape Town*

Kuzwayo in London

LONDON - Dr Ellen Kuzwayo, veteran campaigner for the rights of South African blacks and women, is to make a rare appearance in London this week week, reading from her new book, *Sit Down and Listen.*

Kuzwayo, a former detainee and now a noted writer, film-maker and lecturer, is active in the community life of Soweto.

She is president of the Black Consumer Union of South Africa.

Her first book, *Call Me Woman*, won the CNA Prize in South Africa - the first time the prize had been awarded to a black writer.

It also received considerable acclaim on publication in London.

Her new book, a collection of stories published here by The Women's Press, explores the life of contemporary black South Africa, illustrating the consequences of racism and the system that enforces it. - *Sowetan Correspondent*

cessing of those entering SA through ports other than those agreed upon, the Department of Home Affairs had to be notified at least seven days prior to the expected arrival date.

Exiles who did not belong to a specific political organisation and who wished to return to SA ought to contact their nearest SA representative.

der;
- ☐ Rietfontein and Narogas on Namibia's border with SA;
- ☐ Jan Smuts Airport, Johannesburg;
- ☐ Louis Botha Airport, Durban;
- ☐ Cape Town's D F Malan Airport; and
- ☐ H F Verwoerd Airport in Port Elizabeth.

Wits, UCT each given $750 000 grant

WITS and UCT have each received a $750 000 grant from the Andrew Mellon Foundation in New York.

Wits vice-principal Peter Tyson said the foundation would help Wits make a contribution to the "new SA".

He said the foundation wanted to help develop academic staff and assist black graduates in particular.

The grant was expected to be renewed in about two years.

A UCT spokesman confirmed receiving the grant but gave no details.

TANIA LEVY

Tyson said Wits hoped to use half the grant to accommodate about six returning exiles or overseas academics. As Wits's posts had been frozen they would be placed in bridging appointments.

Wits vice-chancellor: student affairs Prof Mervyn Shear said more than R1,5m would be used on postgraduate bursaries the foundation wanted black students to have.

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W|Mail 30/11 — 6/12/90

UWC honour for Mandela

By GAYE DAVIS: Cape Town

THE University of the Western Cape came into its own as a "people's university" this week when it became the first South African university to confer an honorary doctorate on African National Congress deputy president Nelson Mandela.

ANC banners flew outside the main hall where some 2 000 people rose, clapping and whistling, to their feet as Mandela made his entrance, while his capping as Doctor of Law by UWC chancellor Archbishop Desmond Tutu was greeted with a sustained ovation.

An amalgam of Western and African traditions characterised the ceremony, which was leavened by Tutu's ready wit and ran without hitch despite a late start caused by stringent security checks and searches.

In his address, Mandela — who earlier professed himself "delighted" to be receiving the award — challenged other universities to re-examine admission requirements "in a manner that will reduce the inherited inequities of the past and open the doors of learning to those who are traditionally deprived".

The "production and reproduction of knowledge" needed "fundamental restructuring to meet the challenges posed", he said.

UWC will confer a similar honour on ANC president Oliver Tambo early next year, said UWC rector Professor Jakes Gerwel. The University of Cape Town will confer an honorary doctorate on Mandela tonight.

'Tyranny of place': Walking through the mud

By MARK GEVISSER

POET Jeremy Cronin confessed that while in the internal exile of Pretoria Central Prison he learnt how to say "I love you".

Academic Jeanette Ferreira confessed a longing to return to her Lowveld boerekultuur.

Poet Mongane Wally Serote confessed to the strangeness of being home.

Writer Achmat Dangor charted a brilliant path through his own states of exile by switching from second to first person and back again.

Poet and academic Vernon February agonised over his loss of the lyrical Cape voice while in exile in Holland, and then went on to recount a Xhosa parable of snakes and mice that proved he had lost nothing after 27 years of dikes, tulips, and Northern European temperance.

Cronin began his speech on this third night of the Weekly Mail Book Week by critiquing the title of the discussion. He felt that "Home And Exile: Writing and the Tyranny of Place" implied that "place" is tyrannical, that it drags one down into the mud of reality instead of allowing the writer to soar above it upon the transcendent wings of Art:

"If tyranny of place means that writers are forced to feel the mud between their toes, then I'm all for it," he declared.

After being back for scarcely a week, Serote is already making poems from mud. He made one on Wednesday night by juxtaposing two images from a walk through Johannesburg, first being shocked by the fact that, in this New South Africa, a black shopboy still addressed his Indian boss as "baas" and then being more shocked, only moments later, that he couldn't get service because the tannie behind the counter of another shop was deeply engaged in an animated chat with a young black man.

And Cronin has found a poem in the slogan of the striking Nampac workers: "In South Africa, for every Ten Rand/One Rand/Is a Barlow Rand."

He found another one in the curfew that has just been imposed on the strife-torn township of Bekkersdal: "In any 'normal' country, if there were a need for a curfew, it would be imposed from 9pm to 7am, for the night hours, when security is needed. But South Africa's 9pm-to-4am curfew is Vlok's guilty admission of the distance in this country, the distance between 4am in Bekkersdal and the 7.30 clock-in time somewhere else."

Listening to these five writers, I understood how tyrannical this country has been in dictating a South African aesthetic — its sjambok reality for those who were forced to stay, its elusiveness for those who were forced to leave.

I think I understood, for the very first time, why we have a literature that wins Booker Prizes and is taught to 18-year-old students from Norway to Oklahoma. I realised why our great poets still soar, despite the tyranny of the Culture Desk, the decade of doggerel and the butchering knife of the censor: they have been forced to feel the mud between their toes.

And I understood just how phoney this "culture as a weapon" versus "art for art's sake" debate is: all good art is good precisely because it is a weapon.

For Dangor, it might be a weapon against the intransigent Koran instructor, for Serote it might be a weapon against very real bullets, but for both, writing has become the means to find a personal place within tyranny — not only for the writers themselves, but for the communities of readers and listeners around them.

FM 9/11/90 (248)

NOT A GOOD CASE

A regular contributor to the *FM*, Radford Jordan is an attorney and a former senior lecturer in Political Studies at Wits University. Here he criticises proposals by the Association of Law Societies (ALS) regarding the constitution of "the new SA".

Most of the changes the ALS wants — they have been published in *De Rebus* — could not suitably be entrenched in a constitution On the contrary, many of these are of an experimental nature and might have to be scrapped It would be convenient for a bare majority of the legislature to be able to scrap any of them that did not work out well In any case, most of them lack obvious merit Government will not want to put on the agenda items that are at once inessential and possibly controversial

I propose to discuss the memorandum under these headings the proposed independence of the legal profession; its unification, the structure of the courts, and training for, and admission to, the profession

☐ The ALS's chief aim is to have the profession's independence entrenched in the constitution. The primary meaning of independence is that judges should be appointed by bodies representing the profession as a whole. Unhappily, early NP ministers of justice tended, while choosing some judges of real talent to keep the wheels going round, to find room on the Bench for a good sprinkling of rather mediocre performers Black politicians will want to do the same and it will be hard for anyone, let alone the NP, to convince them that this will make the roof fall in If black politicians were to agree that judges should be appointed on ability alone, the present system, as it has operated for some time, would not be easy to improve on;

☐ The memorandum does not even mention the issue of unifying the bar and side bar. It says that the bar should remain as it at present exists, but with two qualifications· it should give up its exclusive right to appear in superior courts so that attorneys would also be able to do so and allow advocates to take instructions direct from the public if they choose (they have hitherto only done so through attorneys) This looks like a compromise between reformers and conservatives on the unification issue

The US, Canada and Australia — all much more affluent than SA — each have a single legal profession It will not be easy to convince black lawyers that SA imperatively needs to retain its divided one — and it might be better not to try,

☐ The ALS wants the structure of our courts changed We now have one Supreme Court, consisting of provincial and local divisions and an appellate division, ALS wants a High Court, a Supreme Court and an Appeal Court, all of them superior courts The High Court would do the lion's share of the work Meanwhile our greatest legal luminaries would languish in the Appeal Court, hearing only appeals on pure points of law and in civil rights cases It is difficult to comment, as ALS does not specify the faults in the present system which they seek to remedy; and

☐ It is generally agreed that a law graduate needs a period of practical training before being let loose on the public In the case of advocates, this is called reading in chambers, in that of attorneys, two full years must be served under articles of clerkship Some whites and most blacks experience difficulty in finding clerkships

Here an imaginative suggestion has been made by Arthur Chaskalson SC, national director of Legal Resources law graduates should be allowed to defend in the magistrates' courts accused persons who would otherwise be undefended They would be designated "public defenders," and any period for which they held this office would be in substitution for, or reduction of, the time that articled clerks are required to serve under articles

This proposal was supported by Nic Swart, ALS's director of practical legal training, but did not find favour with the ALS itself Yet the scheme had the merit of killing two birds with one stone the provision of a service which would lighten the burden on legal aid organisations and offer the "public defenders" valuable experience.

The ALS has an alternative scheme which seems manifestly inferior to that of Chaskalson They propose to fragment the divided profession still further by the creation of a category of legal practitioners called law agents These would have lower qualifications, charge lower fees and only have a right of appearance in the magistrates' court in criminal matters In due course, they might be able by further study to qualify as attorneys

History does not always repeat itself, but this does not mean that it should be ignored The ALS does not mention that law agents existed in the past with substantially the functions now proposed for them They were not noted for their competence or integrity and were eventually abolished at the instance of the Law Society — but not before it had been said of them· "In SA we have not only a bar and a side bar, but a backside bar"

A great flaw in the ALS memorandum is that it fragments the role of the State in court proceedings It wants magistrates appointed from the ranks of the bar and side bar

There are grounds for doubt about the calibre of those who would accept such appointments Moreover, this change would leave public prosecutors no avenue of promotion in the administration of justice as such It seems possible that this difficulty might be overcome by allowing, as an alternative to service under articles, time spent by a law graduate as a public prosecutor, this, like the office of public defender, would then provide another point of entry into the profession

This might well be an alternative that blacks would be particularly glad to take Why not a year as defender followed by a year as prosecutor? There has long been criticism of prosecutors on the ground that they never have the human contacts with accused persons that are made by attorneys when interviewing in the smelly cells, battling to arrange bail and finally conducting a defence

Unlike most of the rather abstract objectives on which ALS seems to be intent, here is one that is genuinely worth pursuing

FW pressurised to give academic a work permit

ST Times 4/11/90

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By FELICITY LEVINE

THE government is considering an application by exiled intellectual Njabulo Ndebele's to work in the country after a massive petition to the State President.

The petition has been signed by editors, trade unions, churches, academics, universities and political groups, including the ANC and the SACC.

Professor Ndebele, 42, has lived in voluntary exile in Lesotho with his wife and three children for the past 21 years. He has been twice refused a work permit, obliging him to refuse posts at two South African universities

The Home Affairs Department confirmed that a decision on his latest request would be announced this week.

Professor Ndebele has asked for the permit to enable him to accept a post as head of Wits University's department of African studies.

At present he is vice-chancellor of the University of Lesotho as well as National President of the Congress of South African Writers

Said Cosaw executive member and writer Nadine Gordimer: "He has exactly those intellectual and leadership qualities the country so desperately needs

"Many political exiles have been allowed back and it hampers us greatly that our president cannot live in the country."

Professor Ndebele said he was "looking forward to returning to South Africa".

"With the changes that have taken place, I feel it is time for me to come back and make my contribution," he said.

Medical students get sponsorship

Sowetan 16/11/90

SEVERAL bursaries for black medical students have been announced by a pharmaceutical company.

By NKOBANE MAKOPANE

Mr Peter Kirstaedter, the chief executive of Berlimed, said his company will keep in touch with the students during their studies and act as their "godfather"

Mr Stuart Maclare and Ms K C Makhubele are the first recipients of the scholarship for medical students at the University of Cape Town.

At the Medical University of Southern Africa (Medunsa), the winners are Mr Solom Mudau and Mr Albert Mphatswe.

Mphatswe is one of six children. He completed six months training at JCI before deciding to start studying at Medunsa this February.

The company will sponsor the rest of his studies

Mudau has completed three years of dentistry training and plans on becoming a rural doctor He is one of six children

US foundation boosts Wits staff development

Sowetan 16/11/90

248

THE University of the Witwatersrand is to receive more than about R1,5 million from an American foundation which is to be used for academic staff development and graduate education, particularly that of Africans.

Ms Lynn Thurston, Wits media liaison officer, said the grant from the Andrew W Mellon Foundation of New York is to be used over 30 months.

"Half the grant is for academic staff development, which will take the form of bridging finance for additional academic staff, including returning expatriates, and funds to bring distinguished academics from overseas to the university.

"The remainder is for the creation of Mellon Postgraduate Fellowships for LLB, masters, doctoral and post-doctoral students. These will greately encourage postgraduate study and enlarge the pool of potential academic staff members

"We appreciate this grant which will assist Wits in its important tertiary education role in post-aparteid South Africa," she said.

Rig... ...dra...

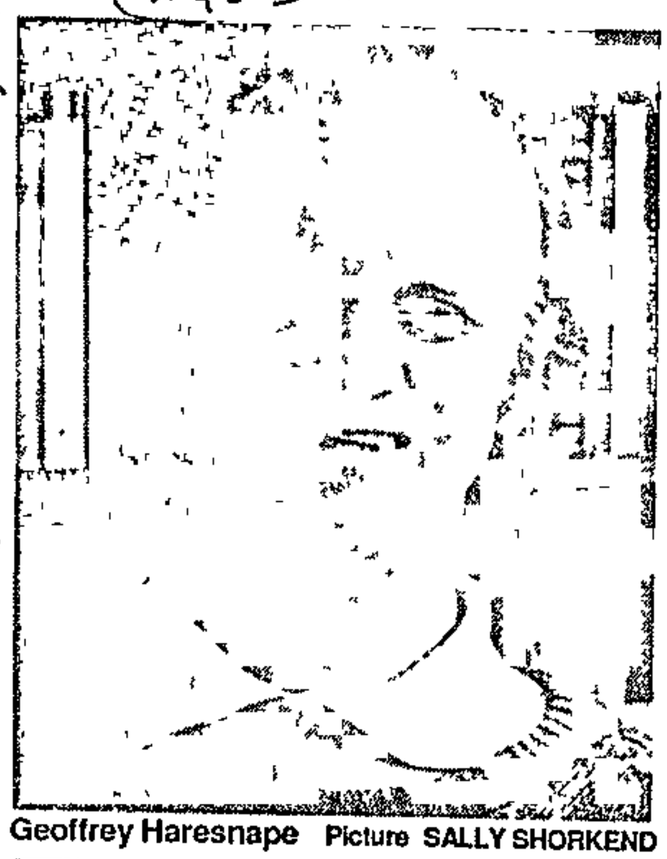
THE next draw of the "Right to Learn" competition takes place at the Razmataz nightclub in Johannesburg, on Sunday, writes Nkobane Mak-

WEEKLY MAIL/HEINEMANN LITERARY AWARD

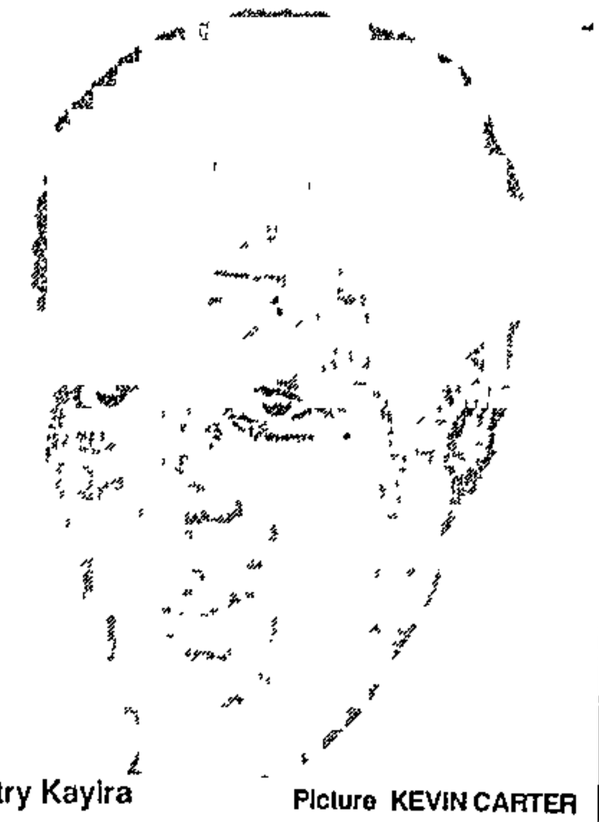
A winner who disguised himself

W|Mail 16|11 - 22|11|9 (248)

THE two winners of the first Weekly Mail/Heinemann Literary Award, conferred at a WM Book Week session this week in Cape Town, have more in common than the prize they share Both are talented writers, and both are academics Bentry Kayira spoke to **ARTHUR MAIMANE** in Johannesburg and Geoffrey Haresnape spoke to **GAYE DAVIS** in Cape Town



Geoffrey Haresnape Picture SALLY SHORKEND



Bentry Kayira Picture KEVIN CARTER

ALL is now revealed Bondwell weKapa, joint winner of the first annual Weekly Mail/ Heinemann Literary Award, is none other than Geoffrey Haresnape, poet and associate professor of English at the University of Cape Town

His cover blown, let's discover why he used a pen-name (a tribute, incidentally, to his word processor) when entering the competition in the first place.

"I wanted the text to take its chances on its own without being linked to a name that has — for better or for worse — its own set of associations in the outside world, that might create its own set of advantages and disadvantages," he said this week.

"In the long run it is the text alone that must stand or fall by the success or otherwise with which it makes its own meanings and interest."

Titled *Witness*, Haresnape's novel is concerned with the documentation of one woman's "sometimes traumatic" experience and has a southern African context, although the text is "not much concerned with the particulars of specifics of place".

"What I have wanted to say has been built into the text itself. I don't think it would be appropriate, or even possible, for me to try and give lengthy explanations of its content and intentions

"It is much concerned with exploitation, with rage, with love in its different modes, with grief and with joy."

Does it have a political message?

"Attacks upon a dominee's house and upon the property of a magistrate do occur in the text. Some of the reasons for those attacks are hinted at The experience of the female figure, who is the victim of a socio-political system, is central Her testimony and hope are central, too Much of the book has to deal with the state of mind and the state of heart of those who experience oppression All this may add up to a message for some readers."

He believes the novel "does things that I've not seen done elsewhere. . partly a matter of technique, partly one of compulsion to present the material in a certain way".

Why choose a female voice to tell the story?

"As a woman, she's probably more vulnerable than any male figure in a similar set of circumstances: her vulnerability is very germane to what she has to tell."

Haresnape, who published a collection of poetry, *Drive the Tides*, in 1976 and is presently preparing another, had been working on the text for a number of years before he read about the award. "It seemed a suitable forum for the manuscript to try and prove itself and so encouraged me to bring it to completion"

How does he see the role of a writer in South Africa?

"I think there is a paradox when considering the role of the writer anywhere, let alone in South Africa The writer is an individualist, yet no-one is an individual Each has a plethora of texts — not necessarily literary texts but all verbal formulations, political discourse, slogans — impacting on his or her brain

"When she or he writes, there is a reassembling of pre-existing materials into something new

"In South Africa, some of the texts are dire, others are shot through with a strange light The serious South African writer will take cognisance of all these texts when working on her or his unique contribution"

Haresnape believes writers have a responsibility "to look at the textures of the dynamics of society as they are, as he or she perceives them to be"

When asked why he does it — writing that is — he quotes EM Forster "I write in the hopes of earning the respect of those whom I respect"

... and another 'passing through'

THE first Weekly Mail/Heinemann Literary Award, which is to be an annual event, has been won by two writers. One of them is only "passing through" South Africa after leaving Malawi a year ago because "the political climate there is not conducive to writing".

At the age of 31 Bentry Kayira has become something of a wanderer, like the young woman who's the main character in the short story which provides the title for his collection: *The Conical Mountain*. She was a brilliant student showered with praise by her teachers. But she suddenly quits school and wanders around the countryside, living off charity.

Kayira is working, though, if only on a casual basis so far. He's teaching French to evening classes in Soweto — a language he specialised in for his degree at the University of Malawi and, for six months, as a student at Grenoble, one of the oldest universities in France.

On his return from the valley of the Iser river, Kayira was an assistant lecturer at the University of Malawi teaching francophone literature by West Africans who write in French. But he does not write in that language

The 10 short stories that make up *The Conical Mountain* were written over six months as a collection, but without a definite theme running through them although, as he says, "you can find one if that's what you're looking for".

But they're not directly political, as one might expect, since his literary bent has forced him to leave his home country — "It's not a place for anybody who wants to write seriously," he says.

The long shadow of the tiny president-for-life, Kamuzu Banda, appears to have cast its gloom on more than the economy and political life of a small and verdant country which, unfortunately, only looks like a paradise for nature lovers

While Kayira lived and taught in Malawi, he wrote an allegorical novel and five volumes of poetry, but none of them have been published yet. He has written more poetry than short stories or novels because, he says, he finds it "faster and easier to write poetry".

But he has recently done some very fast work — less than a month — on a novel aimed at teenagers. It has already found a publisher but, he says, "I can't say more about it at the moment except that it's quite thin, which is why it took such a short time to write. It will probably requre more work"

Now that he's shared the Book Week prize (presented at a function in Cape Town yesterday), *The Conical Mountain* is to be published as well He probably won't have much difficulty in getting his past and future work into print.

LAW AND THE COURTS

Lift taboo on legal adverts

DISCREET advertising by South African attorneys is now permissable but the hands of their colleagues at the Bar are still tied by the strong ropes of tradition

How are new advocates to get started and let attorneys know they are "available" — or how do members of the Bar who move to a city, inform new colleagues they are in town

The "old boy network" has helped in the past but as the profession struggles with ways of making itself less elite and more responsibe to a changing South Africa, these links are proving inadequate.

Periodic soul searching by the profession about how to ensure the appointment of black judges always involves a lament that there are so few black senior counsel

But what must black advocates do, excluded as they are from the "old school tie network", to establish themselves as serious contenders for briefs.

Pretoria advocate Bill Prinsloo has suggested a possible compromise. Writing in the latest edition of the advocates' journal *Consultus*, he suggests the Bar Council in each division should appoint a special subcommittee to deal with "advertising and specialisation" — the particular branch of the law in which an advocate is especially qualified or experienced

This standing committee should be charged with compiling a publication amounting to a "Who's Who" of the members of that region of the Bar

Prinsloo suggests that the entry for each practitioner could contain details of the experience of that advocate, date of admission, date when senior status was conferred, time spent as an attorney or as a prosecutor or an academic.

It would also note the specialisation of the member of the Bar — patent and trade mark work, admiralty law, tax law, labour law, criminal work, insurance law, insolvency law or aviation law.

Finally some "personal snippets" would be included Prinsloo suggests these could include "school and university attended, academic achievements and academic awards or prizes"

It would be the responsibility of the standing committee to update the entries.

"Of course the standing committee must ensure, as far as possible, that the information is truthful and presented in good taste."

His view is that this publication would be made available to attorneys who would then be able to use it to help themselves and their clients "make an educated choice" of counsel This method would operate, Prinsloo notes, "without detracting from the traditional word of mouth method of advertising which will probably continue to reign supreme.

"At the same time each counsel will enjoy the benefit of having at least his existence at the Bar and some relevant details of his career published more widely amongst the legal fraternity One would imagine that our more junior members in particular may benefit from such a system " (So, one imagines, would the women members of the Bar whose existence often appears forgotten in the language of the profession.)

Prinsloo says he believes it is simply a matter of time until the Bar lifts its longstanding taboo on advertising.

There are two needs which advertising would satisfy

The public need to have a way of distinguishing one lawyer from another and of finding out about the background and experience of the prospective lawyer so that a more educated choice can be made.

Secondly, in line with free market principles "the lawyer must be allowed to sell his services by advertising them", although professional discipline should be exercised over the content, taste and accuracy of advertising.

In a brief survey of developments in other parts of the world, Prinsloo notes the English Bar has recently implemented a new code of conduct which allows advertising

Some English chambers are making good use of the new latitude, particularly the "go-ahead but less well-known sets"

He quotes some examples including a "Chambers Brochure Competition" organised after the lifting of the advertising ban.

"This saw the various chambers publishing information brochures containing details ranging from qualifications and admission dates of individual members of the group to the policy of the Chambers like that of the John Dyson QC group: 'It is the policy and commitment of these chambers to act for all who require our services Our client base ranges from the multinational corporations and major insurance companies through to the Labour Unions We act for government, both national and local, and the private citizen, whether legally aided or not. It is a range and mix we aim to maintain "

Less lofty was the brochure of the chambers of Desmond Wright which "displays the names and other details of the members in the form of a wine list", while that of the Leicester Chamber of Philip C Brown had, according to the judges of the competition, "a cover design that looked like a phallis letter-box".

Meanwhile, in South Africa, attorneys appear to need more information about counsel and their availability than they can easily obtain

Prinsloo notes a recent request by Pretoria attorneys, asking for weekly lists of counsel available to appear in the opposed Motion Court for that particular week. The Pretoria Bar has agreed that such a list may be issued.

This may appear a small step but it could be an indication that Prinsloo is right in predicting "the historical taboo on advertising which the Bar has maintained thus far will not emerge unscathed".

Carmel Rickard

Bop arrests slammed

BY MATSHUBE MFOLOE

MEASURES empowering the State to detain people for indefinite periods without trial was contrary to the basic principles of human rights.

The Vice-Chancellor of the University of Bophuthatswana, Professor Melato Malope, was reacting to the detention of some academic staff by the authorities this week.

Appealing to the state to either charge or release Unibo employees and other detainees, Malope dismissed claims that the university had connived with security police to crackdown on academic staff who were Union of Democratic University Staff Association or ANC members.

Udasa claimed that police had requested Unibo management to provide photographs of particular staff members who had since gone into hiding.

The crackdown has netted more than 48 activists who are held under the state of emergency.

An undisclosed number of lecturers and university staff who are supporters and members of the ANC were rounded on campus and security police allegedly raided and camped at the residences of some lecturers.

Malope said Udasa's claim was untrue but conceded that police had from time to time been in the campus but "it was not within the power of Unibo authorities to exclude them".

"They have not entered the premises with the encouragement or approval of the management and I am able to state that no assistance has been afforded them (police) in the pursuit of their aims," he said.

Malope said: "No member of the management assisted in identifying the persons police wished to interview or detain."

"Those members of staff who have been detained will be presumed innocent unless and until the contrary is proved in a court of law," he said.

Malope warned that salaries would be suspended in respect of members of staff who have absented themselves without leave, pending investigation of their absence

SOWETAN BUSINESS

There's plenty of room in pro ranks

Sowetan 19/11/90 248

ONLY 29 of 13 000 chartered accountants in South Africa are black. In the next 10 years the country will need an additional 20 000 professsional people and 425 000 business managers.

The paucity of blacks entering professional jobs comes at a time when white chartered accountants are leaving the country in increasing numbers.

Estimates put the shortage of accountants at more than 7 000 by the turn of the century.

Traditionally the demand for professionals has been met by recruiting abroad. However, the unstable political situation and a weak rand has reduced the flow of foreign accountants into South Africa to a drop.

Faced with the need to remedy the severe shortage, it is necessary to ask why so few blacks are entering the profession.

The Southern African Institute of Chartered

By JOSHUA RABOROKO

Secretaries and Administrators - a worldwide body of professional business administrators in both private and government sectors - has tried to address the issue

Promoting

The institute is actively promoting courses in business related education among those who did not complete Matric

The students are encouraged to learn Business Calculations, Business English or Sake Afrikaans, Basic Accounting, Commercial Law, and to obtain an introduction to other key business subjects.

Ten years ago, recognising that many promising students were leaving school unprepared for business, CIS founded the Institute of Business Studies (IBS), which is a practical business course that leads to a professional qualification

The institute's chief executive, Mr Alan Barrable, says the CIS believes that just as a hospital requires more nurses than surgeons, so the field of business administration needs more competent practioners at middle and senior levels to support the "specialists."

He says the urgent necessity is for a large number of competent middle level staff to handle the growing administrative burden.

In this way, a broader cross-section of society will be drawn into participation in business, making a significant impact on productivity. It will also give highly qualified management breathing space to concentrate on the problems they alone can solve

Stages

Careful attention has been paid to awarding recognition of achievement at various stages of a student's progress up the business administration ladder of success.

"Those who succeed with their studies are given access to CIS - which is normally reserved for matriculation," Barrable adds. "They also become equipped to turn a job into a career"

The strong belief that students should be given an opportunity at grass roots level was a major motive behind the formation of Mentor - the Business Administrators Educational Foundation

"We are receiving generous donations from major corporations which will enable the institute to offer bursaries to people with potential," Barrable says

They can be reached at: (011) 403-2900 or Box 331, Wits, 2050.

Bop activists return home from hiding

Sowetan 20/11/90

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By MATSHUBE MFOLOE

ACTIVISTS and African National Congress members who went into hiding to escape Bophuthatswana's crackdown on opposition groups last week streamed back home yesterday.

But fears of another blitz rose yesterday following the detention of outspoken academic Mr Job Mokgoro.

Mokgoro, a lecturer and member of the ANC present at the talks with the homeland government on Sunday, had gone into hiding during the clampdown last week

He and an executive member of the ANC's Mmabatho branch, Mr Paul Daphne, resurfaced in Mmabatho yesterday to attend meetings with University of Bophuthatswana authorities called by Union of Democratic University Staff Association

Udusa was allegedly assured by the homeland police that no one attending the talks would be detained

Daphne has again gone into hiding.

Udusa said security police at a local hotel did not know about the agreement "not to detain any member attending the talks" in Mmabatho

Bophuthatswana police spokesman Colonel Dave George said Mokgoro was being held under the Internal Security Act and refused to give further details.

Supreme meeting

The return of the activist to the homeland followed a surprise Sunday meeting in Pretoria between the homeland's Cabinet ministers and a delegation of the ANC which discussed last week's events.

The government released 15 of the 44 detained activists rounded during the blitz following an alleged ANC plot to assassinate Chief Lucas Mangope.

Yesterday an Udusa delegation led by Dr Ikey van der Rheede of the University of Western Cape had talks with the Unibo Staff Association, Unibo's vice-chancellor and Professor Melato Malope.

The delegation was also scheduled to meet Major-General PJ Seleke later yesterday

New system to represent the underdogs

(248) 29/11/90 23/11/90

Over the next week, the Legal Aid Board will take key decisions on where and when the new system designed to help represent people who cannot afford to pay lawyers will be introduced

By CARMEL RICKARD

A NEW legal aid scheme is about to get off the ground which could ensure representation for thousands of undefended accused.

It is a significant step in responding to serious criticism of the established legal order — that a trial cannot be fair if accused persons appear without representation merely because they cannot afford legal help.

Key decisions are to be taken by the Legal Aid Board over the next week on exactly when and where the new pilot public defender project announced earlier this month will be introduced.

At this stage it appears likely the project will get off the ground mid-year 1991, with enormous implications for the more than 120 000 unrepresented accused sentenced to jail each year

In the past the Legal Aid Board, which has the task of ensuring defence for those who can't afford it, has "contracted" cases to private legal practitioners and then paid these lawyers for their services.

Now there appears to be a groundswell of support for a different system — that of the public defender

Lawyers' groups have given it their backing while Minister of Justice Kobie Coetsee also appears interested in the idea and has asked for an investigation.

Under this scheme lawyers are employed full time specially to do court work, appearing in trials to defend accused who would otherwise not have representation

The Legal Aid Board estimates the average cost of each case handled under the present system of "contracting out" legal work, is R603 Natal University expert on legal representation David McQuoid-Mason reckons the public defender system will be at least a third cheaper. Other hidden savings have been pointed out by the national director of the Legal Resources Centres, Arthur Chaskalson, SC

He said if the public defender system were to keep even 10 percent of accused out of jail because they are acquitted or because proper evidence in mitigation is presented, this would mean a saving to the Prisons Department of more than R27-million a year

In addition, if public defenders were to obtain bail for their clients, this would be a further saving to the Prisons Department of R15 a person a day.

Until now schemes to improve the availability of legal representation have been dismissed on the grounds there is not enough money But there appears to be an increasing awareness, helped through supreme court decisions, that legal representation is a key element of a fair trial, and that new ways must be found to raise the money.

Appeals are being made to the private sector, and the director of the Legal Aid Board, Nic Pretorius, said this week a "fairly large donation" had already been received from an insurance company which would contribute towards financing the pilot public defender project

Legal experts outside the board believe it will be possible to raise the money needed, much of it possibly from overseas sources, but only if donors were satisfied that the funds were being administered independently without government interference

While Pretorius is adamant the board is independent, he admits many members of the public have a different view, and he says serious attempts are being made to improve the board's image

There has been not yet been any official indication of how the board hopes to do this, but one obvious method would be to involve professional legal bodies in some way, giving them the standing to participate in decision making. Such involvement would help assure donors of the board's independence and could lead to an increase in non-governmental funding.

The public defender idea clearly appeals to lawyers, many of whom have felt uneasy about the fairness of trials where an accused is not represented: Pretorius said he had been surprised at the spontaneous response from young attorneys inquiring about employment in the project and from senior members of the profession offering to help in training or some other way

He said a lot of training would be needed to give public defenders the necessary court room skills "We want well qualified people," he said. "We do not want to go for the weaker ones, we want the best for this programme " And to help ensure he gets the best he will be offering competitive salaries

The announcement that the board was about to introduce a public defender scheme has been welcomed by McQuoid-Mason

He said young lawyers would get valuable court experience and should offer themselves for the programme There would also be an increasing role in the project for trained para-legals who would help with referrals, ensuring that everyone knew about the availability of defence

The board's pilot project will probably cost between R1,5 and R2-million, will last for two years and will operate in only one or two centres. Chaskalson has estimated that, fully operative, the system would need 2 000 young lawyers countrywide and that it would cost about R40-million a year.

He said even if the system did cost a lot of money, "the value of a fair justice system cannot be measured in monetary terms

"It promotes public confidence in the legal system particularly by those who are likely to be most alienated from society's legal institutions, and should not be made the subject of a cost benefit analysis "

Architecture school has 8 vacancies

Sowetan 30/11/90

STUDENTS in Mamelodi and sorrounding areas who want to pursue a career in draughting or architecture have until the first week of December to submit applications

Mr Gray Robertson, co-ordinator of The Y-Design School of Architectural Draughting, said they have only eight vacancies for interested students next year.

He said although the school was well-known in Mamelodi, they would like to have more contact with students in the surrounding areas

The school offers a two-year, full-time course to students, preferably with matric and maths, but technical drawing and art subjects are also helpful.

"The three objectives of the course are to equip the students to be self-employed, to work in an architects office or to study further at a technicon or university," he said.

The school is at the YMCA Centre in Mamelodi and was formed in 1984. It is a private, non-profit school funded by architects, local and international organisations.

It is administered by the Pretoria Architectural Society and has a working relationship with Protec and the South African Institute of Architects

The tuition for the year is R250, dependent on the final budget. For further information contact (012) 801-1172

New scheme of legal aid for the poor

Sowetan 30/11/90

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The Legal Aid Board is to launch a pilot programme aimed at ensuring that people who cannot afford to have lawyers are represented when on trial.

The programme, which will be known as the Public Defender System, will come into effect next year.

A spokesman of the board in Pretoria said a number of public defenders who will be drawn from various lawyers throughout the country will be appointed for a period of two years at centres.

By IKE MOTSAPI.

In a statement to the Sowetan the board announced that it was investigating the feasibility of a public defender system for the entire country.

It said "As part of our investigations we will launch a pilot project and appoint a number of public defenders for a period of two years to defend poor accussed who cannot afford to pay for lawyers

"This follows our investigations which have shown that about 80 percent of all accused appearing in lower courts are not represented.

Prison

"We have also found out that more than 100 000 of the people who appeared in courts last year were committed to prison without having been properly assisted by lawyers.

It said the reason for the shortage of representation in magistrates courts was due to lack of money and shortage of lawyers.

The board said they envisaged no problems

UCT to establish new engineering degree

Sowetan: 30/11/90

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A NEW degree in Electro-mechanical Engineering is to be established at the University of Cape Town - making it the first interdisciplinary engineering degree to be offered at a South African university

The departments of Mechanical and Elecrical Engineering have already finalised the curriculum and students are now being accepted to begin their first year in 1991 with an initial target intake of 20 students

A spokesman said the UCT Senate and Council had agreed to introduce the degree, subject to ministerial approval, and have stipulated that the degree will be introduced on a five-year trial basis

Professor Manfred Reineck, head of Electrical and Electronic Engineering Department, said that while employers were generally happy with the specialist degrees of civil, mechanical and electrical engineering, some industries would be better served with broad-based engineering graduates

"The aim of the new degree was to produce engineering graduates eminently suited for multi-disciplinary project tasks. The electromechanical engineer is a generalist expected to play an important role in industries where a multi-disciplinary approach is required

"They can be expected to perform effectively as project leaders, maintenance or resident engineers and because of their broad-based engineering background should also do well in managerial positions," he said

Brain drain tide has turned

statistics

EDYTH BULBRING

PRETORIA — The tide of SA's brain drain has turned, with SA scoring a net gain of 7 350 immigrants during the first nine months of this year — exceeding the net gain for the whole of SA's bumper immigration year of 1984.

Of the 10 987 people who immigrated to SA by September, 5 100 have been economically active, with 1 414 people holding professional, semi-professional and technical occupations.

Central Statistical Service figures show that 447 engineers and people in related technologies settled in SA this year. Of these, 83 were civil and related engineers and 101 in electrical professions.

More than 600 people with managerial, executive and administrative occupations immigrated, while 1 400 with skills in clerical work and sales settled in SA.

The majority of immigrants came from Europe (5 768), with the largest number from the UK (2 590) The 1 115 immigrants from Portugal almost doubled figures from that country — 669 immigrated last year

More than 2 000 people from Asia have settled in SA so far this year — an increase of more than 50% on the number of Asian immigrants who arrived during the same period last year.

Nearly half the Asian immigrants came from Taiwan.

Improving

The number of immigrants from other parts of Africa remained relatively constant Of the 2 439 African immigrants, 1 335 came from Zimbabwe.

A Home Affairs spokesman said the net gain in immigrants in 1985 was 6 486 During the next two years losses of 6 717 and 3 221 were recorded. Things started improving in 1988 and 1989, with net gains of 2 633 and 6 339 people respectively

Deadline looms in newspaper case

S/Times 2/12/90

By MARION DUNCAN

JUDGMENT is expected next week in the R1,5-million damages suit by Lieutenant-General Lothar Neethling against the Vrye Weekblad and Weekly Mail newspapers

The trial — described by Mr Justice Johan Kriegler as the most important case he has ever tried — has so far taken up two weeks in the Rand supreme court.

Final argument by Advocate Bobby Levine for the newspapers will only finish tomorrow or Tuesday

This week's highlights included

- An outburst by General Neethling against the evidence of self-confessed military agent Leslie Lesia,
- A ruling by Mr Justice Kriegler that the Harms report on the findings of the commission of inquiry into police death squads was not admissible as evidence,
- An attempt by the general's advocate, Willie Oshry, to discredit the evidence by former police captain Dirk Coetzee on the grounds that he was a self-confessed liar, burglar, car thief and murderer;
- A bid by the newspapers to amend their pleas by claiming that publication of the articles about General Neethling supplying poison drops to hit squad operators was "in the public interest . to ensure a wide public debate and a full and proper public investigation of the allegations"

Mr Justice Kriegler will ... the issue tomorrow

Profs protest at Westville 'varsity over 'racist' vote

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Apren 2/12/90

CP Correspondent

PROFESSORS and several heads of department were among a group of 500 University of Durban-Westville staff members who demonstrated on the campus this week.

The demonstrators called for the resignation of two university council members who had earlier voted in favour of a resolution halting black soccer players from using a field in a white residential area.

Council members Roy Stuart and Nicky Armstrong are also members of the Westville Town Council and both supported the resolution which barred black soccer teams from using a field in Westville.

The resolution, described by town council member Dennis Cockhead as the "cruellest, most insensitive and unjust to appear before the council", was passed by five votes to four at a meeting of the Westville Town Council held at the end of last month.

Three council members who voted against the motion walked out of the council chambers in protest after the voting.

After hearing about the vote, the Combined Staff Association of the University of Durban-Westville (Comsa) decided to call for the resignation or expulsion of Stuart and Armstrong from the council.

Comsa chairman Kapil Satyapal said their decision to protest must be seen as part of their commitment to a non-racist and non-sexist university.

The demonstrators held placards saying "Stuart and Armstrong are racists", and "Out with Racists", as well as other slogans calling for the resignation of the two.

Said Satyapal: "The decision by the Westville Town Council, which is purely racist, must not go unchallenged.

"Comsa, which represents not only the academic, but also the administrative staff – as well as the workers – wanted to show their disgust at this resolution by holding a placard demonstration.

"Representatives from the community, from the students, and from the soccer players affected by the decision, came to the demonstration to show their support," Satyapal said.

Stuart and Armstrong could not be reached for comment.

Academic medics set to mobilise

MATTHEW CURTIN

THERE are moves to set up a 1 500-strong national association of academic medical specialists to safeguard the future of academic medicine in SA.

A spokesman for the Association of Specialists of the University of the Witswatersrand (ASUW), founded in July, said ASUW intended to unite local associations to form a national body. There were 1 500 full-time specialists and hundreds of vacant posts.

He said a national association would pre-empt "the erosion beyond repair of the academic base essential for medical training".

There was a continuous exodus of full-time academic specialists to the private sector, fuelled by the unacceptable pressures of academic hospital conditions and the better pay at private institutions.

A national association would be able to bargain directly with the government for better pay and conditions. At present Wits academic specialists were represented with all other provincial employees by the TPA at the Commission for Administration wage negotiations.

Medical Association of SA (Masa) secretary-general Hendrik Hanekom said Masa supported ASUW's efforts.

He listed inadequate facilities, lack of funds, deteriorating standards, staff shortages, poor pay and career incentives as the factors posing "a serious threat to the future of academic medicine".

Johannesburg Hospital anaesthetics department head Prof David Morrell said yesterday he had lost four senior specialists in three months, lured away by the better pay and conditions in the private sector.

It was increasingly difficult to maintain standards as junior staff had to fill senior posts and existing personnel were over worked.

Last week there were unconfirmed reports that seven senior surgeons were about to resign from Baragwanath hospital.

Wits Medical School dean Prof John Milne said yesterday there was no threat to Baragwanath's academic status, but a rationalisation of the region's academic hospitals was in the pipeline.

A final draft of a scheme to create an academic "hospital complex" for presentation to Health Minister Rina Venter next year had been handed to the Council of University Principles.

Milne said the project anticipated the rationalisation of the hospitals into a structure, administered by a board of control with health authority and medical representatives, and funded by both state subsidies and money generated by private patients.

Health Ministry spokesmen were unavailable for comment.

Police presence in wnships

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Emotional scenes as Mokgokong retires

Sowetan 6/12/90

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THE outgoing rector of the University of the North, Professor Poth Mokgokong, bid an emotional farewell to his staff at a ceremony this week.

By MATHATHA TSEDU

Mokgokong (67) has retired after leading the institution for 10 turbulent years.

Speaking at the ceremony, Mokgokong said the rector's seat had been very demanding, leading him sometimes to contemplate suicide

"But I am happy that I did not. I am also happy that although I had sometimes sacrificed my family, I bow out today still having a family"

He said he had sensed, over the past six months, "an unprecedented growing rebellion against me from top to bottom No amount of introspection could reveal the reason for so sudden a change of attitude", he said.

Mokgokong was presented with a colour television set from the staff and a R20 000 bronze bust of himself from a local shopkeeper, Mr Solly Mohale Mokgokong was almost in tears as the bust was unveiled

Future

He said black education was characterised by "disheartening factors" which laid the foundation for "future frustration".

These included underqualified and ineffective staffing which could not provide for fruitful results, class boycotts which spelt disaster to effective teaching; lack of discipline which had "completely annihilated adult control", and a "plethora of teachers' association which breed internal squabbles and make us miss our major educational goal"

He said the university had not been exempted from "this fiasco"

"A little grievance bulges into a mountain of difficulty, then follows a stayaway, unprecedented looting and malicious destruction of property which does nobody any good

"Add to these the armed robbery of July 25 and you have the abominable complication in a tragedy," he said

Mokgokong called on his succesor, Professor Chabani Manganyi, to keep a clear head and to have vision as the task ahead was very demanding.

Born at Makotopong village near Pietersburg on January 30, 1923, Mokgokong graduated with a BA degree and College Education Diploma at Fort Hare in 1944.

He taught at Madibane High School, Soweto from 1945 to 1957 when he was appointed principal at Meadowlands High He served as secretary for the then Johannesburg Bantu Football association for 10 years

An avid student, he studied privately and obtained a lower diploma in Bantu studies in 1946 and UED in 1947

In 1960, after serving at Meadowlands for three years, he was appointed lecturer at Unisa. He obtained MA with distinction in 1966.

He was appointed professor and head of the department of Northen Sotho at Turfloop in 1975

At the end of the same year, Unisa awarded him a D Litt et Phil for his thesis on "Context as a determinant of meaning, with special reference to Northern Sotho"

He co-authored several books on Northern Sotho with Professor D Ziervogel and DP Lombard

Member

He was a member of the advisory council at Turfloop from 1970 to 1973 and member of Council from 1974 to April 1975 He also served in the Wright Commission of Inquiry into the 1972 disturbances at the university.

He served as dean of students from 1977 to 1980 and also a member of the council of personnel committee and the Executive Committee of Senate

Vista University last year honoured him with a doctorate of Philosophy and Education

Married to Grace Mashediso and the couple have one son

Mokgokong also served in the following organisations chairman Northen Sotho Bureau of language and culture, Member of the Joint Matriculation Board sub committee for black languages, Moderator JMB Northern Sotho High Grade, External Examiner Unisa, Zululand Fort Hare and Transkei universities Member of the General Assembly and church council of the Evangelical Lutheran Church Director of the Lebowa Development Corporation and several of its subsidiaries



PROFESSOR POTH MOKGOKONG

Professor finally granted work permit by Govt

Minister of Home Affairs Gene Louw has granted Lesotho-based writer Professor Njabulo Ndebele a temporary work permit to enable him to accept a teaching post at the University of the Witwatersrand

Professor Ndebele, at present vice-chancellor of the National University of Lesotho and national president of the Congress of South African Writers, has been offered a post by the Wits department of African studies

Professor Ndebele's first application was turned down last year when he was offered a vice-rectorship post at the University of the Western Cape

Born in Western Native Township 42 years ago, Professor Ndebele obtained a master's degree in literature at Cambridge and completed his doctorate in the US. — Sapa

Playwright praises movies

Star 7/12/90

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American playwright and human rights activist Arthur Miller shared his thoughts on theatre and cultural politics with writers, directors and actors in Johannesburg this week DARRYL ACCONE reports

ONE of the century's greatest playwrights, Arthur Miller, believes cinema has overtaken theatre as "the prime dramatic art"

The famed author of "The Crucible", "Death of a Salesman", "All My Sons" and "After the Fall", this week provided fascinating insights into the processes of writing and the state of theatre, and touched on cultural issues of absorbing interest to South Africa, during his only public appearance in South Africa.

Among those taking part in the panel discussion hosted by the Congress of South African Writers were John Kani, Gcina Mhlope, Siphiwe Ngwenya and Paul Boekkooi.

Surveying the state of his art, Miller noted that "movies are concerned with more important themes than theatre. Theatre has become very private in its themes.

"Prophecy is in film, I'm sad to say There's not much of it, but there's not much in theatre either Movies are often subtler and aim higher — what you're looking for will come in movies rather than in theatre."

But, he stressed, "that's up to the playwrights. Anything is possible. Playwrights are not at the mercy of society — you are the captain of your own ship."

Miller confessed that, were he writing in contemporary South Africa, he might be unable to cope.

"In the theatre you face human beings as they are tonight, society as it is today With the rapidity of events, it may not be possible to write relevantly about it tomorrow You may have to wait for the pattern to emerge.

"But your turmoil — I'm not sure I could handle it.

"Now I'm going to contradict myself and say you must keep on writing, establish a dialectic and try to locate yourself, find out what you believe, not subject to political clichés, whether they are those of the ANC or of the Government.

"As Tolstoy said, as an artist, you come naked to the page. Where are you spiritually when naked? To try to be appropriate to a programme is a hopeless cause," Miller concluded to applause.

Actor John Kani, saying the media had a condescending attitude to protest theatre, asked if Miller had encountered simular reaction in the US.

"Something like this did happen to me and continues to happen. In the Anglo-Saxon tradition, if a play engages anything like a social issue, it becomes unaesthetic and is very suspicious as art.

"It was extremely difficult for me in the '40s Had 'All My Sons' — written during World War 2 — being produced during the war, it would probably have caused a riot, because it was saying a lot of the patriotism was a cover for profiteering.

"There was reluctance by critics to accept it as a work of art. Likewise with 'The Crucible' — once it was understood it was a metaphor for a witch hunt. You were not supposed to deal with such things."

Dealing with "public themes" was nothing new, Miller observed, pointing to Greek tragedy and Shakespeare's works. But the rub lay in the fact that "the closer you get to the bone, the more resistance you find."

However, there is a caveat:

"I must add that resistance does not guarantee a work is good, nor is there a guaranteea work is good or bad if it deals with a public theme

"In South Africa, it sounds like there's a built-in snobbery about local work This is a condition of many countries. Britain, America, France and Germany claim some form of grandeur while those countries that are not great exporters of art — like Hungary and Czechoslovakia — do not.

"But with a changing world that is less provincial and with the explosion of imperialism, a different convention is slowly coming to pass."

Should — indeed, could — the personal be separated from the political in writing plays?

Miller replied with an analogy "It's like a fish — the fish is in the water and the water is in the fish. You can't avoid the political when writing about the personal.

"It's a problem of judging reality If you put someone in an interesting situation, questions come to mind. Art must answer questions, and when it does, society is drawn in. I don't look on it as conflict.

"People who are not really writers think it's easy to become one. Plays should not be disguised diagrams of political convictions with little or no evidence of personal suffering You should feel suffering in a work."

Smiling gently, Miller quipped "every play I've written has some horrible personal secret of mine," before adding "the more you put yourself at risk, the closer you get to writing social work."

Miller turned to his beginnings as a playwright. "I had to arrive as a commercial playwright. There was nothing but commercial theatre — you had to attract an audience. When I began, you could not assume your work would gain some cliquish support.

"You wrote for everyone — just as the Greeks and Shakespeare did. They expected dumb heads as well as intelligent people.

"The characters had to be attractive to all. I think later developments, writing for a sectarian audience, have hurt theatre — you only have to send up the right signals."

Finally, Miller turned to the Federal Theatre Project set up in the US in the '30s, calling it "possibly the only original art form in theatre this century The 'living newspaper' shows were a wonderful example of social protest."

Characterised by short, illustrative scenes and the use of dance and colour, Miller felt "there are resonances here of struggles in the US in the '30s and perhaps something similar should be considered here." □



Honoured guest South African novelist Nadine Gordimer introduces legendary American playwright Arthur Miller at a workshop in Johannesburg this week

ber 13 1990

The new image builders

W|M aut 7|12| - 13|12|90

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While the wrangle over direct and overt advertising continues, legal firms are appointing public relations specialists to their staff reports

CARMEL RICKARD

THE issue of whether lawyers should be allowed to advertise is turning out a difficult matter to resolve

In Natal, where just a year ago it seemed cut and dried, the decision has been put on hold. The Transvaal vote on the issue was extremely close and the provincial law society has shelved the question while they conduct an education campaign among members The Cape and the Free State have given a thumbs down

David Asherson, chairman of the Association of Law Societies' standing committee on communications, whose firm uses public relations experts, said direct advertising and public relations were needed

"Firms need to engage full time PR people to assist in managing the profile of their particular firm. But they also need advertising as part of the whole marketing mix "

Last year the Natal Law Society decided in principle to allow members to advertise Guidelines, drafted to ensure members kept within the boundaries of good taste and ethics, were approved first by the society and then by Natal's judge president

Next the draft went to the chief justice for approval. He decided the proposed changes were *ultra vires* on a technicality and that the rules of the society needed to be changed first to incorporate the guidelines.

The issue was referred back to the NLS to be sorted out at the society's annual general meeting last month But there was a further technical problem

It has emerged, however, that even if the advertising question had gone to the vote, it could have run into serious trouble — there were a significant number of proxies reflecting opposition to advertising.

Asherson said of more than 1 000 Natal attorneys, fewer than 150 voted He said it was hoped that the matter would go to members again and that a significant number would then express their opinion

Sue Haworth, PRO with a large firm of attorneys in Durban, was employed at the time it seemed advertising in the province was only a column centimetre away

Senior partner at the practice employing her, David White, said that like a number of other firms, his had sought the advice of an advertising agency.

The agency introduced the company to the mysteries of above and below the line advertising, now that the former is back on hold in Natal, the firm has decided to concentrate on the latter, including corporate identity and image building

This is one of the functions of Haworth whose tasks include trying to improve the image of the firm with existing clients

Even with Haworth's employment her firm is "still not committed to direct advertising, even if the society approves it".

White said some smaller firms feared they would be unable to compete with the advertising budgets of larger firms

"They may well be incorrect as overseas experience tends to indicate the smaller firms advertise rather than the bigger ones

"I think the smaller firms would benefit if one was able to effectively advertise like accounting firms do in the newspapers and so on But I doubt this is cost effective," said White

Asherson disagrees. He says the tendency is for the formation of large practices or for "boutiques" — small, speciality firms — and that the large firms are increasingly involved in above the line advertising, most of it in specialist publications.



Professor Njabulo Ndebele . . . brilliant author.

Wits welcome the Ndebele permit

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By SUSU MOTSHUTSHU C/Press 9/12/90

ALTHOUGH renowned Lesotho-born academic, Professor Njabulo Ndebele, had only been granted a temporary work permit by South Africa, he would make an immense cultural and academic contribution in the country, academics said this week

Ndebele, whose permit to work in South Africa has been refused twice, will be joining the Department of African Literature at the University of the Witwatersrand.

He is expected to take up the post early next year.

"We are very delighted and honoured to be joined by a brilliant author and one of the finest scholars of our time," said Wits vice-chancellor Prof Robert Charlton, adding that the university was pleased his permit problems had been solved.

"He is one of the best men in his field, whom we have been wanting for a long time," Charlton said.

The head of the Department of African Literature, Prof Peter Thuynsma, said Ndebele would help teach short stories in African culture "which will help bolster this department".

"Culturally, his contribution would be substantial, because as president of the Congress of South African Writers (Cosaw) he will be able to attract some highly qualified African writers and cultural workers," Thuynsma said.

Although Cosaw was delighted at his presence, they felt that in only granting Ndebele a temporary permit, the government had met their demands half way.

"The government twice refused his application because they feel threatened by his views on the new South Africa and the fact he believes African culture should not be dominated by that of the minority," said Cosaw secretary Frank Meintjies.

"Cosaw saw the refusal as a betrayal on the government's side of the agreement reached with the ANC in the Groote Schuur and Pretoria Minutes," he said.

"Cultural workers and artists who were in exile should be allowed to come back without conditions such as that of Ndebele, he added

Job creation for needy students

THE growing number of students needing financial assistance has motivated universities in Cape Town to set up internal job-creation schemes.

Rising tuition fees and the high cost of living mean many students need financial assistance.

The University of Cape Town plans to start a work-study scheme next year.

Student Affairs spokesperson Mr Brendan Roberts said UCT's employment

By CHIARA CARTER

scheme would have a two-pronged approach.

He said UCT intended providing employment on campus by ensuring as many jobs as possible went to students.

The university also intended to find jobs for students off campus rather than wait for employers to telephone the university.

Roberts said the university hoped to launch the programme at the beginning of the academic year but was still looking for funding to employ students to administer the scheme.

The University of the Western Cape (UWC) has begun a similar programme in terms of which the university employs as many students as possible in academic and non-academic posts on campus.

UWC is also pro-actively seeking work for students off campus.

Lawyers put the byte into legal documents

A JOHANNESBURG law firm has produced a series of computer packages for assembling legal documentation which it proposes selling to attorneys, banks and other commercial institutions

Attorney David Hoffe said his firm was also going to submit a tender to the ANC for designing a computer program to process the details of thousands of exiles who are due to return to the country

The firm, which celebrated its centenary this year, but may not be named, initially devised the programs to service clients more quickly and cost-effectively

Among the document assembly programs produced by the firm were those for

SUSAN RUSSELL

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drawing up ante-nuptial contracts and wills B\Day 19/12/90

Another partner in the firm, Andrew Mitchell, said providing a computerised legal service had ramifications for the profession

It meant lawyers would have to have a mixture of legal and computer expertise in future

"The aim is to make it cheaper across the board," he said

The firm also intends to establish an Alternative Dispute Resolution (ADR) centre It is the second firm in Johannesburg to provide this service to clients

ADR centres, which are already well established in the US and Britain, provide clients with the facilities to attempt to solve legal disputes through mediation, conciliation and arbitration before resorting to court

Mitchell said the firm was negotiating to acquire an ADR franchise from a US-British network

The ADR centre, which would be operational from February 1, would operate separately from the firm, he said

It would draw on the expertise of people inside and outside the firm



Human rights lawyer Azar Cachalia and former DP MP Helen Suzman were speakers at yesterday's meeting in Johannesburg to commemorate International Human Rights Day.

– Picture ROBERT BOTHA

'Liberators' urged to observe democracy

WILSON ZWANE

A BILL of rights in a new SA would be meaningless unless all the liberation movements, including the ANC, built a culture of democracy within themselves, human rights lawyer Azar Cachalia said yesterday.

Cachalia was addressing a meeting in Johannesburg called to commemorate International Human Rights Day

"The national liberation movement (the ANC, PAC, Azapo and others) needs to take concrete steps to rebuild a democratic culture within itself.

"The leaders are accountable to their organisations and should be recalled if they do not behave in an accountable way," he said.

He added that punitive action should also be taken against members who breached their organisations' expressed democratic principles.

Concrete steps

"We simply cannot accept political differences to be solved by violence or coercion," he said.

Cachalia also urged government to play its part in the creation of democratic culture by scrapping remaining "pieces of apartheid legislation" and by taking concrete steps to end the culture of violence which "apartheid has bred"

Former PFP and DP MP Helen Suzman suggested to the meeting that public servants be retrained to overcome past bias against blacks.

"It is also absolutely vital for the human rights organisations not to take part in party politics. They should stand between politicians and people," Suzman said

The meeting was organised by the Black Lawyers Association (BLA), Human Rights Commission (HRC), Lawyers for Human Rights (LHR) and the National Association of Democratic Lawyers (Nadel)

could rther

GERALD REILLY

work was the economy's life-
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nsport Department spokesman
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rities reanalysing priorities and
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n others

projects included improve-
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g, reconstruction of the N2
f Port Elizabeth and rehabilita-
N4 between Nelspruit and Ko-
The spokesman agreed the gen-
f roads this year "could have
d slightly".

, every effort was being made
the substantial investment in
tucture was maintained and
le funds were used efficiently
ad-building projects launched
ere on the South Coast and
toll roads as well as the road
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al roads.

parts, instead of tar-patching
affected portions were being
k to dirt road status.

Legal 'short cut' to solving disputes

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B Wday 13/12/90

A LEADING firm of Johannesburg attorneys is to open an alternative dispute resolution (ADR) centre in February to resolve legal disputes faster and at less cost than taking matters to court.

A growing number of legal disputes are not reaching the courts because of high costs and the often long delays in obtaining judgments

At the ADR centre, litigants will be able to resolve legal disputes through mediation, conciliation and arbitration.

The centre could be used to resolve a wide range of cases such as breach of contract, defamation, copyright, trademark, and labour disputes

The services could be useful in opposed divorce and custody matters.

In the case of mediation and conciliation, a trained third party acts as a go-between, assisting the parties to agree on resolving the issue between them. The third party is not a judge and does not make an award, although he will suggest how their dispute may be solved. Nor are his views binding on the parties

In the case of arbitration, the parties choose an impartial third person to preside over the matter and agree in advance to be bound by his award. He hears both sides of the dispute and makes an award which is binding

The law firm setting up Johannesburg's

SUSAN RUSSELL

ADR centre will give clients access to skilled arbitrators, conciliators and mediators, all with wide experience in a variety of legal disciplines.

An attorney involved in the centre, Sarah Gon, said three primary features made the concept attractive to clients. It was time-effective; it was inexpensive in that while clients would still pay full legal fees, less time would be spent resolving the dispute; and it offered the confidentiality the open court could not.

In addition, parties could choose who would hear the dispute.

Gon pointed out that if the parties agreed that the decision of the arbitrator was binding, it could not be appealed against in court. A decision might be reviewed by a court, but only if the mediator or arbitrator's conduct was questionable or he had exceeded his mandate.

Attorney Tim Trollip, head of the ADR centre and a senior partner in the law firm, said there was a need in SA to get away from the traditional perception that legal disputes had to go through conventional court litigation.

"By making use of processes such as mediation, arbitration and conciliation, parties are offered methods of solving disputes that can be less formal, less time-consuming and less costly," said Trollip.

Challenge for lawyers

SUSAN RUSSELL

THE growing and increasingly sophisticated SA population is creating a need for legal services which the profession in the country is not able to meet, says Association of Law Societies president-elect Ed Southey

In an interview in the December issue of the association's journal, De Rebus, Southey said making the courts and the judicial system more accessible to the public was the greatest challenge facing SA's legal profession. B|Day 20|12|90

"Looked at purely from the point of view of the size of our population and the stage of its economic development, there should be about one-and-a-half times as many practising attorneys in SA as there are now if we are to have any pretensions of remaining on the fringe of the First World." 20|12|90

Southey said he believed it was almost inevitable that there would be some change in the existing formal division between advocates and attorneys.

At present only advocates have the right to appear in the Supreme Court.

"If economics do not force a change, then politics will."

He added that he did not forsee the Bar disappearing altogether, and it was not in the interests of justice that it should (248)

Holomisa informs SA of coup details

B|Day 20|12|90

TIM COHEN

ALL information on the recent Transkei coup attempt, including the names of senior SA security police officials whom rebel leader Col Craig Duli phoned during the action, had been passed on to SA's government, Gen Bantu Holomisa said yesterday.

At an end-of-year function in Umtata, the Transkei military leader said the information included the name of the owner of the farm used as an assembly point and training camp in Queenstown.

Holomisa appealed to SA's government to hand over two businessmen, Vulindlela Mbotoli and Mazizi Ntisana, as well as the territory's former ambassador to Austria, Amos Somdaka.

The fates of 18 people arrested after the failed insurrection "depended largely" on the handing over of the three men, whom he said were implicated in the coup attempt

Thanked

Transkei's government endorsed the call made by political organisations for the institution of a judicial commission of inquiry into the circumstances surrounding the use of SA's soil as a "springboard" for aggressive acts against Transkei's government, Holomisa said.

He thanked the people of Transkei for the information they had supplied. He said it had led to the arrest of people from western Tembuland who were in posession of weapons immediately after the abortive coup.

It was the duty of Transkei residents to ward off attempts by "selfish individuals with nefarious programmes" who were intent on destabilising the region economically, he said.

"It is regrettable that a picture of instability in the Transkei has been painted in the recent past due to public statements made by highly placed individuals in the SA government...."

He said these statements were intended to distort the real situation in the territory, and were intended to woo would-be investors away from Transkei

The continuous portrayal of instability was an outcome of strenuous efforts to bring Transkei to its knees, making the territory more vulnerable to destabilisation and manipulation.

He predicted that next year would pose serious challenges to individuals who depicted Transkei as unsafe.

He urged those committed to real change to use Transkei as a model, saying those in the SA government who were opposed to the proliferation of liberties in Transkei should question whether they were really committed to fundamental change in SA.

Guests at the event included ANC deputy president Nelson Mandela, his wife Winnie, Transkei President Tutor Ndamase, ANC national executive committee member Alfred Nzo, Military Council and Council of Ministers members and PAC officials.

Sapa reports that Foreign Affairs deputy director Rusty Evans confirmed that government had been approached in connection with the foiled coup attempt in which Duli was killed.

"Gen Holomisa submitted certain information relating to the coup attempt, and the SA government has made an undertaking to investigate the matter," Evans said.

	Estimates Begroting 1990–91	Month of October Maand van Oktober		Total: October Totaal. Oktober		
		1990	1989	1990/91	1989/90	
	R	R	R	R	R	
Revenue:						***Inkomste:***
Telephone services	5 323 800 000	445 075 600	410 732 133	3 040 487 600	2 704 794 863	Telefoondienste
Telex services .	69 525 000	6 193 600	7 271 459	44 418 700	54 643 289	Teleksdienste
Gentex services	55 080 000	3 414 300	756 445	23 872 400	21 658 392	Genteksdienste
Leased circuits . .	264 050 000	23 504 300	17 424 491	160 524 800	120 753 417	Huurverbindings
Postal services .	676 458 000	61 009 400	48 151 967	367 612 700	350 098 725	Posdienste
Money-transfer services	43 267 000	3 595 600	3 274 655	25 481 500	24 168 290	Geldoordragdienste
Agency services	26 491 000	7 168 900	4 112 043	17 091 400	11 905 819	Agentskapdienste
Non-operating revenue . .	170 555 000	6 690 700	17 433 120	63 072 100	82 239 385	Nie-bedryfsinkomste
Total	6 629 226 000*	556 652 400	509 156 313	3 742 561 200†	3 370 262 180†	Totaal

* Internal charges not included
Interne heffings nie ingesluit nie

† Neither revenue nor expenditure is evenly spread over the financial year Certain large operating expenditure payments are made quarterly, half yearly or annually, whilst capital expenditure payments are related to the execution of specific short and long term contracts

Nòg inkomste nòg besteding is gelykmatig oor die boekjaar versprei Sekere groot bedryfsuitgawebetalings geskied kwartaalliks, halfjaarliks of jaarliks, terwyl kapitaaluitgawebetalings saamhang met die uitvoering van bepaalde kort- en langtermynkontrakte

(21 December 1990)/(21 Desember 1990)

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NOTICE 1071 OF 1990

THE SOUTH AFRICAN COUNCIL FOR PROFESSIONAL ENGINEERS

NOTICE OF FINDING OF AN INQUIRY INTO THE ALLEGED UNPROFESSIONAL CONDUCT OF A PROFESSIONAL ENGINEER, HELD IN TERMS OF SECTION 23 OF THE PROFESSIONAL ENGINEERS' ACT, 1968 (ACT No. 81 OF 1968)

The following particulars concerning a professional engineer who was found guilty at the above-mentioned inquiry held on 14 November 1990 are hereby published for general information:

Name of person	Nature of offence of which convicted
Bellingan, Christopher (Reg. No. 690992)	***Guilty*** of contravening subregulations 10 2 and 10 3 promulgated under Notice No R 1527 of 17 July 1981 in that the accused failed to discharge his duties to his client in an efficient and competent manner, and failed to order his conduct so as to uphold the dignity, standing and reputation of the profession ***Punishment:*** The accused was suspended from practice for a period of six months, suspended for three years i r.o contravening Regulation 10 2 A reprimand was given i r.o contravening Regulation 10 3

(21 December 1990)

KENNISGEWING 1071 VAN 1990

DIE SUID-AFRIKAANSE RAAD VIR PROFESSIONELE INGENIEURS

KENNISGEWING VAN BEVINDING VAN 'N ONDERSOEK GEHOU KRAGTENS ARTIKEL 23 VAN DIE WET OP PROFESSIONELE INGENIEURS, 1968 (WET No. 81 VAN 1968), NA BEWEERDE ONBEHOORLIKE GEDRAG VAN 'N PROFESSIONELE INGENIEUR

Onderstaande besonderhede rakende 'n professionele ingenieur wat na afhandeling van bogemelde ondersoek op 14 November 1990 skuldig bevind is, word hierby vir algemene inligting bekendgemaak:

Naam van persoon	Aard van beweerde oortreding waaraan skuldig bevind
Bellingan, Christopher (Reg No 690992)	***Skuldig*** aan oortreding van subregulasie 10 2 en 10 3 van die Regulasies uitgevaardig kragtens Kennisgewing No. R 1527 van 17 Julie 1981 deurdat hy versuim het om sy verpligtinge teenoor sy kliënt op 'n bevoegde en bekwame wyse na te kom, en nie die waardigheid, status en goeie naam van die professie hoog gehou. ***Straf:*** Die beskuldigde is geskors uit die praktyk vir 'n tydperk van ses maande, opgeskort vir drie jaar t.o v die oortreding van Regulasie 10.2 'n Berisping is opgelê t o.v. die oortreding van Regulasie 10 3

(21 Desember 1990)

NOTICE 1072 OF 1990

DEPARTMENT OF MINERAL AND ENERGY AFFAIRS

RESERVATION OF LAND FOR THE PURPOSES OF A PUBLIC ROAD

The Mining Commissioner for the Mining District of the Orange Free State has, in terms of section 179 (1) (b) of the Mining Rights Act, 1967 (Act No 20 of 1967), reserved for the purposes of a public road a strip of proclaimed land on the farm Virginia 15, Administrative

KENNISGEWING 1072 VAN 1990

DEPARTEMENT VAN MINERAAL- EN ENERGIESAKE

UITHOU VAN GROND VIR DIE DOELEINDES VAN 'N OPENBARE PAD

Die Mynkommissaris vir die myndistrik Oranje-Vrystaat het 'n strook geproklameerde grond op die plaas Virginia 15, administratiewe distrik Ventersburg, myndistrik Oranje-Vrystaat, provinsie die Oranje-Vrystaat, soos getoon op 'n sketskaart waarvan

Bop govt 'has broken pledge'

McKEED KOTLOLO
Pretoria Bureau

THE Union of Democratic University Staff Associations (Udusa) has condemned the Bophuthatswana government's decision to deport university lecturer Paul Daphne.

Mr Daphne, who is Udusa's vice-president at the University of Bophuthatswana and secretary of the ANC's Mafikeng branch, was ordered to leave the homeland by the end of this month.

Udusa said the order breached an undertaking made to the ANC by the authorities to "allow freedom of political expression"

B Idxy 31/12/90

Engineers set up new foundation

GARETH BELL

ENGINEERS plan to create a national body, with a budget of R100m a year, to increase the number of matriculants qualified to study engineering.

In a move to counter "the crisis in engineering education", the SA Engineering Association Council, the engineering education and training committee and member institutions plan to set up a National Foundation for Technological Development (NFTD), the December edition of Productivity SA reports.

The foundation will fund tertiary engineering education and will set up programmes to address the problems of students from disadvantaged backgrounds.

The magazine said the foundation would have an annual budget of R100m and industry would probably participate on a rand-for-rand basis.

The decision to set up the foundation was taken in response to a 1989 committee report on The Crisis in Engineering Education.

Problem areas addressed in the report included improving the numbers of suitably qualified matriculants and funding tertiary engineering education to help universities attract suitable staff and produce more graduates

The foundation will coordinate the programme at a regional level.