

CHAPTER 1 : THE COMMISSION.

1.1 Appointment, terms of reference and constitution of the Commission.

1.1.1 The State President was pleased to appoint this Commission on 24 June 1976. By Government Notice No. 1187, dated 2 July 1976, the appointment of the Commission was notified for general information and its terms of reference and constitution were announced. The Commission's terms of reference were:

"To inquire into and report on the riots at Soweto and other Places in the Republic during June 1976, and the causes which gave rise thereto.

"The Commission shall consist of the Honourable Mr Justice Petrus Malan Cillié, Judge President of the Transvaal Provincial Division of the Supreme Court of South Africa, as Chairman and sole member."

1.1.2 According to an exhibit before the Commission, several newspapers, which were subsequently supported by religious and political leaders in the community, asked for a separate public inquiry to be instituted into the riots in the Western Cape. The Government turned down this request.

1.2 Extension and limitation of terms of reference.

1.2.1 In terms of Government Notice No. 1862, dated 8 October 1976, the Commission's terms of reference were extended to include an inquiry into not only the riots in June 1976 but also the subsequent riots. The Commission's name was amended accordingly.

1.2.2 The rioting really began on 16 June in Soweto. Incidents that had occurred earlier that month were part of the prelude to the riots. From Soweto the unrest soon spread throughout the country. But rioting did not stop everywhere on the same date. While it was gradually subsiding throughout the country, it would suddenly flare up again here and there. Almost two years later there were still incidents that could be traced back to the original eruption. The Commission eventually decided to confine its inquiry to events during the prelude and events between 16 June 1976 and 28 February 1977. The Commission felt that subsequent events could not add much to the overall picture nor throw further light on the causes. To have extended the

period would have created uncertainty about the Commission's visits and would have delayed its activities considerably.

1.2.3 Riots that occurred in Transkei during the period concerned will not be discussed since that territory had already become independent in October 1976. Incidents of rioting in Bophuthatswana, on the other hand, will be discussed because it was not until after the expiry of the specified period that this territory attained independence.

### 1.3 Recommendations.

1.3.1 The Commission is required by its terms of reference to establish the facts and the causes of the riots. These are the matters that have to be reported upon. The Commission is not required to make any recommendations. The inquiry was therefore not concerned with that aspect of the riots and their causes. For instance, evidence concerning a grievance as a cause of the rioting was checked to see whether such a grievance really existed; further investigation into the question whether such a grievance was justified was undertaken, not with a view to establishing what should be done to rectify matters, but to test the probability of the existence of such a grievance or the possibility of someone having been misled.

1.3.2 Because virtually all the evidence, including evidence relating to causes and grievances, was given in public and received wide publicity, various unsatisfactory conditions came to the notice of the Government and other authorities. Changes were made. Possibly they were already being considered and planned earlier on. Where the Commission refers to such changes, no comment is made on their effectiveness, since comment may in fact amount to recommendation, and the Commission did not carry out its inquiry with this object in view.

### 1.4 The Commissions Act, 1947, and the Regulations.

1.4.1 By Proclamation No. 123, dated 2 July 1976, the Commissions Act, No. 8 of 1947, and the Regulations made in the said proclamation, were declared applicable to the Commission. This Act and these Regulations are referred to further in this Report as the Commissions Act and the Regulations.

1.4.2 In terms of the provisions of the Commissions Act and the Regulations, the Commission may appoint advisers, arrange its sittings and regulate its activities, has the powers in the RSA in relation to witnesses that a Provincial Division of the Supreme Court of South Africa has in its province, and enjoys the necessary protection against interference, obstruction and insult.

#### 1.5 Advisers.

1.5.1 Regulation 2 of the Regulations reads as follows:-

"The Chairman may at any time co-opt one or more persons who in his opinion has or have special knowledge of any matter, place or area to assist the Commission in relation thereto in an advisory capacity."

The Chairman co-opted three persons in connection with the riots in the Peninsula; they were Mr J.F. Malherbe, Mr D.R. Ngo and Mr P.M. Sonn. The Chairman appointed Mr A.B. Colenbrander adviser in connection with the riots in Natal.

1.5.2 Mr Malherbe is a practising attorney in Cape Town. From 1964 he served as an alternate member of the Council of the Law Society of the Cape of Good Hope, serving as a full member and Vice-President of the Council during 1968 and as President from 1969 to 1972. From 1970 to 1973 he served on the Executive of the Association of Law Societies in the RSA, becoming President of that body in 1972. On three occasions he was a delegate to conferences of the International Bar Association held abroad.

1.5.3 Mr Ngo was a teacher and is at present public relations officer to a Cape Town business concern. He has also held the following positions in the past: Secretary of a school board, Chairman of the Transkeian Urban Council in the Peninsula, and member of the Nyanga Advisory Board. During 1974 he headed an investigation by the Government of Transkei into employment opportunities in the Peninsula.

1.5.4 Mr Sonn is a retired school principal. For 40 years he was attached as teacher and principal to primary schools in Dordrecht, Vosburg, Queenstown and Lavistown. From 1964 to 1967 he was a member of the Education Council of the

Administration of Coloured Affairs. He was Chairman of the said Council from 1968 to 1973, and also a member of the Administration's Examinations Board. Mr Sonn holds the following positions at present: Member of the Coloured Persons Representative Council; member of the Board of Management of the Ottery School of Industries for Boys; Chairman of the Committee of the Cadet Training Centre; Chairman of the Advisory Board of the Bellville Training College; and member of the Council of the University of the Western Cape.

1.5.5 From 1931 to 1976 Mr Colenbrander was employed by the Department of Native Affairs, which subsequently became Bantu Administration and Development. He worked mainly in Natal. He passed the Public Service Higher Law Examination, after which he was a Magistrate in Eshowe and in Umlazi. He was also Native Commissioner and Magistrate in the Eastern Caprivi Strip for five years; this meant that he was the chief administrative officer in the Eastern Caprivi. The last post occupied by him before his retirement was that of Director of Justice in the kwaZulu Government Service.

1.5.6 The Chairman asked the present Rector of the University of the North, Prof. W.M. Kgware, to act as adviser during the Pietersburg sitting, but other commitments made it impossible for him to accept this invitation.

1.5.7 All four the advisers had extensive knowledge of the relevant matters. They were most helpful at the sittings, where they were allowed to put questions to witnesses, and at the numerous discussions held with them about the facts and causes. They had a good understanding of the rioters' grievances which so many witnesses spoke about. Their great experience of people, and even of riots, made them exceptional advisers. (P)

## 1.6 Venues of sittings.

1.6.1 Details concerning the sittings and the proceedings appear later in this Part and in Annexure A. At this stage the Commission would mention only the following two facts. With one or two exceptions, the Commission's sittings were held in court-rooms; when held there, the Chairman, the members of the legal team and witnesses' legal representatives were attired in the official robes. This formality contributed to the court atmosphere and the decorum that prevailed at the Commission's sittings.

1.7 The Commission's officials.

1.7.1 Mr D. Jacobs, a Magistrate previously attached to the Head Office of the Department of Justice, initially acted as Secretary to the Commission. His duties were subsequently taken over by Mr E.S.J. van Graan, a State Advocate in the Attorney-General's office, who had previously been a member of the Commission's legal team. Mr I.S. van Noordwyk, a Magistrate in the Magisterial Division of the Department of Justice, succeeded Mr Van Graan as Secretary. Mr L.C. Viljoen held the post of Assistant Secretary.

1.7.2 Dr P. Yutar, retired Attorney-General of the Transvaal, was the leader of the legal team who helped to collect, prepare and submit evidence to the Commission. He was assisted by Mr Van Graan before he became Secretary and by Mr A. Hlungwani, then a professional assistant in the Department of Justice and now attached to the Gazankulu Department of Justice.

1.7.3 The following officers of the Department of Justice assisted the Commission at various stages of the classification and processing of the evidence:

Mr J. Harwood, a Magistrate;  
Mr J.F. Kukard, a Magistrate;  
Mr H. van Rensburg, a Legal Assistant;  
Mr J.J. Hayman;  
Mr N.H.S. Pretorius; and  
Mr P.P. Muller.

1.7.4 The Department of Bantu Administration and Development appointed Mr P.N. Hansmeyer as its liaison officer with the Commission. As it was clear that the Commission's inquiry would also cover various aspects of that Department's activities, this appointment was made to facilitate liaison as well as the gathering of information. But it was not only in these respects that this appointment was singularly successful; in numerous conversations with Mr Hansmeyer, the Commission found his wide experience and thorough knowledge of the matters under consideration, as well as his open-minded approach to related problems invaluable. During his many years of service in the various Departments which had administered the affairs of the Black community, i.e. those of Native Affairs, Bantu Administration and Development,

Plural Relations and Development, and Co-operation and Development, one of the posts occupied by him was that of private secretary to the Minister of Bantu Administration and Development. He subsequently became Chief Bantu Affairs Commissioner for the Northern and Eastern White Areas in the Transvaal and in the Ndebele and Swazi homelands. In Bophuthatswana, he was Secretary to the Chief Minister and to the Minister of Finance; in kwaZulu, he held the post of Director of Government Affairs and of Finance. He had also been a Native Commissioner and a Magistrate in the Eastern Caprivi. At present, he is the Commissioner-General of the Zulu national unit.

#### 1.8 The controlling Department.

1.8.1 The Department of Justice was responsible for the arrangements in connection with the Commission's appointment and also supplied the various officials of the Commission. The Commission's travelling expenses and the subsistence expenses of the Chairman and the officials were also borne by this Department. When the sittings were concluded, the Department placed spacious offices, in its Head Office building at the Commission's disposal for the collation of the evidence and the preparation of the Report.

### CHAPTER 2 : NOTIFICATION OF THE APPOINTMENT AND FUNCTIONS.

#### 2.1 Government Gazettes.

2.1.1 The Commission's appointment and terms of reference were published for general information in the Government Gazettes of 2 July and 8 October 1976. These notices also contained certain instructions to persons wishing to testify.

#### 2.2 The Press.

2.2.1 The Press gave wide publicity to the Commission and its activities. Initially, the Commission's appointment and constitution also drew extensive and divergent comments from various newspapers. Newspaper editors were approached by the Secretary, in response to whose request many newspapers