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OUR REF. Mr. Barrett/vh

YOUR REF. Mr. Rees

20th December, 1977

The South African Council of Churches,
P.O. Box 31190,
BRAAMFONTEIN
2017

Dear Sirs,

re: REPORT ON ASINGENI RELIEF FUND

We refer to our report dated the 24th March 1977 and now report on matters dealt with since that date.

Since our last report we have taken a far greater part in the task of administering the Asingeni Relief Fund and we annex hereto marked "A" a schedule of payments received and disbursements made in respect of matters dealt with by the Asingeni Relief Fund on a country-wide basis. Since March 1977 the procedure has been that all requests for assistance, reports on the probabilities of success, the perusal of all accounts submitted as well as the correlation of the efforts of the Fund on a country-wide basis have been dealt with by our firm in conjunction with your office. Detailed reports on the many cases dealt with by other firms of attorneys will no doubt be furnished to you by those firms.

As before we will divide our report into groupings, merely being done on a basis of convenience.

1. CLAIMS AGAINST THE MINISTER OF POLICE

(a) Supreme Court Matters

There are two matters in which we have proceeded to the Supreme Court, namely the claims in respect of PERCYLIA MOTHOGAE and SILAS MOJELA. In both cases we have experienced difficulty in obtaining the necessary information to reply to requests for further particulars which have been filed by the Deputy State Attorney on behalf of the Minister of Police, but the

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matters are proceeding despite these difficulties.

(b) Claims to the Compensation Committee

The Indemnity Act, Act No. 17 of 1977, was promulgated on the 16th March 1977. The effect of this Act was to provide indemnity for persons in the service of the State, or acting under the authority of such persons, and is similar in many ways to legislation passed in previous years following on civil disturbance. A three-man committee was formed to investigate compensation for people who suffered damage or injury during the riots of 1976 by the Minister of Justice. The Committee members are Mr Justice W.G. Boshoff of the Transvaal Supreme Court, who is the Chairman, Mr A.H. de Wet, who is the Chief Magistrate of Johannesburg, and Mr S.W. van der Merwe, a senior Johannesburg attorney. In view of the difficulties imposed by the Indemnity Act it was decided that claims should rather be made to the Compensation Committee as this would limit the costs of each matter, it was hoped would provide speedy and effective relief to the people who had suffered loss. The procedure the Committee has decided to adopt has been one of obtaining a great deal of information from the Applicant by means of a questionnaire which runs to twenty pages. In four matters we have been requested by the Claimant to close our file. The matters are those of ABRAHAM PULE MANYE, JOSEPH MOKGOKO, RUFUS MAGOGODELA and NOBLE MABASO. In each of these cases the Claimant decided not to proceed with the matter because of either a personal reluctance to proceed or because of an ineffective claim.

We have completed the questionnaire and lodged claims in respect of THOKO SEHERI, PHINEAS NOMBELANE, MILDRED MATHEBULA, LUKAS KUBHEKA, ELIZABETH MONYANE, GLADYS MOGALE and JOHANNES DUBE.

With regard to the case of LOUISA LAAKA we advise that despite completing the claim form we have been unable to contact Mrs Laaka to obtain her signature to the forms and consequently the matter has been abandoned and we have closed our file.

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2. DETENTIONS

Following on the unrest last year there were a number of detentions in terms of Section 6 of the Terrorism Act and Section 10 of the Internal Security Act and many people were detained either for "preventative detention" or to be utilised as witnesses by the State in Terrorism and Sabotage trials which followed the unrest. We have closed our files in most matters relating to detentions, the detainees having been released or having given their evidence in the requisite trial. We dealt with the following matters -

Mr Bernard Penya
Mr Nzwandile Msoki
Mr Peter Pitse
Mr Kayelethu Mqayisa
Mr Zithulele Msimang
Miss Beauty Pityana
Rev. Msistshane
Mrs Dorothy Msistshane
Mr Hamilton Tsie
Mr Elias Tsimo
Mrs Elizabeth Kgosana
Mr Joseph Manoiwane
Susan Thembu
Ethel Mtintso
Mosala Mosegomi
Victor Mhlongo
Joshua Nxumalo
Lazarus Matchtshaba
Johannes Tshabangu
Josiah Mogai
Grant Mogai
Alexander Mbatha
Thomas Manthata
Cecil Mavuso
Paul Ramekwa
Simon Molefe
William Mosoeu
Isaac Moloisani
Magdelene Ratsiane
Rev. Chris Wessels
Ethel Mafuna
Hope Jamda
Desmond Cartede

and sundry other matters where a formal file was not

/ opened ...

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opened in each case. The matter of LUCKY BOY and JOSEPH MELK is still current in the sense that both are being detained pending a trial which is imminent as both are required to be State witnesses.

In many of the above matters the whereabouts of the detainees were unknown and it was necessary to search at various Police Stations and at Police Headquarters in Pretoria to ascertain the whereabouts of the detainee. In most cases we attempted to obtain certain privileges for the detainees such as visiting rights, and rights to fresh food and clothing.

3. PUBLIC VIOLENCE AND RELATED CRIMINAL TRIALS

In this group of matters we have omitted those matters on which you received a report on the 24th March 1977. We have confined our report to matters dealt with subsequent to that date. We have also not dealt with matters covered in prior reports as despite some of those matters being finalised subsequently our prior report appears to be adequate. We have, of course, from time to time given assistance to the families of those persons serving prison sentences and advice on remission of sentence and parole in a number of cases. We have dealt with these matters informally and have not opened files relating to these requests to our office for assistance.

(a) ISAAC TLALE

Advice was given to Mr Tlale with regard to application to the Bantu Affairs Commissioner for payment money belonging to his deceased wife.

(b) I.N. LENGOASA / IAN MORIPE

In this matter we investigated a sentence of five years imprisonment passed on each accused by the Supreme Court in Bloemfontein. We made enquiries via our Correspondents in Bloemfontein and reported that both accused had made confessions and had in fact pleaded guilty.

/ (c)

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(c) H and A.G. ALI

Assistance was given to these accused by the Asingeni Relief Fund and the matter was dealt with by ^bCohen & Co in Parow, Cape. The accused were discharged and the co-related inquest is now being attended to.

(d) ANDILE NCAMANI

This matter we assisted Mrs Ncamani to ascertain the whereabouts of her son Andile. We ascertain^{ca} that he had been held by the Security Police in Springs and had been released.

(e) R. KISTING

This matter an appeal is being considered. The matter is being handled by Attorney David Mias of Cape Town and we are presently awaiting your instructions as to whether there are sufficient funds to cover the costs of the appeal which has been estimated at R231,00.

(f) REVEREND WILLIAM MOATSI

Attorney Monyatsi was originally instructed in this matter which involves a claim against the Minister of the Police. In view of the fact that there is no evidence as to whom the assailants were, we do not consider that the matter can be proceeded with.

(g) STUDENTS AT GRAHAMSTOWN

This matter was dealt with via Attorneys Neville Borman and Botha of Grahamstown and related to the trial of DON MAKILE and 101 others. In all three groups of students^h were charged in terms of the Riotous Assemblies Act that the students had allegedly attended an illegal gathering. Senior Counsel was briefed and the following sentences were eventually imposed by the Magistrate

(i) Moderate correction of two cuts on those male accused who were 15 years old.

(ii) Moderate correction of three cuts on those male accused who were 16 years old.

- (iii) Moderate correction of five cuts on those accused who were over 16 years old, but under 21 years old.
- (iv) Fines of R30,00 or 60 days, or R40,00 or 50 days, depending on the personal circumstances of those male accused over 21 years of age.
- (v) The postponed sentences of three years in respect of female accused, who were under the age of 16 years and fines of R15,00 or 30 days in respect of those female accused who were over the age of 16 years.

Immediately after the sentences had been imposed approximately eight of these students were detained by the Security Police in terms of Section 22 of the General Law Amendment Act, but these students have all now been released.

(h) SOPHIE NKONOANE

This matter was dealt with some time ago, but we were consulted with regard to the prospects of the State declaring the bail forfeit. The accused had not complied with the terms of the bail bond. As it appeared the accused had left the country we did not oppose the estreatment of bail.

(i) SIGFRIED BHENGU

We were consulted with regard to the restriction order placed upon this person and gave advice.

(j) ARCHILIA MORAILANE

This matter was dealt with by Attorney Sello Monyatsi. In view of the difficulties experienced in this particular case a report has been made direct to the General Secretary of the South African Council of Churches.

(k) JAIWOODIEN PARKER

This matter was dealt with via Attorneys Swanepoel

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Uys and van Reenen of Cape Town. A one time grant of R2 000,00 was made in this matter to assist towards the legal costs.

(l) LEONARD ZIKALALA

This accused was found to be mentally defective and it appears that he will become a Section 9 or Section 10(1) in terms of the Mental Health Act. The matter was dealt with by Messrs. Bowman Gilfillan & Blacklock at our request.

(m) EDWIN MANKOE

This matter is current and we have reported elsewhere on the difficulties which have arisen with regard to a conflict of interest between the first and second accused THOMAS MASHELE.

(n) STERK NXUMANO

At your request we interviewed Miss Nxumano and gave her advice with regard to the charge laid against her for possession of a book entitled "Shaft".

(o) REVEREND CHRIS WESSELS

The Reverend Chris Wessels was detained again in October and we ensured that Messrs. Oosthuizen & Wilmot of Port Elizabeth were acting on behalf of Mrs Wessels.

(p) SAMUEL LETSOALO

In this matter we assisted Mr Joseph Letsoalo to contact his son who we ascertained was being held in Wynberg Police Station.

(q) BOAS KHULI and JOHN MABUSELA

This matter was taken on appeal, but unfortunately the appeal did not succeed.

(r) WILLIAM MORRIS

This matter is being dealt with by Messrs. Mallinick Ress Richman & Co. who will report to you direct. The

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charges arise out of the civil unrest at Paarl in the Cape during September 1976.

(s) SONNYBOY MAHLANGU / LEONNARD ZIKALALA

The matter was initially dealt with by our office and related to a sabotage trial, the above persons being two of the nine accused. In view of the fact that Messrs. Bowman Gilfillan & Blacklock acted on behalf of the other accused we requested them to act on behalf of the above as well. Messrs. Bowman Gilfillan & Blacklock would have reported direct to you.

(t) JOEL MOSAKEDI and 7 OTHERS

There was a conflict of interest between the accused in this matter and Bowman Gilfillan & Blacklock acted on behalf of four of the accused and we acted on behalf of four of the accused. The trial was fairly lengthy and at the conclusion of the trial, all the accused were sentenced to three years imprisonment. We considered the prospects of an appeal in this matter but on consultation with the Counsel involved and the accused a decision was reached that an appeal was unlikely to be successful. Our preliminary report in this matter appears in our report dated the 24th March 1977.

(u) WILLIAM MOKONYANE AND OTHERS

This was a major trial attended to by Attorney Sidney Suchard and we were involved mainly in the preliminaries to the trial and the funding of the trial. Attorney Suchard would have reported to you direct in this matter but we record that all the accused were discharged. The Fund assisted in this matter to an amount of R30 000,00.

(v) DELA SE CHILIZA

This matter was dealt with in Natal by Attorney Mxenge and involved a claim against the Minister of Police.

(w) SAMUEL PHALO, ABRAHAM NISI / NELSON SEKELE

This matter was dealt with by Mr Levitan and again we

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were involved mainly in attending to the negotiations with Mr Levitan.

(x) STEPHEN MKHABELA

We were originally consulted in this matter the accused being arrested on a charge of public violence. We took the matter to the stage of a bail application before the matter was taken over by Attorney S. Chetty.

(y) PETER MATLALA

A number of people were arrested on the 2nd November 1976 at the Alexandra Football ground and with the exception of ^{by} TIMOTHY MILANZI the accused were represented by Messrs. Webber Wentzel & Co. We accordingly requested Messrs. Webber Wentzel & Co. to act in this matter. The accused being convicted and sentenced to a moderate whipping of ten cuts.

(z) TIMOTHY MILANZI

This matter is linked with the above and we advise that in the end Mr Milanzi was called as a witness on behalf of the State.

(aa) SYBWELL ZWENE / MPULELO SOWAZI

This matter was heard in Lady Frere and we instructed Messrs. M. Kalembi & Co. to act on our behalf. Despite various difficulties in this matter as the accused lived in Johannesburg and the trial took place in Lady Frere the matter was resolved after a long period. An appeal was lodged, but before the appeal could be heard the accused left the country.

(bb) DETENTIONS OF PERSONS AT KWA - THEMA

There were four accused in this matter and after some difficulty we ascertained that the charges against the accused had been withdrawn and that they had been detained in terms of Section 6 of the Terrorism Act. We subsequently ascertained that all those detained were released.

(cc) PETER NTSAMAI

In this matter an appeal was lodged together with a

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review and both succeeded the conviction and the sentence set aside. The Judgment was important in that Judge Melamet emphasised the seriousness of the irregularities which had taken place during the trial and the behaviour of both the Prosecutor and Magistrate was put in question. We have requested a copy of the Judgment from Messrs. Bowman Gilfillan & Blacklock who dealt with the matter.

(dd) MICHAEL MOLEKI

This matter was held in Sterkspruit and at the conclusion of the preparatory examination on an allegation of arson, the accused was committed for trial on a charge of attempted arson. The Attorney-General, however, declined to prosecute in this matter at a later stage.

(ee) MANDLA KUNENE

This trial was held in the Springs Regional Court after negotiation with South African Police the State withdrew their main charge of public violence as Mr Kunene pleaded guilty to the alternative charge of attending an unlawful meeting in terms of the Riotous Assemblies Act. The accused was sentenced to five cuts with a light cane.

(ff) MOKI CEKISANI

This matter is being dealt with by D. Kondile and Somyalo in Port Elizabeth and relates claims against the Minister of Police and certain Policemen.

(gg) PHADIMA PHATLANE

This matter related to the detention of Mr Phatlane and to our surprise we were informed by the Security Police that Mrs Phatlane had never consulted us. We can only state that we were consulted by a person purporting to be Mrs Phatlane.

(hh) SEPO NKOMO / VUSI NKOMO

In this matter we instructed Messrs. Louw & Roode of Bothaville in the Orange Free State to appear on our

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behalf and we advise that both accused were discharged the State not having proved its case. The accused were 14 and 15 years old respectively.

(ii) JOHN KEKANEAND OTHERS

This matter was held in Springs some time ago and we have previously reported on its outcome. We were recently approached by Messrs. A.M. Omar & Co. in Cape Town with regard to the prospects of an appeal in respect of the accused HENRY CONJWA who is at present serving his terms on Robben Island. We have discussed the matter with Counsel and Messrs. A.M. Omar & Co.

(jj) NELSON MOKONE / KGOPE MOKONE

We were approached in this matter to lodge an appeal on behalf of the father of the above accused, but despite many attempts we have not been able to contact him to take instructions.

(kk) TWALIMFENE JOYI

This matter related to an inquest into the death of the late Twalimfene Joyi and we instructed Attorney Ciliza to appear on our behalf. The inquest Magistrate returned an open finding, the matter was considerably complicated as there was a patent breakdown in communication between the Station Commander of the South African Police at Umtata, the Attorney-General and our correspondent.

(ll) PATRICK MVUBELO

In this matter we attempted, unsuccessfully, for some months to locate the whereabouts of this accused.

(mm) GEORGE LONGWENI & 11 OTHERS

This case must surely rank as the longest running public violence case in the country. The matter commenced in November 1976 and judgment was handed down on the 21st September, 1977. We originally requested further particulars to the charge in this matter and a number of postponements followed to enable the State to prepare a reply to the Request which the Prosecutor was originally unwilling to do. At the third postponement when it was our intention to apply for the dismissal of the charges, the charges against all of the accused were withdrawn and the accused were charged once more with a seemingly identical charge. We again requested particulars and eventually succeeded in obtaining sufficient particularity for us to proceed with the case. The State's case in the main rested on a

series of confessions which we were successful in attacking. In the result all the accused with the exception of George Longweni were discharged. George Longweni who was Accused No. 1 was found Guilty of Public Violence and received a sentence of six cuts. George Longweni was actually arrested in the bus at the time of the incident and in the result we regard the outcome as most satisfactory.

With regard to the Fund as a whole we draw your attention in particular to the reconciliation which is annexed hereto. You will note that in the nine month period between March and December this year, over two hundred cases were funded. We have received an amount of over R203 000,00 and we have disbursed in all an amount of over R170 000,00 and we therefore have an amount of R32 367,94 in Trust. This amount, however, does not reflect the actual position as there are accounts of between R6 000,00 to R8 000,00 outstanding.

It is interesting to note that an amount of over R203 000,00 has been disbursed in the last nine months in connection with approximately two hundred cases, giving an average cost per case of just over R1 000,00. It should be borne in mind, however, that many cases have more than one accused.

We trust that this somewhat hastily compiled report is sufficient for your purposes and we trust that you will contact us should you require clarification or elaboration on any particular point.

Yours faithfully,
BOWENS



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