



REPUBLIC OF SOUTH AFRICA

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JUDGE PRESIDENT'S CHAMBERS  
SUPREME COURT  
CAPE TOWN

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L.F.

24 August 1993

The Administrative Secretary  
The Commission on the Demarcation/Delimitation  
of Regions  
P O Box 307  
ISANDO  
1600

Fax no: 011 3972211  
no of pages: 9

Dear Sir

**SUBMISSION FROM THE JUDGES OF THE CAPE OF GOOD HOPE  
PROVINCIAL DIVISION OF THE SUPREME COURT**

Herewith the supplementary memorandum from the judges of  
this Division, as well as our earlier memorandum dated 18  
June 1993 together with a map indicating the present  
jurisdictional area of this Division.

Yours faithfully

**G. FRIEDMAN  
JUDGE PRESIDENT**

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**SUPPLEMENTARY MEMORANDUM TO THE COMMISSION ON THE  
DEMARCATIION/DELIMITATION OF REGIONS FROM THE  
JUDGES OF THE CAPE OF GOOD HOOP PROVINCIAL DIVISION  
OF THE SUPREME COURT**

A memorandum dated 18 June 1993 from the judges of this division was submitted to the Commission. Pursuant thereto the Deputy Judge President, The Hon. Mr Justice J J Fagan, appeared before the commission both in Cape Town and in Johannesburg to make representations.

Since then the regions as proposed by the Commission have become known. It was noted that the eastern boundary of the Western Cape area substantially coincided with that supported by the Cape judges.

What caused surprise was the proposed northern boundary. The proposed region of Northern Cape includes the magisterial districts of Clanwilliam, Vredendal, Vanrhynsdorp, Namaqualand, Calvinia, Sutherland, Williston and Fraserburg, all of which at present fall within the area of jurisdiction of the Cape Provincial Division of the Supreme Court.

The judges in this division have been informed that further representations will be received by the Commission and wish to avail themselves of that opportunity.

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The judges of this division are unanimously opposed to the proposed northern boundary of the Western Cape region. Detailed submissions in this regard were made in the memorandum of 18 June 1993. For the convenience of the Commission a copy of our previous memorandum as well as a map showing the present jurisdictional area of this Division are annexed hereto.

Those submissions are reiterated. I would merely add that it has been drawn to my attention that the considerations referred to in paragraph 1.2 of the memorandum dated 18 June 1991 are supported by the legal profession as well as by commercial enterprises in the magisterial districts affected by the Commission's proposed northern boundary.

The distance from any of the affected areas to Kimberley (which would obviously be the capital and focal point of the proposed Northern Cape region) is substantially greater than it is from Cape Town. In this regard I would point out that there are some 230 advocates practising at the Bar in Cape Town compared with only five in Kimberley. The disadvantage to attorneys and their clients, as well as the unnecessary costs involved in having to make use of


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advocates from Cape Town to conduct cases in Kimberley, is manifest and obvious.

The Commission is accordingly strongly urged to reconsider its decision with regard to the northern boundary of the Western Cape region and to include the magisterial districts of Clanwilliam, Vredendal, Vanrhynsdorp, Namaqualand, Calvinia, Sutherland, Williston and Fraserburg in the Western Cape region.

Chambers  
CAPE TOWN

1993-08-24

  
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JUDGE PRESIDENT

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MEMORANDUM TO THE COMMISSION  
ON THE DEMARCATION/DELIMITATION OF REGIONS  
FROM THE JUDGES OF THE CAPE OF GOOD HOPE  
PROVINCIAL DIVISION OF THE SUPREME COURT.

The Judges of the Cape of Good Hope Provincial Division of the Supreme Court have taken note of the appointment by the Negotiating Council of the Commission on the Demarcation/Delimitation of Regions.

As the possibility exists that such demarcation/delimitation might adversely affect the existing area of jurisdiction, infrastructure and administration of the Cape of Good Hope Provincial Division of the Supreme Court as it presently functions, the Judge President and such other Judges as he may consider necessary, request the opportunity as interested parties to present written and oral representations and recommendations to the Commission and, if needs be, to the Negotiating Council.

For the convenience of the Commission, a map showing the present boundaries of the area of jurisdiction of the Cape of Good Hope Provincial Division is attached.

In respect of those aspects which the Commission is obliged to take into consideration, we make the following submissions.

1.1. As to the historical boundaries and infrastructures:

The boundaries of the area of jurisdiction of the Cape Provincial Division are the result of a long process of historical development in which the main focus has been the efficient administration of justice with due regard to the convenience of litigants and their legal representatives. In the main the eastern boundaries of the court's area of jurisdiction were laid down in 1864 (in terms of the schedule to The Administration of

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Justice Act, No. 21 of 1864 (Cape)) and they have remained constant with minimal changes since then. The northern boundaries were fixed in 1955 (in terms of section 3 of Act 62 of 1955, pursuant to the recommendations of the Watermeyer Commission) with an alteration in 1969 when three further districts (Victoria West, Carnarvon and Richmond) were taken away and added to the new Northern Cape Division in accordance with the recommendations of the Rumpff Commission. The northern boundaries of the area were thus settled in 1969.

The eastern boundaries (which had remained basically the same since 1864) acquired their present form in 1969 (when Joubertina was added to the Eastern Cape Division) pursuant to the recommendations of the Hefer Commission. The Commission gave careful consideration to the question of what the eastern boundaries of the court's area of jurisdiction should be and was satisfied that, with the exception of Joubertina, the pre-existing boundaries should be left intact because of the considerations mentioned above. Since then no voices have been raised asking for change. On the contrary it is our understanding that the present system, including the present boundaries, gives general satisfaction.

1.2 With regard to administrative considerations, the availability of infrastructures, the necessity of limiting costs, the need to minimise inconvenience and dislocation of services, the following facts and submissions are put forward for consideration:

- (a) The Supreme Court, with Registrar, trained staff, archives and filing and co-ordinating facilities, is sited in Cape Town.
- (b) Sheriffs for magisterial districts have long established channels of communications with the Supreme Court for purposes of expediting service and return of court processes and documentation.

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- (c) Country attorneys throughout the area of jurisdiction have over decades established strong working relationships with Cape Town correspondents for purposes of preparation and the filing of court documents, information on Court procedures and consultations with witnesses, and assistance with trials.
- (d) Country attorneys have also built up close and strong ties with Cape Town advocates, which facilitate obtaining advice, consultation and the efficient conduct of litigation. The relationships are much the same as those between country doctor and city specialists. This all is to the benefit of the general public.
- (e) Each existing Division of the Supreme Court has evolved local and workable practical rules of procedure which have become firmly entrenched so as to facilitate and speed up legal procedures. This results in cost saving.
- (f) Similar considerations apply to the relationship between country and Cape Town city attorneys in regard to the Deeds Registry office and the office of the Master of the Supreme Court both of which are situated in Cape Town. The expeditious handling of property transfers, the registration of bonds, servitudes and related property matters as well as estate and will matters is of considerable importance to the public in general and the commercial world in particular.
- (g) Business and commercial firms in Cape Town and surrounding areas have for generations been the main suppliers of services and goods to the areas and towns referred to. There are few established regular lines of supply from east of Plettenberg Bay. Consequently in any disputes between suppliers and their customers it is essential that such disputes be heard and

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dealt with by a Court where the interested parties fall within its jurisdiction. It would lead to a dramatic increase in legal costs if another Court outside the existing commercial and legal areas were to have to try those cases. It facilitates the resolution of such disputes if this takes place at the seat of the Court where most of the businesses operate.

- (h) The population of the Western, North Western (up to Springbok) Small and Great Karoo (up to Beaufort West) and the South Eastern Cape (up to and including Plettenberg Bay) is largely homogeneous. The overwhelming majority of cases are conducted in either the English or Afrikaans language. The Court infrastructure, such as Registrar, clerks, typists, Sheriffs and Messengers of Court, are in a position to cater for the needs of this homogeneous public.
- (i) The infrastructure in connection with Circuit Courts, appeals and reviews from magisterial decisions has been firmly established in this Court's seat in Cape Town. Considerable disruption and inconvenience would follow if the area of jurisdiction, which as stated was demarcated after considerable debate as to the advisability and feasibility of the areas incorporated, were now to be changed.
- (j) The above considerations apply as cogently to the office of the Attorney-General of the Cape of Good Hope and his staff of trained Supreme Court prosecutors. The co-ordination with Magistrates, Deputy Sheriffs and messengers of court and practitioners in the areas concerned works well and in the interests of the public. Geographically the infrastructure is sound, and should in the public interest be retained.

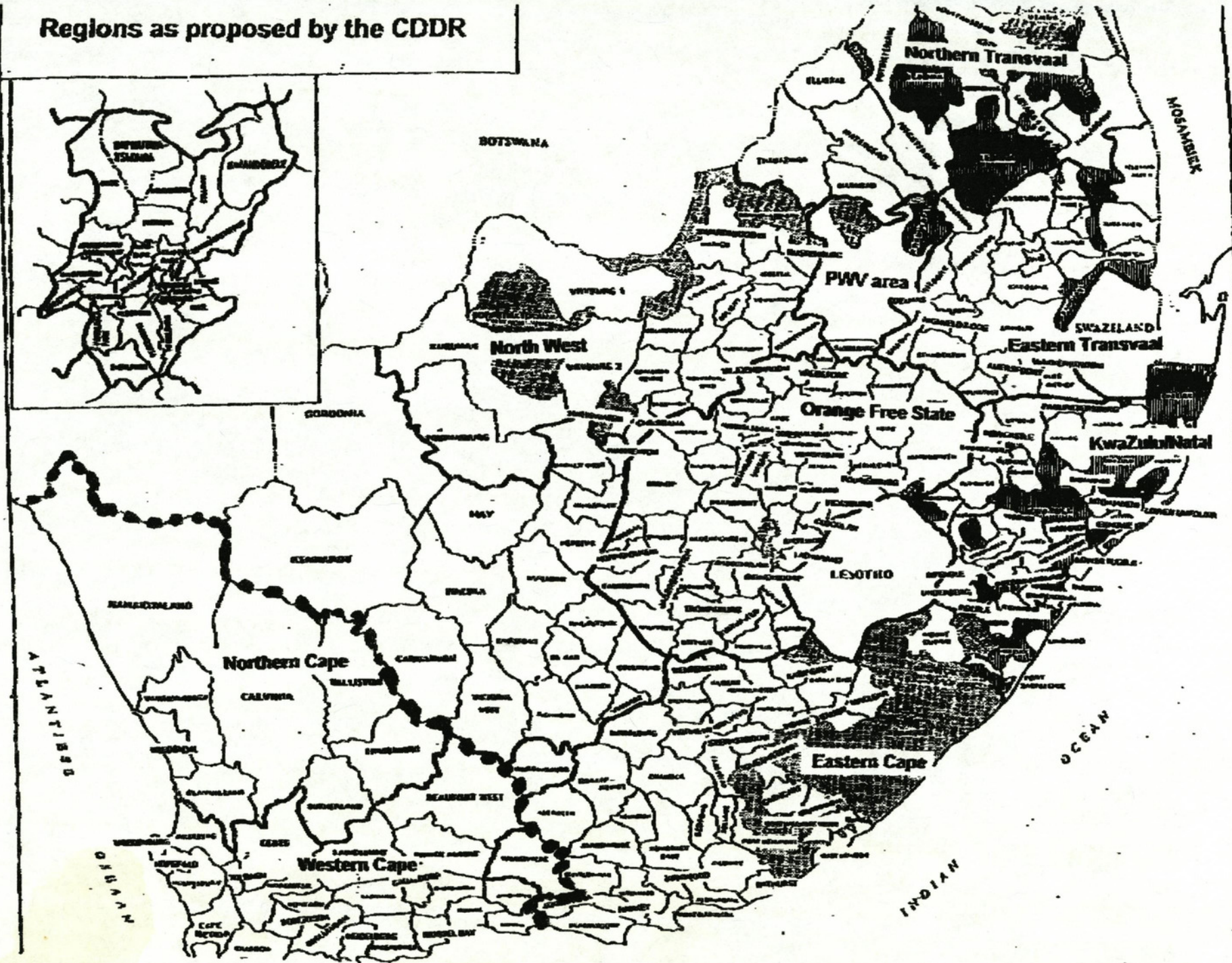
Chambers  
Cape Town  
18 June 1993.

 (J. J. Fagan)  
DEPUTY JUDGE PRESIDENT

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**Regions as proposed by the CDDR**



Present jurisdictional area of Cape Provincial Division.

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