

BRIEF ANALYSIS ON THE FINDINGS OF THE SCHLEBUSCH COMMISSION INTO A NEW CONSTITUTION FOR SOUTH AFRICA.

When the Government introduced its original plans for a new constitution there was hope that at last and at least it had acknowledged the need for change, even though we did not find the plans acceptable. When it subsequently appointed the Schlebusch Commission, to examine the whole subject of a new constitution and to take depositions from any and all members of the public, there was further hope that at last the urgent need for full negotiation between all the peoples of our country in order to devise a mutually acceptable constitution would be revealed, and that this would be given expression in the findings of the Commission and in Government action arising out of them.

The Commission's findings have been published.

Its recommendations do not contain a detailed constitutional plan for South Africa, but the seeds of the original National Party plan are germinating in them. The Commission itself was not able to reach consensus, even in these preliminary moves towards establishing a new constitution, as witnessed by the Minority Report of the Official Opposition, which disagrees almost in toto with the recommendations and the political ideology underlying them.

The Government's original plans were based upon its unchanging policy of separation - separate Parliaments for whites, coloureds and Indians, with Blacks excluded and with final executive power vested in a Council of Cabinets where coloureds and Indians were to be represented but with white Nationalists in the majority. Power was to remain firmly in the hands of the National Party with token recognition of the rights of coloureds and Indians to participate, without any real power, in the processes of government.

The Schlebusch Commission recommends the formation of an appointed, advisory, 60 member State President's Council comprising white, coloured, Indian and Chinese people, appointed by the State President and still excluding blacks, who are to be fobbed off with a Council of their own to advise the State President's Council.

The original plan provided for an appointed, advisory President's Council consisting of 55 members of the white, coloured and Indian communities to advise the Council of Cabinets.

The inclusion of the Chinese community is the only visible difference, together with a Vice-President as chairman rather than the State President himself. Otherwise the Government's policy framework persists.

The Commission recommends that the President's Council "shall at the request of the State President advise the State President on any matter or may, in its discretion, advise him on any matter which in its opinion is of public interest".

One of its four committees is to be a Constitution Committee, so perhaps it may be permitted to advise the Government on a new constitution, but the Commission has already made significant constitutional recommendations in the scrapping of the Senate and the appointment of 20 extra members of Parliament. This diverges completely from the concept of an elected Assembly, with accountability to its constituents, and pre-empts any recommendations of the State President's council.

It is difficult to discover whether the extension of recognition to coloureds, Asians and Chinese, albeit only in an advisory capacity, is for the purpose of allowing them meaningful participation in working out a new constitution, or whether it is the beginning of the implementation of a constitutional plan already unilaterally decided upon by the National Party and the Schlebusch Commission. The formation of the President's Council together with the abolition of the Senate and the 20 members to be appointed to the Assembly, indicate a direction towards an insidious and gradual introduction of Government plans through the back door, while paying lip-service to consultation.

The Commission considers/---

The Commission considers that the widest possible consultation and deliberation with and among all population groups is desirable to raise the level of acceptability of future constitutional structures, but the provision of a State President's Council and a separate Council for black people, both appointed and both advisory, is a very poor substitute for a properly constituted National Convention with elected representatives of all sections of the community negotiating together from an equal base.

By appointing members of the President's Council the Government is taking it upon itself to decide who the leaders of the different groups shall be. Appointees obviously do not enjoy the same job security as those who are duly elected. Advising is certainly not negotiating, for the Government is in no way bound by the advice it may receive. The President's Council will have no teeth whatsoever.

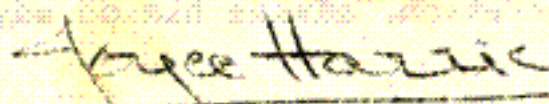
This is no way in which to gain acceptability for constitutional changes, and leaves the door wide open for the Government to enforce its own plans for the future of this country. And it is common knowledge that those plans include the retention of power in its own hands for the foreseeable future, for its members have said so quite unequivocally.

The consultations, of which it will no doubt boast to a watching world, could well be pure window dressing, behind which it could proceed to manufacture its own wares in its own way in its own time, enforcing its minority will upon a dissenting majority.

If this is an unkind conclusion to reach the Government has only itself to blame, for its loss of credibility over the years has created a crisis of confidence and nothing it has yet done has been sufficient to raise its level of credibility.

There is one aspect to the Commission's Report and reactions to it that is becoming increasingly clear, and that is that once more the Government, by employing its well-tried strategy of using ^{words} in so vague and apparently uncommitted a fashion that they are open to a wide range of interpretations, is again succeeding in causing rifts among the opposition groupings.

Once again there are differences of opinion regarding participation or non-participation. This could have a disastrous effect on the exertion of sufficient concerted pressure upon the Government in order to arrive at a constitution which is more to the liking of the opposition groups. The old weapon of "Divide and Rule" is once more operating, whether intentionally or unintentionally, and all opposition groups would be well advised to bear its debilitating effects in mind.



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