

JOHANNESBURG JOINT COUNCIL OF EUROPEANS AND AFRICANS

Alternative Draft by Mr. J. D. Rheinallt Jones, to be substituted if the Joint Council prefers, for Sections 9 - 11 of the Main draft

5. As regards the Native Representation Bill, the Joint Council is opposed to Section One which prohibits any further enfranchisement of Natives at the Cape because the Council (1) is opposed to political rights being confined to one section of the population on the sole qualifications of racial origin; (2) it believes that the security of the State depends upon the free development of a common loyalty to the State among all sections and that this loyalty cannot be developed in a political system based upon racial discrimination; (3) it supports the proposal of Senator F.S. Malan as offering a means whereby properly qualified Non-Europeans may enter into full citizenship.

Failing a form of political representation for Natives in harmony with these views, the Joint Council proposes

- (1) to press for the abandonment of Clause One of the Bill and the postponement of further consideration of special representation of Natives in Parliament for a period of at least ten years;
- (2) to urge that the proposed Native Representative Council be given the ten year period in which to prove its value to the Native people and the country generally;
- (3) to press that Senators appointed under the Act of Union for their "knowledge" be chosen from persons with long administrative experience or having the confidence of the Native people and that these Senators instead of being nominated by the Government be elected by those electors of the Native Representative Council who are not on the ordinary voters' roll;
- (4) to press also for the re-constitution of the Native Affairs Commission, in view of the functions of the proposed South African

/Native

Native Trust, to ensure that its membership shall consist of persons with personal knowledge and experience of Native Affairs and without Parliamentary or other duties which hinder their activities on the Commission.

The Joint Council believes that if the foregoing proposals are carried out in good faith and if the Land situation is justly dealt with it will be possible to regain the confidence of the Native people sufficiently to allow of the calmer re-consideration by them of any proposals dealing with the present Native franchise.

The Joint Council believes that Joint Councils and other bodies can render a great public service by a critical examination of these Bills and putting forward constructive proposals. In this connection it desires to emphasise that the Bills have not yet been adopted by the Government as its own measures or as expressing the final possibilities of a generally acceptable Native policy.

/KPC

(undated)

(1)

Councillor Xiniwe to move:

"Now that the Representation of Natives Act, 1936, has been adopted as the Native policy of the Union of South Africa and as the solution of the Native problem and, as such, completely removed the fear which lay behind the mind of most Europeans in this country, this Council considers that it is time for it, as a body instituted under that policy, to express its own views or make observations on the operation and implications of that system of Native policy in so far as the Council considers that the policy could, to some extent, be improved to meet the aspirations of the African peoples for whom the policy was established.

The constitution of the Natives Representative Council does not command the general respect and support of the people due to the fact that the Council does not provide satisfactory and reasonably adequate representation of the various peoples and communities of the Native population in the Union.

The mode of election prescribed under the Act for both the Parliamentary representation and representation on this Council is unsound and most unsatisfactory; it is, as was shown in the last election, open to serious unpreventable abuses; it is reactionary in that it is purposefully designed to discourage and retard the educational and general progress of the people; it is detrimental to the aspirations of our people and it allows them no scope of development.

The Council considers that after the Cape Native franchise had been abolished or rendered totally inferior, and the Natives, as a race, precluded from enjoying the full citizenship rights of this country, it was an unjustifiable injustice to give them such humiliating form of franchise which carries with it the added stigma that whatever may be the advance of the Native in civilisation and education he is definitely denied the "personal and individual right" to elect for himself the person he considers suitable to represent his interests on the Councils exclusively set aside for him and his own people.

The Council is of opinion that franchise to be of an estimable value to a subject and backward race should give the educated members of the race a certain status; it should provide an inducement to the people to improve their economic and other conditions and intelligence; it should increase their sense of respect as citizens.

In the light of the foregoing observations the Council very respectfully requests the Government to repeal the relative portions of the Representation of Natives Act, 1936, and to make provision for individual vote with education, age and property qualifications. The status of being an officially registered Chief should, apart from the other prescribed qualifications, be a qualification sufficient in itself alone to render one eligible for nomination as a Government nominee.

The Council desires to make it clear that these proposals do not and will not affect the Chiefs' tribal administration and authority over their people.

The

The sole purpose and object of the present system.

The "individual freedom" or right to choose your representative is denied us.

Such was the Cape Native franchise

The following draft of electoral areas showing the number of elected and nominated representatives for this Council in respect of each electoral area is submitted as a basis for discussion:-

N A T A L.

<u>Electoral Area.</u>	<u>Representatives.</u>
<u>Coastal Belt:</u> comprising the districts of Port Shepstone, Ixopo, Richmond, Pietermaritzburg, Mapumulo, Lower Tugela, Durban	1 elected and 1 nominated.
<u>Inland Northern Districts:</u>	1 elected and 1 nominated.
<u>Zululand</u>	1 nominated.

ORANGE FREE STATE.

Bloemfontein and Southern districts	1 elected 1 nominated.
Northern districts	1 elected 1 nominated.

TRANSVAAL.

Northern Transvaal comprising the district of Zoutpansberg, Waterberg and Lydenburg.	1 elected 1 nominated.
North Eastern Transvaal comprising the districts of Middelburg, Carolina, Barberton, Bethal, Standerton, Wakkerstroom, Ermelo, Piet Retief	1 elected 1 nominated
Pretoria and Rustenburg districts	1 elected 1 nominated.
Western Transvaal comprising the districts of Marico, Lichtenburg, Potchefstroom, Wolmaransstad	1 elected 1 nominated.
<u>Witwatersrand Area</u>	
<u>West Rand</u> including Johannesburg and Vereeniging	1 elected
<u>East Rand</u> from Germiston to Heidelberg	1 elected

CAPE PROVINCE.

<u>Eastern Districts</u> comprising the districts of Peddie, East London, Kingwilliamstown, Victoria East, Fort Beaufort, Stockenstroom, Cathcart, Stutterheim, Glen Grey, Queenstown, Tarka, Albert, Aliwal North, Herschel, Barkly East, Wodehouse, Komgha.	1 elected 1 nominated.
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Midland

Electoral Area.

Representatives.

Midland Districts

comprising the districts of Albany, Bathurst, Port Elizabeth, Uitenhage, Alexandria, Humansdorp, Steytlerville, Jansenville, Somerset East, Bedford, Aberdeen, Graaff Reinet, Cradock, Middelburg, Steynsburg, Colesberg

1 elected.

South Western districts

comprising the districts of Hanover, Phillipstown, Hopetown, Britstown, Prieska, Gordonias, Griqualand West

1 elected
1 nominated.

Bechuanaland.

comprising the districts of Kuruman, Taungs, Vryburg and Mafeking

1 elected
1 nominated.

Western Districts

comprising the districts in the Knysna, Beaufort West, Victoria West, Carnarvon, Kenhardt, Namaqualand, Cape Town area

1 elected
1 nominated.

TRANSKEIAN TERRITORIES.

Northern Districts

1 elected
1 nominated.

Southern Districts

1 elected
1 nominated.

Pondoland

1 nominated.

Councillor Xiniwe to move:

(2)
"The Report of the Native Affairs Commission for the years 1937-1938 makes available, for the first time for public information, the full text of a letter addressed to the Honourable the Minister of Native Affairs on the 10th May, 1937, by the Native Affairs Commission on the subject of consultation of Natives on the Native Laws Amendment Bill.

In its introductory remarks under paragraph "Legislation" page 7, the Report states:

"The Bill was regarded as a vital part of the whole programme of Native enactments. Moreover, when the debate took place, the Native Representation in Parliament Act had not become operative, since no member had been elected to Parliament under the Act, nor had the Natives Representative Council come into being".

This refutes the correctness of the above statement of the N. A. Com.
The Council desires to point out that the pledge to consult the Natives on all legislative measures before they became law was given under section 16 of the Native Affairs Act, 1920, which pledge was observed and implemented in respect of the original "Native Bills" and the "Native Bills" as they emerged from the Joint Select Committee of both Houses of Parliament. !!

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In the letter referred to the Commission recommended "that after the Bill has been accepted by the House of Assembly, the proceedings on the Bill by the Senate should be postponed until next Session in order to allow the Natives Representative Council to consider the measure during the recess and, if deemed desirable, to make recommendations for any alteration in detail which will not touch the principle of limitation, which could be considered by the Senate". This, in the opinion of this Council, lays down a dangerous precedent which strikes the roots of the reconstructed Native policy. It amounts to this, that the Native Affairs Commission has the power to determine and decide as to when or at what stage should a legislative measure affecting Natives be submitted for consideration by this Council, and that the Council should be directed to confine its consideration of the Bills so submitted to details only, and that its recommendations should not affect the principles of such measures.

The pledge given by Parliament is explicit and definite that the Council shall consider and report upon proposed legislation in so far as it may affect the Native population. Section 27(3) of the Act referred to by the Commission refers, in the opinion of the Council, to measures which contain provisions which do not affect Natives, and provisions which directly or indirectly affect Natives. It is in such cases the Minister has to consult the Native Affairs Commission. The Native Laws Amendment Bill wholly affected the Native population and the Government stood pledged, under the Native Affairs Act, 1920, to submit it unconditionally to a Native Conference for consideration.

The Council is aware that its functions are purely advisory, that it has no power to enforce that its resolutions should be given effect to. It has no remedial measures to resort to against the recommendations or decisions of the Native Affairs Commission which the Council may consider not to be in the best interests of the Natives. The Council,

nevertheless

nevertheless desires to stress the fact that if pledges solemnly given by Parliament in respect of Native legislation are left to the discretion of the Native Affairs Commission as illustrated in the present case, the Natives Representative Council will be rendered futile with the unfortunate result that our people will place very little reliance on pledges given by the Government.

The Council, therefore, wishes again to state that the procedure presently followed in the making of laws for the Native population is most unsatisfactory".

(3) Councillor Xiniwe to move:

"That, in view of what the Native Affairs Commission has written about the policy of trusteeship in its last two Reports, the Council feels called upon to state the attitude it adopts towards that trusteeship.

From what has been written or said about this trusteeship and, judging it by the nature of schemes, such as the Bantuisation of Native education, indicated by the Native Affairs Commission as being part of the programme of the policy of that trusteeship, the Council is convinced that this trusteeship is intended to doom our people to perpetual tutelage. It is a trusteeship forced upon the ward not in the interests of the ward but in favour of the trustee.

Apart from the part assigned to this Council in the administrative structure of the government of Natives in the Union, the Council, as an official body of chosen leaders of its people, has a special duty to perform, namely, to lead the people by helping those forces or agencies which strive to convert the stagnant and reactionary tribalism of our people into a progressive force; to set our people on the upward path of civilisation, and to enable them to shoulder the burden of their own advancement. It is pointed out that that was the recommendation of the Native Economic Commission whose personnel included the members of the Native Affairs Commission as a body. The Native Economic Commission added that in its opinion, "such must be the main approach to the solution of the Native problem in its economic aspect".

This Council decides to lead its people along the lines recommended by the Native Economic Commission and will, therefore, not subscribe to any policy or scheme which, in its opinion, is designed to keep our people back and to drive them back, or to stifle our advancement and development".

Collection Number: AD843

XUMA, A.B., Papers

PUBLISHER:

Publisher:- **Historical Papers Research Archive**

Location:- **Johannesburg**

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