

DEPARTMENT OF JUSTICE.

P.O. Box 9,
VRYHEID...Natal.
29th Aug., 1947.

To:-

Members of the Executive,

With reference to item No. in the agenda titled "Boycott of Elections" I strongly advise that such a step if taken would be not to the interest of the people we have chosen ourselves to lead. It would not in anyway bar the Government to proceed with all elections as contained in the provisions of Act. 12 of 1936. I urge all members of the Executive not to consider to embark in passing resolution or resolutions in favour of that suggestion or idea. There are times when boycotts helps such as the one taken by the Native Representative Council wherein members of the Council before doing so consulted the provision of the Act and found that their position was secured and would not be throwing the right of the people in the mud. I base my advise on the following grounds:-

- (1) Congress in Natal is in it's infancy.
- (2) There are few educated Africans in Natal that are registered members of the Congress.
- (3) There are several organisations in Natal all lead by educated and uneducated Africans each and everyone of them claiming superiority.
- (4) The Membership in the above Congress is like a drop of water in the sea in Natal.
- (5) Elections as far as Natal is concerned are governed and controlled by Chiefs, Headmen and Magistrates or Native Commissioners, Electoral Colleges are exactly on the same basis and can not be treated indifferently from the Native Reserves.

NOTE:- Chiefs, Headmen and Indunas are the servants of the Union Government and as such they are in the hands of Magistrates or Native Commissioners of their respective Districts.

NOTE FURTHER:-

That all the members elected to serve in the Electoral Committees under the provisions of Act No.12 of 1936 are not to be considered differently from those chiefs in the Native Reserves who who serve individually as the most of the members elected are Chiefs, Headmen or Indunas if not mostly uneducated members of those wards concerned not otherwise, The influence existing in the Native Reserves very much alike with the influence exercised amongst the Electoral Committee members. Please read the following passages carefully and make necessary remarks.

- 2 -

PROVISIONS OF SECTION 34 OF ACT 12 OF 1936:- States that if no candidate is duly nominated on or before the nomination day, or if the number of candidates ~~is smaller than the number of persons required to be elected or if, before the polling day, any duly nominated candidate dies, then, subject to the provisions of Section 35 another nomination day shall be fixed under Section thirty or thirty one. (30 or 31)~~ is smaller than the number of persons required to be elected or if, before the polling day, any duly nominated candidate dies, then, subject to the provisions of Section 35 another nomination day shall be fixed under Section thirty or thirty one. (30 or 31)

SECTION 35 of Act 12 of 1936 states:- If the number of candidates duly nominated on or before the nomination day does not exceed the number of persons required to be elected, the returning officer shall declare those candidates duly elected.

REGULATIONS FRAMED THEREUNDER:-

Section 38 (1) States:- At any meeting held under the provisions of regulation No. 36 or 37 the members present shall decide whether to nominate any candidate for such election, and, if so, whom.

Section 38 (2) States:- The decision of the majority of ^{the} members present shall be deemed to be the decision of the body concerned.

SECTION 41(2) States:- Any Chief or Headman may at any time, after the lapse of thirty days from the issue of such proclamation up to and including the nomination day, attend at the office of the Magistrate of the District within which he resides and complete before the Magistrate a form substantially as prescribed in the Schedule to these regulations (Form R.N.12) nominating a candidate, or such number of candidates as he is entitled under section thirty two(32) of the Act to nominate for such election.

SECTION 57 (2) States:- If the procedure under paragraph (1) results in all of the candidates concerned obtaining an equal number of votes, the returning officer shall declare that there has been no election in respect of the particular seat or seats in issue and all proceedings relating to such election shall commence afresh.

SECTION 62 (1) States:- The decision of the majority members present at any meeting referred to in sub-paragraph (b) of paragraph (2) of regulation No. 59 shall be deemed to be the decision of the voting unit concerned.

Gentlemen, careful study of the above section in the Act and regulations framed thereunder governing the election of all persons to represent the Africans in Parliament, Senate and at the Native Representative Council will clearly indicate and show you what exactly would happen if the election are being boycotted by only those who would seek nomination and election as being the choice and looked upon by their less educated country men as their leaders to whom they have depended and are dependent.

Yours in the National Call.

S.I.J. Bhengu.

Justice Department,

Collection Number: A922

Allison Wessels George CHAMPION Papers, 1925-1959

PUBLISHER:

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

©2013

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a collection held at the Historical Papers Research Archive at The University of the Witwatersrand, Johannesburg, South Africa.