

24 JANUARY, 1964.

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SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (INC)
SUID-AFRIKAANSE INSTITUUT VIR RASSEVERHOUDINGS (INGELYF)
P.O. Box 97 JOHANNESBURG Posbus 97

COLOURED PERSONS REPRESENTATIVE COUNCIL BILL

1. The Institute considers that communal representation of groups tends to perpetuate and emphasise differences, and to create or accentuate antagonism and friction, between members of one group and those of others. It believes, too, that such representation, whether it take the form of the recently established Indian National Advisory Council or the presently proposed Coloured Persons Representative Council, can be no effective substitute for common citizenship and direct participation by Non-Whites in central and local government. Such common citizenship and participation, when applied to persons of all colours, alone offer hope of a common loyalty to the Republic which is necessary to ensure racial harmony and a peaceful and ordered government for all its peoples. Similar views have been expressed by the Institute in the past, for instance in 1953 when it gave evidence before the Commission on the Separate Representation of Voters Validation Act Amendment Bill, which preceded the removal of the Coloured people from the Common Roll.
2. Insofar as the proposed Coloured Council is to act in a merely advisory capacity the Institute believes that the history of both the Natives' Representative Council and of location advisory boards, and their failure, make it inevitable that the proposed Coloured Council will be equally ineffective and share the same fate.
3. Insofar as the Bill makes provision for future and piecemeal grant to the Council of legislative powers under the five headings of finance, local government, education, community welfare and pensions, and Coloured rural areas and settlements, the Institute is equally sceptical as to the effectiveness of the measure. It is submitted that even when, and to the extent that, such legislative powers are conferred on the Council the restrictions imposed on their exercise, the limited scope for action, and the reservations on the legal force of legislation when enacted, render virtually meaningless the claim in the Bill that "the Council will, subject to any other provisions in the Act, have the same power to make laws as Parliament possesses".
4. The Bill contemplates the grant to the Council - in the discretion of the Government (the State President) and not of Parliament - from time to time, of legislative power in regard to "specified subjects" under any of the five broad headings, and not of the entire field covered by such headings. The restrictions and reservations include provision that no proposed "legislation" may be submitted to the Council unless approved by the Ministers of Coloured Affairs and Finance, that the State President's assent to a Bill is required, and that any "law" promulgated by the Council shall have legal force "so long and so far only as it is not repugnant to any Act of Parliament" - that is, to both existing and future Acts of Parliament. The cumulative effect is surely to strip the Council of all but the trappings and appearance of legislative power.

5. The composition of the Council and of its Executive point strongly to the intention of the Government that neither of those bodies shall be fully democratic, reflecting the views of the Coloured people themselves through their chosen representatives. Sixteen out of the forty-six councillors are to be nominated by the State President, while the Executive of five is to be presided over by a chairman (with a casting vote in the case of equality), also to be chosen by the State President.
6. It would appear therefore that :
- (i) the conduct and control of matters affecting the Coloured people will be in the hands of the Executive branch of the Government only, and that the Coloured people will be ruled by bureaucratic and executive decision;
 - (ii) the fact that only legislative measures approved beforehand by the Executive branch of the Government may be considered by the proposed Council will nullify any possibility of its acting as a democratic body giving effect to the will of the Coloured electorate except in a purely advisory capacity. In fact, the only legislative measures it may consider will be those which will give effect to the will of the Executive branch of the Government;
 - (iii) Parliament, the supreme legislative body in the Republic, will, in practice, be by-passed. This is executive dictatorship. Furthermore, no Bills proposed by the Council require submission to Parliament for approval or ratification. Parliament's only normal opportunity to review the operation of the Act will be on the occasion of the annual debate for financial appropriation to the Council;
 - (iv) there will apparently be no link between the proposed Council under the Bill and the Coloured representatives presently entitled to sit and vote in Parliament. The absence of a reference in the Bill to such representatives is ominous, and must raise obvious doubts as to the intention of the Government to preserve that relic of the political rights of the Coloured.
7. In many respects the Bill is vague, and the Institute finds it difficult to understand its implications, what the Council's powers will in fact embrace, and how the Council is intended in practice to operate.

For example :

Will the Council take complete control of Coloured education, its finance, personnel and conduct ?

Will it control the various functions of the Department of Coloured Affairs ?

If it has control of local government of Coloured areas how will it integrate its work with the work of present provincial and local authorities ?

The Council may be granted the power to make laws concerning finance, and Parliament is to appropriate funds annually for the financing of the Council. Will the funds merely be sufficient to pay the salaries of a few officials ? Or is it intended, for example, that the Coloured Education vote will be appropriated ?

If the Council has power to make laws about finance, does this mean that it will have the power to levy additional taxation on the Coloured people ?

Will it have the power to appropriate any money which it may be empowered to raise by taxation without the interference of the Government ?

Is it the Government's intention, following the precedent of African education, to make the Coloured people pay for their own services ?

Since 1955, the amount allocated from the Consolidated Revenue Fund for African primary and secondary education has been limited to R13,000,000, any expenditure in excess of this figure being met by African taxpayers by means of direct taxation. This was strongly opposed by the Institute at the time as being wrong in principle. The Institute now finds very disquietening the statement by the Minister of Coloured Affairs in Parliament in February, 1963, that the Coloured people would to an increasing extent be enabled to make a direct contribution to their education and the costs connected with it. The Institute reiterates its view that in a modern state the cost of elementary education should be borne by the country as a whole. To expect the poorer groups to accept the responsibility of financing their own education is a highly undesirable principle of public finance.

8. The Institute considers that both the Coloured people and the electorate as a whole should be taken into the confidence of the Government and given a clear indication of what is intended if the Bill becomes law. As matters stand the Institute is apprehensive that the abolition of Native representation in Parliament is now to be followed by the abolition of Coloured representation. It considers that the offer to the Coloured people, in place of such representation, of the proposed "legislative power" is hopelessly inadequate. It fears that this offer is intended to induce the voluntary surrender by the Coloured people of the principle of participation in Parliament itself. Finally, the Institute believes that the Bill will fail because it evades the central issue of race relations in this country, namely the participation by Non-Whites in real political power.

Collection Number: AD1715

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (SAIRR), 1892-1974

PUBLISHER:

Collection Funder:- Atlantic Philanthropies Foundation

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

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