

P O Box 35571,
Northcliff, 2115.
20 February 1992

The Secretariat of Codesa,
P O Box 307,
Isando,
1600.

Dear Sir,

Re: New Constitution for the Republic of South Africa

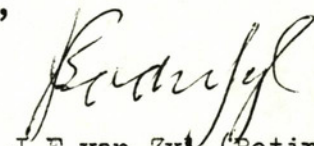
It gives me pleasure herewith to submit to you my proposals for a new Constitution for the Republic of South Africa. I have compiled my proposals in both Official Languages and I should be very pleased if you would be so kind as to have the required number of photostats made so that each delegate to Codesa may obtain a copy.

My proposals differ radically from any proposals which have so far been made. Although my proposals are only a very broad outline, the reader will be able to see that:

- 1 they circumvent the most serious shortcomings of the present and other proposed constitutions;
- 2 the elected representatives will be known to the voters;
- 3 all categories of society will have direct representation in parliament;
- 4 all work activities will have direct representation in parliament;
- 5 power will not be vested in the hands of any one, single person (or small group of persons), but will rest with parliament;
- 6 the proposals completely disregard racial or ethnic groups.

I should be very pleased to reply to any questions or to refute any objections to my proposals, either in writing or personally.

Yours faithfully,



J E van Zyl (Retired school principal and university lecturer)

NEW CONSTITUTION
FOR
THE REPUBLIC OF SOUTH AFRICA

1 THE PRESENT CONSTITUTION

1.1 Under the present constitution it is possible for a person to become minister of economic affairs without any education in economics and with no experience in the working of the economy. It is not only possible -- it happens. The reverse is also true: a man spends his life in the Defence Force and is promoted through the hierarchy to the top post, which he occupies with great success, only to be dismissed as Minister of Defence in order to pander to the political whim of one or other person.

The only principle which should hold in appointing someone to the post of minister, should be that he should have had many years of successful experience in the matters pertaining to that particular department. Therefore Cabinet Ministers should be drawn from the ranks of persons actually working in those particular departments. The Minister of Mines for example, should be someone actually working as mine owner, mine manager, skilled worker in mining, ordinary administrative worker or even unskilled worker in a mine. The last category will only with difficulty be able to comply with the demands of the post since he will have no knowledge of the workings of the higher hierarchies in mining. The Minister of Education should for example, be someone who has had many years experience in teaching and who also has knowledge of the workings of the higher echelons in the department of education.

EVERY MINISTER MUST BE ERUDITE AND EXPERIENCED IN HIS DEPARTMENT.

1.2 At present voters must choose between candidates who, in the vast majority of cases, are totally unknown to them. The voters only know that a candidate is a member of a certain party. But according to what norms are candidates selected by the parties? Again, the principle should be that only persons with many years' successful experience in their life's work, should qualify as candidates.

Many constituencies have the greatest diversity of work-activities and no candidate can have more than a minimal knowledge of all the work-activities in his constituency. Yet the dead hand of the party whose members are in the majority, rule the roost in every constituency.

The constituencies must therefore be changed so that each "constituency" consists of a separate Department having one particular work-activity. Constituencies must therefore not consist of geographic areas but must consist of work-activities such as mining, agriculture, industry, commerce, etc. Every voter must be registered in the Department which includes his

work-activity -- the work whereby he earns his living. Each voter must therefore vote in only one Department. The members chosen by each Department will represent that Department in Parliament. In this way Parliament will be truly representative.

SOUTH AFRICA SHOULD THEREFORE BECOME A DEPARTMENTAL DEMOCRACY.

2

PROPOSED NEW CONSTITUTION

2.1 POSSIBLE DEPARTMENTS

A PUBLIC SECTOR

- 1 Mining
- 2 Industry
- 3 Commerce
- 4 Agriculture
- 5 Transport
- 6 Financial Institutions
- 7 Posts
- 8 Telecommunications
- 9 Health
- 10 Education

B GOVERNMENT DEPARTMENTS

- 1 Defence
- 2 Law and Order
- 3 Infrastructure and Environment
- 4 Foreign Affairs
- 5 Internal Affairs
- 6 Finance
- 7 Research and Information
- 8 Social Welfare, Health and Sport
- 9 Education
- 10 Domestic, Students and Non-working

2.2 COMPOSITION OF DEPARTMENTS

2.2.1 It is not necessary that all Departments be equal by way of numbers or gross national product. However, each department will be directly represented in Parliament, which is not the case at present. Care must be taken that the number of departments does not become too great. Some of the above-mentioned departments could be merged into one department.

2.3 DIVISION OF DEPARTMENTS INTO ECHELONS (or CATEGORIES)

2.3.1 The Departments in the Public Sector are to be subdivided into the following echelons (or categories):

- 1 Owners and shareholders
- 2 Senior management
- 3 Skilled personnel
- 4 Administrative personnel and workers
- 5 Unskilled personnel

2.3.2 The Government Departments are to be subdivided into the following echelons (or categories):

- 1 Senior management
- 2 Skilled personnel
- 3 Administrative personnel and workers
- 4 Unskilled personnel

(The Government Departments do not have a category consisting of Owners and Shareholders).

2.3.3 DEFINITION OF ECHELONS

- 1 An Owner is a person who owns an undertaking or business. A Shareholder is a person who owns at least ten percent of the money-value of the shares of any public company.
- 2 Senior management consists of those persons occupying the posts of director, manager, secretary, as well as their deputies.
- 3 Skilled personnel are those who possess a certificate of competency, recognised by the Departmental Council.
- 4 Administrative personnel and workers are those who do the administrative or run of the mill work of an undertaking and who possess a certificate recognised by the Departmental Council.
- 5 Unskilled personnel are those who do not possess a certificate of competency and who cannot be allocated to any other echelon.

2.4 DEPARTMENTAL COUNCILS

Each Department shall by voting, select a Departmental Council consisting of three members from each Echelon in the Department. Each voter will have one vote which he/she will cast in favour of a candidate who is a member of his/her own Echelon. The three candidates gaining the most votes shall be declared elected.

2.4.1 The Departmental Councils of the Departments of the Public Sector will consist of 15 members each. These 15 members will represent the Department in Parliament.

The term of office of the Departmental Councils is to be 5 years.

2.4.2 The Departmental Councils of the Government Departments will consist of 12 members each. (These Departments have no Owner/ Shareholder Echelons). The 12 members will represent the Department in Parliament. The Council's term of office shall be 5 years.

The election of members from each Echelon by the members of the Echelon, can be termed HORIZONTAL REPRESENTATION. It means that each and every echelon or category is represented in Parliament. For example, there will be 30 members of Parliament who are Owners and Shareholders. They comprise the entrepreneur type and it is essential that they be represented in Parliament -- today they are not. Each of the other echelons will have 60 representatives in Parliament. Even unskilled workers and the unemployed will be represented in Parliament. So too will those (mostly women) who are engaged in domestic tasks -- and their voice is needed.

2.5 COMPOSITION OF THE CABINET

Each Departmental Council will elect from its members a Cabinet Minister and two deputy cabinet ministers, each for a period of 5 years or for the unexpired portion of the five year term of the Parliament. The ministers can come from any Echelon in the Departmental Council. This is VERTICAL REPRESENTATION.

The ministers so elected, constitute the Cabinet.

2.6 THE PRIME MINISTER

The members of the Cabinet will elect from their ranks a Chairman who will occupy the post of Prime Minister for a term of one year. He will be succeeded in rotation by the Ministers of the various Departments. Thus the Prime Minister will not occupy a position of power. Power rests with the Cabinet and Parliament.

The members of the Cabinet will also elect two deputy Prime Ministers for a term of one year and subject to rotation among the Departments. The Prime Minister and deputy Prime Ministers will be responsible to the Cabinet and to Parliament.

Parliament is the supreme Authority and all elected members of Departmental Councils will be responsible to Parliament.

The Departmental Councils will also be responsible to their several Departments.

The Prime Minister and the Cabinet constitute the Executive Authority.

2.7 THE DEPUTY - CABINET

The members of the Deputy-cabinet will elect from their ranks a Chairman and Vice-chairman to regulate the functions of the Deputy-Cabinet. The Chairman and Deputy-chairman will hold their posts for one year and the posts will be filled in rotation by the Deputy-Ministers of the various Departmental Councils.

The Deputy-Cabinet will be responsible for exercising control over the Regional Councils, City Councils and Town Councils.

2.8 THE STATE PRESIDENT

2.8.1 The members of the Cabinet will elect a person to the post of State President for a term of five years or for the unexpired term of the Parliament. Preference should be given to persons who are completely independent of Parliament and the other elected Councils. The State President will be eligible for a second term of office.

2.8.2 The State President will be the head of the State. The rights and powers which the State President will exercise, will be allocated to him by the Cabinet. All legislation must be confirmed or validated by the State President, but he shall have no right of veto.

2.9 PARLIAMENT

2.9.1 Parliament will consist of the members of the Departmental Councils: 150 members will be contributed by the departments of the Public Sector; and 120 members by the Government Departments.

2.9.2 Parliament, as the highest authority, will determine the amounts which will be paid as salaries to all elected representatives. After the normal deductions have been made, the full salary of an elected member will be subject to income tax.

2.9.3 No act passed by Parliament will become Law unless it carries the approval of all the Departmental Councils of all the Departments affected by the act.

2.9.4 Parliament must confirm the appointments made by the Cabinet of persons to serve as Judges. The confirmation will take place by means of the vote of the majority without any foregoing discussion.

2.9.5 Parliament will choose from its members a Chairman and Vice-chairman to regulate the functions and activities of Parliament. These posts will remain subject to the approval of Parliament.

2.10 THE COURTS OF LAW

2.10.1 The Judges of the High Courts will be selected by the Cabinet and approved by Parliament as described in Clause 2.9.4.

- 2.10.2 A judge of the High Court can be relieved of his post only by a two-thirds majority of the members of Parliament.
- 2.10.3 The High Court is responsible for interpretation and application of the Law.
- 2.10.4 The High Court is in all respects autonomous.
- 2.10.5 The State will pay the total of court costs and the costs of legal representation in all cases in all courts in which a person or group win a case against the State. If the case is only partially won, the State will pay pro rata costs as allocated by the Court. This stipulation will also be included in the Bill of Human Rights.

2.11 BILL OF HUMAN RIGHTS

- 2.11.1 The Bill of Human Rights will form the basis of the System of Laws.
- 2.11.2 The Bill of Human Rights will determine and protect the rights of individuals and groups. For this purpose an Ombudsman will be vested with the necessary authority.

3 LOCAL GOVERNMENT

3.1 REGIONAL COUNCILS

- 3.1.1 Regional Councils will manage the affairs of the regions for which they are elected and which are not managed by Parliament.
- 3.1.2 Each echelon of each Department which operates wholly or partially within the area of a Regional Council shall select one member from that Echelon to serve in the Regional Council.
- 3.1.3 Every Town Council and every City Council situated within the area of a Regional Council, will select as many members to serve in the Regional Council as is proportional to the degree of involvement of the Town or City in the Region of the Regional Council. The Deputy-cabinet will determine this degree of involvement.
- 3.1.4 Every Regional Council will select a Chairman, Vice-chairman and as many members as is necessary to serve effectively in the Executive of the Regional Council.
- 3.1.5 The Regional Councils will be responsible to the Deputy-cabinet.

3.2 CITY COUNCILS AND TOWN COUNCILS

- 3.2.1 Only owners and lessees of property on which taxes are paid to the City or Town Councils will have the right to vote for members of the City or Town Councils.

- 3.2.2 Only owners and lessees of taxable properties will qualify to be candidates for election to City Councils and Town Councils.
- 3.2.3 Every City Council and Town Council will elect from its ranks a Mayor and Deputy-mayor and as many members to a Management Committee as is approved by the Deputy-cabinet.
- 3.2.4 City Councils and Town Councils are responsible to the Deputy-cabinet.

4 THE FRANCHISE

Persons of age 18 and over will qualify for the franchise, subject to the conditions of the Department of Law and Order.