



UNIVERSITY OF NATAL

Department of Historical Studies

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Codeca
Working Group No 2
P.O. Box 307
Islands

Dear Sirs:

Enclosed is a summary of the 1932 Hollander Memorandum concerning provincial government. It was accepted by the then South African Party but not implemented after formation of the United Party. It was an eminently acceptable solution, to Natalians, to the problems arising from the power relationship between central and provincial governments; and has some relevance therefore to the present situation. It was based, too, on practical experience rather than theoretical considerations.

Yours faithfully,
P. S. Thompson

1. British citizenship, threatened by Malan.
2. Racial policies affecting Provincial employees on the score of bilingualism, and importation of workers in all spheres from other Provinces to affect the voting strength.
3. Exploitation and maladministration of the Native population by officials ignorant of their language, laws and customs; officials appointed because of political persuasion.
4. Underdevelopment or wrong development of natural resources.

Nicholls concluded by saying that he wished to make the issue quite clear. If they did not adopt the resolution he had moved, then so far as he was concerned they would split the ranks of the Party in Natal from top to bottom. In thus threatening to leave the S.A. Party, he was playing his last card.

Cries of "Never," "Are you a friend of the Party or not?" were heard.

After Nicholls's resolution had been seconded by Borlase, F.C. Hollander moved an amendment in the form of a series of recommendations for the re-constitution of the Provincial Councils. It took the form of four proposals prefaced by the Provincial Council resolution of May 18¹ and a review of the constitutional position of the Councils, both prior and subsequent to 1910.

Firstly, Hollander urged the entrenchment of the Provincial system. His memorandum said:

In view of the conditions which have been created in South Africa in recent years, where the whole Provincial system is at the mercy of the government in power, and in order to provide that any devolution

¹ See p. 147 above.

of the authority shall not be assailable by a mere Party majority in Parliament, it becomes necessary that such powers as may be transferred to the Councils, and such alterations as may be made to the Act of Union, should be entrenched, and that any alterations which might be contemplated in the future should not be possible without definite approval and consent of the people of the Province concerned, expressed through its Provincial Councils.¹

No details were proposed as to how this entrenchment could be accomplished, but the desirability and necessity of such a safeguard was emphasised.

Secondly, certain alterations to the Constitution of the Provincial Councils were proposed. The South Africa Act provided for Councils which were elected for three years, and could not be dissolved during that period; an Executive Committee of four, who were elected for three years by proportional voting of the members, and could not be removed during their term of office.

Hollander suggested that the Councils should be elected for five years; that the Executive Committee should be elected by, and be responsible to the majority of the Council; that the Committee should be removable on a vote of no confidence: that, in certain circumstances, and to avoid a deadlock, an appeal should lie through the electors of the Province in the form of a Provincial Election at any time during the life of the Council.

Under the existing system, the Administrator, who acted as Chairman of the Executive Committee, was appointed for five years by the Central Government and was paid by the Union Treasury. In order to bring the Councils to the

¹ F.C.Hollander, Extension and Development of the Provincial Council System, p. 4, Nicholls Papers. Commonly known as the Hollander Memorandum.

status of a proper local Parliament, it was proposed that the Administrator should be elected either by the Council or by a representative Electoral College consisting of a Province's M.P.s, Senators and Provincial Councillors. Alternatively, he might be elected by Members of the Provincial Executive from among their own number. Should the occasion arise, the Administrator should be removable from office by those charged with the responsibility of electing him.

In addition, the Provincial Executive (six if necessary) should be full-time officers in charge of various departments and armed with the powers of Cabinet rank.

Thirdly, the powers assigned to Provincial Councils by Section 85 of the South Africa Act should be extended with the following powers:

1. Power to negotiate loans on the credit of the Province for capital works.
2. Control of the Provincial Public Service.
3. Control of the Provincial Public Works Department.
4. Wage and Industrial legislation.
5. Public Health.
6. Agricultural, Irrigation, Land Settlement, and Immigration associated therewith.
7. Education in all branches, including Technical and High.
8. Administration of Native Affairs, and Police.

Lastly, the financial relations of the Union Government with the Provinces under such a constitutional development would necessitate the appointment of a Commission of experts. There were various suggestions put forward by which a

satisfactory system could be achieved. The proposal made

~~Commission of 1912 recommended that the Provinces should be financed on a per capita grant covering the whole population, with special reference to non-European inhabitants of the Province. Alternatively, fixed proportions of certain Union revenue earned in a Province might be transferred to that Province as a financial provision for the carrying out of its extended services. A third suggestion might be in the direction of transferring existing fixed Union revenue to the Provinces, with powers to legislate so as to create flexibility.~~

Railways, Harbours, Customs, the Post Office, Justice and Defence would remain national in character and administration. One reservation was that the Railways should be controlled by an independent Board of Commissioners, entirely free from political control and bias.

While Hollander saw the flexibility of the South Africa Act as a weakness with reference to the non-entrenchment of the Provincial position, its flexibility was a most important and vital advantage in regard to the development and extension of the Provincial system in that it was possible to do this without making any serious inroads into the Constitution.

Hollander concluded his recommendations by saying:

... I think that it will be agreed that it is desirable that some effort by the Natal section of the South African Party should be made to place concrete proposals before those who, today, are of the opinion that the development of the Provincial system is desirable and necessary on federal lines, and within the Constitution of the South Africa Act, ...