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# DUNDARACH POULTRY FARM (PTY) LTD

Reg No 67/06093/07

Working group # 2  
C.O.D.E.S.A.  
P.O. Box 307  
ISANDO  
1600

24 February 1992

Dear Sirs

This memorandum is in reply to a letter to the editor of the Cape Times in which you invite written submissions on the subjects covered by the terms of reference of your Working Group # 2.

I am a farmer in the Western Cape, and have had a lifelong interest in a fair and successful resolution of the political situation in our country. I have travelled extensively throughout the world and have visited Peru, Chile, Paraguay, Bolivia, Brazil and the Argentine in South America, and have recently visited Russia, Georgia, Uzbekistan, Kazakhstan, Siberia and Mongolia. This is in addition to most Western Nations.

I trust that you will find some fresh constitutional concepts in my memorandum.

Yours faithfully

A.W.L. Stuart



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TO: WORKING GROUP # 2 C.O.D.E.S.A.  
FROM: ALLAN STUART  
RE: GENERAL CONSTITUTIONAL PRINCIPLES

The purpose of my memorandum is to try to break the logjam of thought processes characterised by the reduction of deep meaning philosophical concepts into mere stereotyped clichés, and come up with some entirely fresh concepts for your consideration.

To start I want to lead your minds away from our parochial situation to take a look at the outside world with a view to identifying which nations are successful, and what, if any, constitutional factor is the common denominator that has made them successful. I am specifically going to avoid looking for economic factors, as this is outside your terms of reference, and concentrate on looking for the underlying constitutional principles that created the climate in which these nations have flourished both economically and socially. Also, firstly, as I do not have a deep enough understanding of them, and secondly, because many of them fall outside your terms of reference as they are not true democracies, I am going to avoid looking to the Far East for solutions.

1. Which countries would we like to emulate?

I am not going to choose any one nation. Rather I am going to name four nations: UNITED STATES OF AMERICA, WEST GERMANY, FRANCE AND THE UNITED KINGDOM. Hopefully, somehow, by taking the good points from some and discarding the bad points from others we will be able to piece together from these four nations the ideal nation which we in South Africa can use as the rôle model to which we can aspire. If there are people within your working group that disagree with my choice and would prefer to aspire to a more fundamentalist type of society, don't stop reading now. After all, we are not discussing economic models, we are trying to seek the fundamental constitutional parameters that result in a successful nation.

2. What is the common denominator in our rôle model nations?

For the sake of this discussion I am going to define

- a) SOCIALISM as an economic system where the state takes the responsibility for the majority of social needs of its citizens.

and b) CONSERVATISM as an economic system where the individual citizen is responsible to a much larger extent for his own social needs.

Political parties in most democracies tend to divide along these lines and their resulting economic policies have over the years determined either the prosperity, or lack of prosperity of their nation. If one looks at nations whose economic policies have failed, a fairly clear picture starts to emerge, i.e. those nations have either

a) stuck to ultra-conservatism i.e. HAITI, PHILLIPINES under MARCOS, SOUTH AFRICA and numerous SOUTH AMERICAN and AFRICAN DICTATORSHIPS.

or b) stuck to ultra-socialism i.e. CHINA under MAO TSETUNG and the SOVIET BLOCK nations.

The common denominator in these failed nations is the lack of a pendulum action between conservatism and socialism in the political control of their nations.

Let us now test this against our basket of rôle model nations.

UNITED STATES: Two of America's greatest presidents, FRANKLIN ROOSEVELT and JACK KENNEDY were Democrats (i.e. Socialists). Roosevelt's NEW DEAL socialist policy brought America out of the great depression. LYNDON JOHNSON'S GREAT SOCIETY was perhaps the most ambitious socialist programme of all time. On the other side America has had equally prominent Republican (i.e. Conservative) Presidents. DWIGHT EISENHOWER presided over 8 years of unprecedented economic growth after the war and we all know RONALD REAGAN and his arch-conservative REAGONOMIC policies.

I believe one of the secrets of America's success is their constitution that allows a pendulum action between socialism and conservatism. As soon as the pendulum swings too far to the right the constitution allows the voters to say "No" and to vote in a left government, or President and vice-versa.

WEST GERMANY grew after the war under the conservative policies of KONRAD ADENAUER and had periods under socialist Chancellors like WILLIE BRANDT and HELMUT SCHMIT. They now have a conservative in Chancellor HELMUT KOHL.

FRANCE'S most famous conservative President was CHARLES DE GAULLE. They now have a socialist President in FRANCOIS MITTERAND.

THE UNITED KINGDOM has had their famous socialist Prime Ministers such as CLEMENT ATLEE who toppled WINSTON CHURCHILL and HAROLD WILSON, and equally famous conservative Prime Ministers such as MARGARET THATCHER.

Each of our rôle model nations stands up to the pendulum test. They each have a constitution, whether written or unwritten, as is the case in the United Kingdom that not only permits the citizens to change their mind but gives them a reasonably fair chance of being successful at the polls in the event that one, or the other party oversteps the mark.

3. What criteria must be met to ensure a successful pendulum action?

In almost every case of the pendulum sticking either to the right or to the left, the cause has been an entrenchment of the vested interests of a certain group of the citizens of that nation. The entrenchment of a clique of the ruling elite is usually backed by a strong military and internal secret police (as in the Soviet Union) or with the aid of external military forces (South Vietnam in the 1960's, and Afghanistan) or by clandestine military aid from superpowers seeking world hegemony.

The common theme is the word ENTRENCHMENT. In our case we have needed world pressure in the form of sanctions and internal revolt to break down the ENTRENCHMENT of the Afrikaner. We must take absolute care to avoid writing a constitution in which any other group or interest can ENTRENCH themselves in future. The only things that should be ENTRENCHED are the basic human rights and the electoral processes whereby a government can be changed. Thereafter any government should be able to come in and dismantle or re-arrange anything that they do not like that was set up by the previous government, subject only to the threat of being thrown out of power at the ballot boxes at the next election. Failure to give a new government the power to govern through ENTRENCHED clauses is like putting a brake on the pendulum and upsetting the very mechanism that is at the essence of our successful rôle model nations. Anybody who has ever run a company or any other organisation knows the essentialness of having the necessary autonomy to take the correct decisions at the correct time. To try and manage with one's hands tied behind one's back is a dead sure formula for failure in the commercial world, and so too in government.

4. How do we write a constitution that prevents any sector or group from entrenching themselves?

The favourite slogan of "one man, one vote on a common voter's role" is just as good as entrenching the right of the MOST NUMEROUS to govern. What we need and what our rôle model nations show us is that we need to be governed not only on the basis of the most numerous but rather on the basis of the MOST ABLE, or the MOST QUALIFIED, or the MOST INTELLIGENT, or the HARDEST WORKING. It is an unfortunate trait of mankind that the most able, the most intelligent, the most qualified, and the hardest working citizens are usually in the minority. Thus, the concept of a constitution entrenching the right of the MOST NUMEROUS to govern by its very essence means that the government will be at the behest of the least qualified, the least intelligent, the least able and the least hard working citizens. I believe that this is unacceptable and that we must seek out a constitution that does not prejudice those members of society that have contributed most to society. I believe we must at the very least, give an equal weighting to the votes of those that have contributed most to society.

5. How do we write a constitution that does not prejudice those members of society who have contributed most to society?

What we now have is a division of interests. We have come back to that infamous cliché: "group interests". At the outset let me say that my concept of group interests is nothing to do with "racial group interests" as manifest in the tri-cameral parliament, or "territorial group interests" as in apartheid. My proposed groupings - and groupings there will have to be in order to prevent the entrenchment of the MOST NUMEROUS - are on the basis of how much a citizen has contributed to society - not on colour; not on race; not on territorial location - on the basis of how much a citizen has contributed to society. Our rôle model nations have created successful socio-economic societies because they have been governed by the most able, the most intelligent, the most qualified and the hardest working members of society. We must write a constitution that gives a fair say to the minorities of society that have contributed most to society.

Yes, the proletariat must have a say; they must have the power to swing the vote, but so too must the minorities have an equal say, an equal chance to swing the vote. After all, the acid test is to keep the pendulum swinging - to keep the voting fluid to prevent the build-up of entrenched power bases.

6. Let us try to define the parameters of the different groups.  
Just who are those who have contributed most to society?

A) Almost every pundit has proposed that the solution of our socio-economic problems is through education. Right! So our first grouping shall be called the "INTELLIGENTSIA". Even the old Soviet Union had seats specially reserved for the intelligentsia.

B) No government anywhere in the world can govern without an input from organised labour. These are the people who have contributed something to society by their hard work, by their sweat - the blue-collar workers. So our second grouping is the "TRADE UNIONS".

C) The industrialists, the men in commerce, the farmers, the entrepreneurs claim that it is they who create the jobs by building the factories, that feed the nation, that pay the taxes that keep the economy going. Each of these has in his own way contributed a lot to society and therefore deserve a grouping of their own. Let us call the third grouping the "CAPITALISTS".

D) We naturally can not end up with any disenfranchised so there must be a grouping for those who, perhaps because of their youth, or their lack of opportunity, or who are farm or domestic workers or small business employees are unable to qualify for a position in any of the other groupings. Let us call this group by that age-old word, the "PROLETARIAT". And

E) We have, I think, covered those minorities that have contributed something to society, and we have covered those less fortunate. Now, what about the backbone of society - the silent majority - the solid citizens that may not quite qualify for any of the first three groupings but would be insulted if they were referred to as a proletarian. I like the word the "HOME MAKERS".

I believe that every citizen over the age of 18 will feel comfortable in one of these groupings. I believe also that there will over time be a certain amount of prestige attached to certain of these groupings which may act as an incentive for citizens to contribute more to society so that they, as it were, can move up the socio-political ladder. This built-in incentive could very well be the triggering mechanism to push our economy to new heights so that there becomes a real chance of us catching up with the rôle model nations that we are trying to emulate.

7. Defining the groupings in more specific terms.

It is not my wish to flood you with detail. After all your reference limits the scope of my memorandum to general constitutional principles. However, I feel that it is essential to give you a broad outline of how I see these groupings defined. I will be brief:

- a) INTELLIGENTSIA: Persons in possession of degrees from recognised universities - not diplomas from technicians. This will include lawyers, accountants, doctors, architects, scientists, M.B.As and senior members of the teaching profession, e.t.c. I unfortunately won't fall into this category, as I only have a matric.
- b) TRADE UNIONS: All paid up members of recognised trade-unions.
- c) CAPITALISTS: I see the income tax return as the easiest way of defining this group. Say, anybody who has paid more than R40,000 in income tax in any one of the last three years, duly adjusted in future years for inflation.
- d) HOME MAKERS: As this group is for the "silent majority" I envisage a very wide ranging definition which shall include:
  - i) Spouses of persons in the first three groupings.
  - ii) Widows of persons who had been in the first three groupings.
  - iii) Anybody with a title-deed to a property, or sectional title, or members of a share block (irrespective of the size) on which a minimum of 60 monthly bond repayments have been made, plus their spouses
- e) PROLETARIAT: Anybody over the age of 18 who is eligible to vote and who does not fall into one of the above groupings.

I envisage that every citizen over the age of 18 will have to re-register as a voter and will have to attach to his application the necessary documentation to prove his eligibility for any one of the higher categories. Those citizens who qualify for one of the higher categories will have to decide in which one of these categories he wishes to register. No citizen shall be entitled to register in more than one

category. The registration will have to be policed or monitored in such a way as to prevent fraud, and if fraud is suspected then the supporting documentation may have to be re-checked at the polling booth.

8. Flashback on why we must have five voter's rolls.

We have discussed in depth the need to prevent one sector of the community from becoming entrenched. A common voter's role has the imperfection that it does just that. By dividing the populace up into different voter's rolls one reduces the chances of any one sector of the community from becoming entrenched. The Capitalists can't become entrenched because they only control 20% of the seats in Parliament; the Trade Unions for the same reason can't become entrenched because they, too, can only control 20% of the seats in Parliament, and this applies too, to the Proletariat. By giving the Intelligentsia and the Home Makers a substantial 20% each of the seats in Parliament one creates a large moderating or buffer body of M.P.'s that should help keep the normally antagonistic extremes of Capital and Labour apart.

Much glib talk has been made of checks and balances. I believe the place for checks and balances is in the method laid down by the constitution for the election of members of Parliament. You can't bind Parliament but you can and must bind the method by which the citizens elect their members of Parliament. If we don't get the kernel of the constitution right, we will never be able to patch over the situation with however many entrenchments and other mechanisms or tiers of government you may devise.

I believe the solution; "ONE MAN, ONE VOTE FOR ONE PARLIAMENT VIA FIVE VOTER'S ROLLS" is the uniquely simple solution we have long been looking for.

9. Scenario of how this constitution will work in practice.

What have we achieved so far? We now have an electoral system based on five merit groupings each with its own voter's roll. Obviously we can't have five Members of Parliament for each constituency as they are presently denominated. I believe that we must keep Parliament down to a manageable size of 120 or 160 or 180 members at a maximum. This means 24 or 32 or 36 Members per voter's roll. In order to get the fluidity and dynamism and the optimum working of the pendulum action we can only have one Parliament which will be the sovereign law making body of the nation. It may be wise to retain a Senate or Upper House with referral rights as a buffer against runaway enthusiasm of the lower house. I see the country divided into no more than 3 regions - CAPE, NATAL and INTERIOR with proportional representation in each of the regions for each of the voter's rolls. Remember that proportional representation works best when the number of M.P.'s per voter's roll per region are largest. Breaking the country up into too many regions will almost certainly eliminate the chance of any minor party from getting any representatives in Parliament.

10. Who is likely to win such an election?

I am sure that most pressure groups have already sharpened their pencils to try to work out if they can win an election based on such a constitution. If I have confused each and all of them, so that nobody with certainty can say that they will win an election on this basis, then I believe the solution I am offering is the right solution. The best constitution is a constitution that keeps every parliamentarian guessing whether he will be re-elected next time round or not. The entrenchment of a certain group has been our problem in the past. A constitution that results in the maximum fluidity in the future is our only guarantee against other groups getting entrenched. The pendulum must keep swinging. That is the secret of the success of our rôle model nations. That shall be the secret of the future success of South Africa.

In all probability we will see new specialist parties coming to the fore representing predominantly citizens of one or another voter's roll. I see little chance of any one party getting a clear majority so there will be ample opportunity for electoral pacts and coalitions. I see coalitions being made within Parliament rather than at the constituency level.

11. To summarize:

The general constitutional principles that I propose are:

- a] Seek out a nation or group of nations as your rôle model and ferret out the secrets in their constitution which led to their success.
- b] Choose an electoral system that will allow the maximum fluidity between socialism and conservatism thereby preventing the entrenchment of any one philosophy in future.
- c] Choose a constitution that gives every citizen an equal chance of swinging the vote. Give every citizen a fair vote as opposed to a numerically equal vote.
- d] Recognise those minorities that have contributed most to society whether by their brains, or their sweat or their capital.
- e] Don't forget the silent majority, the home makers, the back bone of society.
- f] Have one sovereign Parliament and don't thwart it by tying their hands behind their backs. We need dynamic and decisive government.
- g] Keep the size of Parliament to a manageable size and keep the tiers of government to a minimum. The shorter the lines of command, the more dynamic the control.



12. Finally:

We have to be bold. We have to give up trying to entrench the vested interests of the past. We must put all our intellectual resources into devising an electoral system that gives every citizen a fair as opposed to an equal vote and then we must step bravely into the future and make this country work.

Thank you for giving me this opportunity for putting my views. I am available at the above address if required for expansion of my views.

A.W.L. STUART

24/02/92

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