

A POLITICAL ANALYSIS OF THE 1983 REFERENDUM

IN THE REPUBLIC OF SOUTH AFRICA

Jack Christofides

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A POLITICAL ANALYSIS OF THE 1983 REFERENDUM IN  
THE REPUBLIC OF SOUTH AFRICA

INTRODUCTION

Political analysts have described the 1983 referendum as one of the most important stages of the government's reform programme which began in the early 1970's with the Theron Commission. The referendum was indeed an important step in South Africa's constitutional history, in that it heralded white voters' dissatisfaction with the 1961 constitution, and brought about fundamental changes to the concept of democracy in South Africa by extending the vote to the coloured and Indian communities. Besides the historical-constitutional value, the referendum also presents itself as an important exercise in the political dynamics of South Africa and as an extension of the concept of representation.

On 2 November 1983, South Africa's white electorate went to the polls to vote on the implementation of a new constitution which would for the first time allow coloureds and Indians the opportunity to participate in the legislative and executive functions at central government level. Although changes to the 1961 constitution had been mooted since the early 1970's, it was only after a great deal of debate that the National Party finally released its proposed constitutional proposals.

South Africa's political tradition bears witness to the fact that it has made use of the referendum as a means of ascertaining popular consent on only three occasions. It is significant to note however, that all three referendums have been held on important constitutional matters. The first time the referendum (held in Natal) was employed, was in



1909, to decide whether or not Natal would form part of the Union of South Africa. In 1960, Prime Minister Verwoerd used it to gauge whether the white electorate was in favour of a republican form of government as opposed to a monarchy. Both outcomes were in favour of the measure voted upon, results which significantly changed the course of South African politics and constitutional history. The third referendum, the 1983 referendum, forms the basis of this study and without doubt generated the greatest interest both locally and internationally.

The aim of this political-historical study is to examine the 1983 referendum in South Africa in its widest scope. This examination addresses the question of whether or not the 1983 referendum was a referendum or if it was a plebiscite. The debate generated by the political actors, the legislation and regulations pertaining to the referendum and the outcome and reaction to the referendum are all aspects that are discussed.

In order to reply to the above requirements, it is necessary to define and discuss the concept of democracy and to link it to the concept of representation. As referendums are often embarked on as a supplement to some shortcoming of representation or of the representative, an understanding of the two concepts is necessary. The major portion of Chapter One therefore deals with the theoretical ramifications of referendums, both as extensions of direct democracy and substitutes for representation. The forms that referendums appear in throughout the world are also discussed. States used as examples include Switzerland, the United States of America and Australia. Besides an explanation of the history of direct popular checks, a contrast is also offered between referendums and plebiscites, as well as the various types of

referendums that are found throughout world practice. Through misuse of the term referendums have come to imply various concepts and world practice has tended to accentuate these differences.

Chapter Two highlights some of the discussions mentioned in the previous chapter and applies these to the referendums of 1909 and 1960 in South Africa. Both referendums are discussed in terms of historical background, events influencing the outcome and finally the result of each referendum. These aspects are dealt with in order to give perspective to South African referendums and to demonstrate any precedents or traditions that might have arisen which could have bearing on the 1983 referendum.

The wide arguments and polemics regarding a new constitutional dispensation for South Africa as offered by various political actors leading up to the referendum forms the core of Chapter Three. The chapter is divided into the opinions expressed by political parties, both for and against the proposals and the opinions expressed by other extra-parliamentary groups and demonstrates the schisms prevalent between (a) white political parties and (b) white and non-white politics. In terms of approach, and for the sake of expediency political actors are grouped together in terms of their support or rejection of the 1983 constitutional proposals.

Finally, the legislation and regulations pertaining to the 1983 referendum and the outcome and reaction to the outcome are examined in chapter four. Each voting region is analysed in terms of the percentage poll, the majority in favour of the new constitutional proposals and the spoilt ballots. The chapter also examines the immediate consequences of

the referendum result on the political actors and the political situation in South Africa. Various political actor's reactions to the outcome of the referendum are also outlined.

The referendum campaign generated a great deal of publicity both within and outside South Africa. The focus of this attention was the debate surrounding the 1983 constitution, the arguments in favour and the arguments against. A great deal of literature was produced offering various polemics and it is this literature that forms the basis of the sources employed in this study. Various primary sources such as statutes, interviews and official publications have also been employed. Interviews with politicians and officials complement the primary sources. Newspaper articles formed the core of the secondary sources consulted as did various political science and history reference books.

Abbreviations used in this work are RSA - Republic of South Africa, SAIC - South African Indian Council and OFS - Orange Free State. No abbreviations have been used to denote the various political parties.

# 1. REFERENDUMS AND THE CONCEPT OF DEMOCRATIC GOVERNMENT WITH REFERENCE TO REPRESENTATION.

## 1.1 Introduction

As far as the theoretical manifestations of referendums are concerned, it is important to examine them from two points of departure. Firstly, as extensions of direct democracy and thus substitutes for representation, and secondly, to understand the various forms referendums appear in throughout world practice.

Referendums as extensions of direct democracy are seen as augmentations of direct democracy as practiced by the Ancient Greeks. Representation is salient in any study of direct democracy devices (such as the referendum), because the use of such devices implicitly implies some short-coming of the representation system. Various conceptions of "representation", as espoused by numerous writers, and the concept "referendum" (as a means of supplementary representative government) are discussed to demonstrate congruence and symbiosis between the two concepts.

In order to demonstrate the linkage between the two concepts, it is also necessary to define the concept "referendum", with reference to its origins and early connotations. Direct democracy devices also include the initiative and the recall and any study of referendums must include reference to these terms, because in no state are either of these two concepts present without the presence of the referendum.

Through misuse of the term, referendums have come to imply a whole gamut of concepts, and world practice has resulted in various types of referendums being

cognate. However, in view of the fact that referendums have not found universal appeal, the arguments both for and against the use of them are highlighted. Finally, the use of the referendum as found in certain states is examined. States used as examples include Switzerland, the United States of America and Australia.

## 1.2 Democracy, participation and representation

The word "democracy" is derived from the Greek word *demokratia*, meaning rule by the people.<sup>1</sup> The most common definition of democracy is that it is a government by the majority of the people,<sup>2</sup> and that this majority should govern while minorities should oppose.<sup>3</sup> Furthermore democracy "... is a complex, ambiguous term and one which carries evaluative overtones and in most formulations of democracy, widespread participation by the population is a recurring feature."<sup>4</sup> Furthermore, at the national level, the acts of governments are usually performed not directly by the electorate but indirectly by representatives whom they elect on a free and equal basis. An ideal democratic government then would be one whose actions were always in perfect correspondence with the wishes of the electorate.<sup>5</sup> The closest example to an ideal democracy was that which existed in Athens up until 336 B.C.

Democracy, as practiced by the Ancient Greeks in Athens, represented the maximum conceivable enlargement of a microdemocracy. When the *demos* (citizens) gathered, the Athenian system operated as a "town-meeting" democracy in which some thousands of citizens expressed their sentiments through "ayes" or "nays". Thus Greek democracy was direct democracy based on the actual participation of the voters in their government. Representative democracy,<sup>6</sup> however, is not based on direct

participation but representation. Sartori argues that it is incorrect to believe that present-day "electoral participation" resembles the real participation of the Greeks or even that the devices of direct democracy (the referendum, initiative and recall) can bridge the gap between a Greek and modern representative democracy.<sup>7</sup> Huntington uses the term "participation" to refer to the activities of the voters designed to influence government decision-making.<sup>8</sup> Schwartz and Kernig link the terms "participation", "democracy" and "representation", claiming that the will of an electorate is manifested in the power of the voters, in the choice of the electorate's representatives and (in certain states) the right of the people to participate directly in legislation through the use of referendums, popular initiatives or recalls.<sup>9</sup>

It is taken for granted that a democratic government should be based on the consent of the electorate and be responsible to that electorate. If the beliefs and desires of the voters ought to be respected, some means of ascertaining the opinion of voters is required. In a democracy such as the Swiss *landsgemeinde*, where voters speak for themselves and the entire population assembles to make decisions, there is no problem. A state in the twentieth century however, due to the size and extent of its population, does not lend itself to mass assemblies, making representation inevitable in order to protect the community's interests.<sup>10</sup> Sterne (1871) wrote that representative government is a necessity brought about by the demands of modern civilisation and the requirements of life in order to make democratic government possible.<sup>11</sup> Thus representative government has to a great extent come about due to the scope and complexities of modern societies. For the purposes of this discussion, it is necessary to study the extent and meaning of the

concept of "representative democracy".

As the direct democracy of the polis and the *landsgemeinde* gradually dwindled away, there arose the problem of how to justify the legitimacy of representation, or how to validate authority resting on a transfer of authority and rights.<sup>12</sup> Natural law theorists held that civil society is derived from two contracts; a *pactum societatis*, by which men agree to unite in order to preserve their lives, and a *pactum subjectionis*, by which men hand over power to a sovereign.<sup>13</sup> In this way representation is defined as a relationship between the representative and the represented, with the representative holding the authority to perform various actions that are incorporated within the mandate of the represented.<sup>14</sup> This mandate theory of representation relates specifically to elections and the authorisation or direction to a representative that an election creates, and whereby representatives are authorised to use their own judgement in pursuing the interests of their constituency.<sup>15</sup>

Rousseau (1712-1778) contended that as a result of the large number of interests that are prevalent within any community, a basic division between rulers and ruled develops which makes it unlikely that the wills of elected representatives will conform to the wills of those supposedly being represented. In addition, legislative representation is illegitimate because "... will does not admit of representation".<sup>16</sup> A law cannot actually embody the voter's will, as "... man can only define for himself",<sup>17</sup> thereby excluding the possibility that a voter's will can be represented by someone else. This can be contrasted with the argument that all political parties and governments represent their electorates (or in the case of non-democratic political systems, subjects).<sup>18</sup>

### 1.2.1 Conceptions of representation

Political representation is the key institution of every modern political system - and disagreements about what representation is have led to a variety of conceptions, including authorisation, responsibility, correspondence, symbolic representation, and action representation. The authorisation conception rests on the postulate of a contract whereby the representative is authorized to act on behalf of the electorate, while the conception of responsibility is based on the norm of how the representative acts once given a mandate by the electorate. Correspondence representation indicates to what extent the actions of a representative correlate with the wishes of the electorate. Symbolic and action representation are both conceptions of how a representative uses his mandate, although they differ markedly from one another in that symbolic representation literally means "standing for" the electorate, while action representation implies that not all the representatives' actions are wishes of the electorate, but rather what the representative thinks are in their best interests.<sup>19</sup>

#### 1.2.1.1 Authorisation

Hobbes wrote that subjects should regard all the actions of the sovereign power as actions of their own. Hobbes' argument defines representation in terms of the giving and having of authority.<sup>20</sup> Pitkin calls this the "authorisation view" and lists its basic feature as; a representative who is authorised to act.<sup>21</sup> The Utilitarians such as Bentham, James Mill and John S. Mill criticized this conception arguing that if power is granted to a representative he will use this power for his own advantage.<sup>22</sup> John S. Mill suggested that the only



way to deal with such a problem was to ensure that a legislature's interests were identical with those of the electorate so that the representatives would have no motive for using their power other than in the general interest.<sup>23</sup> Weber supported the authorisation view, claiming that instead of being the agent of an individual, the representative is an organ of the group,<sup>24</sup> while representation is a state of affairs in which the actions of the majority are both carried out, and of binding nature on the minority.<sup>25</sup>

#### 1.2.1.2 Responsibility

Responsibility as a means of quagmid representation indicates who is responsible to his constituents, not how the representative gains his authority.<sup>26</sup> The Utilitarians believed that to insure that the representative does not abuse his power, a shorter period of time occupying the capacity of representation was required.<sup>27</sup> This of course, precludes representatives from establishing a power base or even experience in the legislature. Therefore, political systems are measured as being democratic if they allow for their representatives (or decision-makers) to be removed from office.<sup>28</sup>

#### 1.2.1.3 Correspondence

According to this criteria, representation consists of a likeness (and thus correspondence) between the representative and his electorate.<sup>29</sup> True representation requires that the legislature be so elected that its composition corresponds accurately with that of the whole state as only then is it a truly representative body. Burke (1729-1797) too maintains that the virtue, spirit and essence of a representative body lies "... in its being the express image of the feelings of the nation".<sup>30</sup>

#### 1.2.1.4 Symbolic

Likeness or correspondence are not the sole basis by which items or concepts can be represented. Symbols too can represent concepts and issues, such as states, trade unions and leaders. Symbolic representation would then be on the model of a flag representing a state, or an insignia representing for example, an army regiment.<sup>31</sup> Symbolic representation should thus be of such a nature as to personify or symbolize the electorate's notion of whatever the particular concept should be.<sup>32</sup>

#### 1.2.1.5 Action

In this category of action representation, the essence of representation lies in how the representative acts. The point is made that the true representative will act in the best interests of his electorate whether or not his ideas of what is good for the electorate agree with their own.<sup>33</sup> Another feature of acting for others is that it should be deliberate action.<sup>34</sup>

Having thus illustrated various conceptions of the term representation, attention must now be focussed on the congruence between the concept of representation and the concept of referendum.

#### 1.2.2 Representation and the referendum

Representation is the making present of something which is not literally present.<sup>35</sup> Political representation furthermore, is the fulcrum of every modern democratic political system. A representative government implies a government that does whatever a majority wants it to do. But democracy is only an effigy unless the government has some effective way of finding out what its citizens want and then

translating such wishes into government action or inaction.<sup>36</sup> It is therefore dangerous to sanction representation to be the sole gain of finding out what the electorate wants. Representation should thus be implemented alongside a device that reflects the popular will directly and without interpretation by an intervening agency.<sup>37</sup>

There are certain devices whereby democracy can become more direct and voters themselves can exercise a greater role in decision-making. Consequently, reservations about political representation hold that some means of direct legislation are a necessary aspect of democratic popular consultation. One of the most important legislation devices is the referendum.<sup>38</sup>

The referendum may be considered from two directly opposite points of view: either as a compliment to, and a corrective of, the abuses of a representative system<sup>39</sup>; or alternatively, as a device which initiates certain actions by means of direct legislation. Representatives are periodically given a mandate to legislate for the general good by the voters and yet, despite all the precautions designed to ensure harmony between the representatives and the voters themselves, it is still complicated to prevent differences of opinion and polemics from arising between the two. If a legislature loses the confidence of the voters, there is no alternative but a dissolution. If however, without losing this confidence, it has passed an unpopular measure (law, decree or treaty) then it is only necessary to prevent this measure being carried into effect.<sup>40</sup>

The referendum in whatever form, is an intricate instrument that requires accurate definition. In modern day usage, the words "referendum" and "plebiscite" have come to be synonyms with the

latter term falling away from common usage. Before a description of referendums can be put forward it is necessary to examine the history of direct popular checks in order to see what the original users wished to achieve with such devices.

### 1.3 The history of direct popular checks

There are three direct popular checks in existence which enable the electorate to participate in the legislative process. They are the initiative, the recall and the referendum. The initiative is the process by which the electors are constitutionally permitted to initiate proposals either for ordinary laws or for the amendment of the constitution, or both. The recall gives dissatisfied voters the right to propose between elections that their representative be removed and replaced by another more in accord with the popular will.<sup>41</sup>

The referendum, otherwise known as the plebiscite, has a much longer history. In Roman Republican days, the plebiscitum was a law passed at the comitia tributa or meeting of the plebes, and this explains the use of the French word plebiscite in modern times to describe an appeal to the suffrages of the people. Napoleon 1 used the plebiscite in his rise to power as a means of by-passing the existing machinery of government. A similar misuse of the plebiscite accompanied Hitler's rise to power in Germany, for Hitler held a succession of plebiscites to secure popular consent ex post facto, to his political actions. In this way the Germans gave an air of legality to the Nazi tyranny, and this argument was re-inforced when in 1938, the Germans and Austrians approved the annexation of Austria by popular majorities of more than ninety-nine per cent.<sup>42</sup> Although these are but a few (albeit unfortunate) uses of the referendum, this device has

certainly had an interesting history. While the referendum, as a means of a direct popular check has enjoyed greater prominence, it is important to have a clear understanding of what all the terms entail.

### 1.3.1 The referendum

Referendums, plebiscites and initiatives enable the electorate to play a role in public decision-making or the enactment of laws. As such they form an integral part of the political process. Furthermore, the frequency with which voters and representatives have resorted to them is a measure of the effectiveness of the traditional law-making procedures, as viewed by the electorate.<sup>43</sup>

In modern terms the plebiscite has come to mean a vote of the electorate, expressing their enthusiasm for or against some specific issue or question put to them by the government. The concept "plebiscite" which originated in Roman law around the fourth century B.C., came to mean a law enacted by vote of the plebians at the request of a plebian magistrate.<sup>44</sup> The plebiscite is thus an expression of opinion by the electorate on a course of action proposed by the government. Except for a political and a moral obligation to honour the result,<sup>45</sup> the outcome is not legally binding on the government. A plebiscite does not differ significantly from the consultative referendum which is solely advisory and the outcome of which the authorities need not heed.

The referendum device has been used in the Swiss cantons since the Middle Ages and in some states of the United States of America since the eighteenth century. Switzerland has however, made far greater use of referendums than any other state (nearly sixty per cent of all national referendums ever held have been held in Switzerland).<sup>46</sup>

The concept "referendum" illustrates a similar method of submitting or referring salient legislative measures to a direct vote of the entire electorate. The term appeared in the 1830's to describe a particular type of vote in Switzerland. In the 1850's and 1860's an obligatory type of referendum was developed in Swiss constitutions, whereby certain classes of action by a legislature were required to be referred to a popular vote for approval or rejection. The adoption of the referendum in Australia, Canada, the United States of America, and to a lesser extent South Africa, was as a direct result of the Swiss experience. The referendum is an established procedure provided for by existing constitutional or legislative provisions, while a plebiscite is derived either from a special legislative statute providing for it, or by a special initiative of a government. In a referendum, there is an intrinsic right reserved to the electorate to adopt or reject an act or measure which has been (or is about to be) passed by a legislative body to become law. In a plebiscite, the choice as to whether the issue should even be voted upon is exclusively with the government of the day. In simplest terms, a referendum will determine the final outcome of an issue, while a plebiscite is only advisory to the legislature.<sup>47</sup> It will however, be shown later that certain referendums can also be employed solely for advisory purposes.

Clearly then, in the most fundamental of terms, a referendum as part of the political process enables the enfranchised voters to signal their assent or dissent to a single particular legislative initiative that the government has introduced. In certain states throughout the world, a referendum can be prefaced by another device of direct participation, namely the initiative.

### 1.3.2 The initiative and the recall

The purpose of a device such as an initiative is to place in the hands of the electorate direct power to initiate or propose legislation which must consequently be taken up by the legislature. The theoretical foundations of the initiative and the referendum are the same, namely direct participation by the electorate. The conditions under which they are applied are however different. While the referendum safeguards the electorate against the legislature's possible transgressions of representation, the initiative offers the electorate a remedy for an omission of the legislature.

The argument for the initiative is that legislatures do not fully represent the will of the electorate and that, as a referendum only concerns proposals made by the legislature, *ex post facto*, it is not by itself a sufficient safeguard against omissions. The initiative and the referendum work together in bringing about the proposals initiated by the electorate which must come back to the electorate for the final approval, and nowhere is the initiative found in existence without the referendum.<sup>48</sup>

As an instrument of direct democracy, the initiative contains an intrinsic criticism of the referendum, in that the referendum can only go a limited way toward safeguarding the electorate's interests, whereas the initiative can actually propose issues which the electorate may feel have not been adequately addressed. The initiative is an instrument of direct democracy whereby the electorate itself can bring about a referendum. The initiative can take two forms; a popular vote which allows a certain number of electors to petition for a referendum on (a) legislation already passed by

the legislature, or (b) to secure a referendum on a legislative proposal of the electorate's own initiative. In Oregon and California, the initiative has been used with restraint and moderation, and has not led to a flood of frivolous or unrealistic laws being placed on the statute book. A disadvantage of the initiative is however, that it gives too much weight to powerful interest groups which can influence the outcome by means of injecting large sums of money into the eventual referendum campaign.<sup>49</sup>

The recall of representatives (legislative or executive) is a device by which the electorate can rid itself from incompetent and objectionable representatives by means of a vote.<sup>50</sup> The Oregon constitution, for example, provides that, where a prescribed number of voters sends up a petition demanding the dismissal of a representative, a popular vote such as a referendum, must be held on this matter. If the majority vote goes against the representative he shall be dismissed from office and a new election shall be held to fill his place for the remainder of his term of office. The main objection as to a recall is that it creates in representatives a timid and yielding attitude.<sup>51</sup> The use of the referendum in various states throughout the world has implied that this device has not always been employed in a single form. In fact, referendums may be used for a variety of purposes, depending upon the circumstances and reasons prevalent, with the result that a variety of referendums are found throughout the world.

#### 1.4 Types of referendums

Circumstances which are likely to influence the particular use of a certain type of referendum are likely to run from tightly defined rules to



arbitrary political discretion. The laws or customs that allow for referendums are important institutional practices within a particular state's political process. Where the referendum is associated with provisions for an initiative to bring it into operation, the rules are necessarily fairly complex. Alternatively, a referendum may be held at the discretion of some person or authority such as a legislature. This is not, in fact, found often in conjunction with constitutions where provision has been made for the referendum.<sup>52</sup>

Such discretionary referendums are found in states such as Great Britain which have no written constitution, but still have a parliamentary representative government. Discretionary referendums can also be found in authoritarian regimes where a referendum can be held at the whim of the political leader or government. The difficulties with the purely discretionary referendum, subject to no qualifications, are twofold. Firstly, it is difficult to determine what kind of genuine constitutional legitimacy it can have, and secondly, the procedure for this form is exposed to the risks of exploitation for short-term political ends. Authoritarian regimes often use referendums to enhance the credibility of the government and to expedite the achievement of their (often controversial) political aims. In the case of representative democracies, referendums can be used when the government does not wish to accept responsibility for controversial legislation.<sup>53</sup> The various types of referendums found in world practice may be characterised under the following headings: government-controlled referendums, constitutionally-required referendums, referendums by popular petitions and popular initiatives.

#### 1.4.1 Government-controlled referendums

Two forms of referendums may be classified under this general heading, viz, the plebiscite and the consultative referendum. In the case of the plebiscite referendum, a popular vote is seen primarily as a means of legitimising the actions of a government. Historically, the plebiscitary referendum has been associated with authoritarian regimes eager to enhance a claim to popular support and democratic legitimacy. The transformation of the referendum into a plebiscite occurs where authoritarian governments seek to perpetuate their position by a demonstration of popular support on the part of the electorate, in their favour. This referendum links an expression of opinion (on a particular issue) with overall satisfaction with the particular political leadership. This aspect tends to reduce the status of the referendum to that of a mere manipulative device.<sup>54</sup> In a plebiscitary referendum, only the government has the authority to decide; whether or not to call for a referendum, the subject matter and the wording of the proposition to be voted on, the proportion of "yes" votes needed for the proposition to become law, and whether the outcome will be binding on, or merely advisory, to the government.<sup>55</sup> An example of this type of referendum is the 1960 South African referendum.

In the case of the consultative referendum, a popular vote can be facilitated by various procedures and is held to be purely advisory; in other words, the legislative and executive authorities need (in principle) pay no attention to the outcome. Examples of such consultative referendums are Norway and Sweden. Indeed, the British use of referendums has been, and is intended to be, consultative.<sup>56</sup> From this it seems clear that the plebiscite and consultative referendums are the

same, save for different names. The discretion as to whether or not to hold them lies with the government, there is little or no constitutional provision for them, and the outcome is not binding.

#### 1.4.2 Constitutionally-required referendums

The constitutions of states such as Switzerland require that certain kinds of measures, such as changes to the constitution (adopted by the government), be referred to the voters before they (the measures) can take effect. Only government may propose amendments and determine the wording, but the outcome of the mandatory referendum determines whether or not the change becomes part of the constitution.<sup>57</sup> In this form, the referendum is essentially a kind of "people's veto", a controlling device enabling the electorate to accept or reject various measures. This type of referendum is provided for in a state's constitution, which specifies that certain matters must be referred to the electorate for decision. This referendum however, may have a negative rather than positive effect, acting as a restraint (or veto) on amendments proposed by governments and parliaments, and is often termed a "controlling referendum".<sup>58</sup>

#### 1.4.3 Referendums by popular petitions

Referendums by popular petitions authorise the electorate to submit petitions demanding that certain measures, adopted by the government, be referred to the voters in the form of a referendum. If the voters petition contains the required number of valid signatures, a referendum must be held on the measure, and if a majority of the voters favour repeal, the law is declared void regardless of whether the government wishes to retain it or not. Swiss cantons such as Neuchatel, fall within this

category.<sup>59</sup> This type of referendum shares many similarities with the mandatory or constitutionally-required referendum discussed above in that both derive their authority from the constitution,—and they may both be described as "controlling referendums".

#### 1.4.4 Popular initiatives

This type of referendum enables voters to file a petition whereby certain measures which the government has not adopted, be referred to the electorate. If the required number of valid signatures appears on the petition a referendum must be held on the measure, and if the majority of the voters vote in favour of it, it becomes law regardless of whether the government opposes it.<sup>60</sup> This form of referendum may also be referred to as the "facultative referendum" to indicate that it can be brought about by popular initiative.<sup>61</sup>

In addition to the aforementioned types of referendums, Swiss referendums in the cantons allow for two other types, namely the compulsory and the optional referendum. The former refers to those referendums which take place on all issues not falling within the jurisdiction of the Great Council (Landrat, the legislative body). Optional referendums are those which take place at the insistence of the Great Council or at the request of a number of deputies.<sup>62</sup> It is appropriate to focus upon some of the reasons for which referendums in one guise or another may be used, these matters being approached through a consideration of motives as to why the referendum has been regarded as a desirable or undesirable innovation.

### 1.5 The argument for popular consultation

There is considerable argument in the case for referendums as a means of popular democratic control. This argument may be reinforced by the growing complexity and remoteness of modern government, as a result of which voters may feel alienated from their political institutions. On the other hand, governments may require the explicit support of a popular majority if they are to secure consent for measures for which legislative approval alone is not sufficient. The referendum is therefore necessary to ensure that the preferences of the majority of voters prevail over those of a minority; this is of course, an argument based on democratic fundamentals.<sup>63</sup>

#### 1.5.1 Motives for the use of a referendum

The referendum is often regarded as an instrument of popular sovereignty, and while political authority is derived from the voters, the movement towards popular participation has not played a very important part in advocating the use of the referendum. The referendum has been put forward primarily as a means of checking (often disagreeable) legislation.<sup>64</sup> Another explanation for resorting to the referendum arises from the confusion of issues and measures in a general election. While voters may prefer one candidate or political party, they may not agree with all the principles in the political programme, and the referendum gives them an opportunity to (a), separate the issues, and (b) make individual judgements on each of them.<sup>65</sup> The arguments in favour of employing referendums can be summed up under two headings, legitimacy and direct democracy.

#### 1.5.1.1 Legitimacy

The primary argument in favour of referendums consist of two basic propositions. Firstly all political decisions should be as legitimate as possible. This implies that legitimacy is a conviction by the electorate that the political institutions and processes by which its political decisions are arrived at, are based on laws, customs, or moral principles and thus the best possible manner of making such decisions. Secondly, the highest degree of legitimacy is achieved by decisions made by the direct, unmediated vote of the people. Legitimacy is the idea that the political decisions themselves should not go beyond acceptable limits of fairness and decency. Thus the most widely accepted argument for the use of referendums is that decisions arrived at by referendums are the most legitimate of all. A decision based upon the direct participation of the voters is more legitimate than one in which they have not participated in. This explains why governments on occasion use the referendum even when they are not constitutionally required to, and why authoritarian regimes hold referendums where the outcome will (invariably) be "ninety-nine percent in favour of the regime's policy on a ninety-nine percent turnout."<sup>66</sup>

#### 1.5.1.2 Direct democracy

The second argument in favour of referendums supports their use in all circumstances, because they establish the essentials of the most democratic of all forms of government. The Progressives, a reform movement within the Republican and Democratic parties in the United States of America during the period from the 1890's to American entry into World War 1, argued articulately in support of referendums as a means of enhancing direct democracy. The

Progressive's case rested upon two beliefs; their faith in the unorganized, free individual, and their hostility to intermediary organizations. Hence, any organization such as a legislature that tried to impose itself between the voters and their political self-actualization, was bound to frustrate the process of democracy. Referendums, which were a form of direct-democracy, were therefore welcomed.<sup>67</sup>

The referendum has however, also come under some severe criticism, which has denied it a more frequent place in the political systems of states.

#### 1.6 Arguments against the referendum device

As few democratic states hold frequent referendums, the case against referendums has had substantially more acceptance and influence. The exception to this is of course, Switzerland. A significant number of arguments have been offered in opposition to the use of referendums.

One of the primary concerns about referendums is the fact that representatives, because they are paid to spend their time on government affairs, are better qualified (than ordinary voters) to make decisions. Coupled to this aspect, is the fact that decisions made by legislative assemblies have the advantage of face-to-face debate and a greater opportunity to achieve consensus, whereas in the case of referendums, votes (as the essence of the decision process) represent a win or lose dichotomy.<sup>68</sup>

A secondary concern is that referendums threaten the control of the elected or established authorities. A referendum on one measure may lead to demands for more, contrary to the wishes of the office-bearers. Therefore, a government-controlled referendum is the only acceptable type due to the fact that it poses

no threat to public office-bearers.<sup>69</sup>

If referendums are used too frequently, they cause delay in the promulgation of laws and this could deprive a state of the benefits of such laws. Furthermore in large industrial communities the different opinions voiced during a referendum campaign would, over a long series of submitted measures, neutralise one another and so lead to a complete negation of all progressive legislation.<sup>70</sup>

According to Butler, the arguments both for and against the referendum device share two salient characteristics: They are compounds of preferences for certain values (such as responsiveness to the popular will, and improved decision-making) and imperical causal statements, (that referendums express the popular will more accurately than do legislative assemblies, and thus voter-turnout will be greater when people feel that they themselves are making the laws).<sup>71</sup> Thus it is necessary to examine the operation of referendums in states throughout the world to see to what an extent the above-mentioned arguments hold.

### 1.7 The use of referendums in world practice

Despite the fact that the referendum has not found universal favour, referendums are more widespread and common than is generally thought, although most of these referendums do not decide anything, but legitimise faits accomplis. Non-democratic states seeking to demonstrate their popular support call for referendums to endorse the regime or its decisions and usually manage to secure overwhelming support for the measure. And yet even in democratic states, overwhelming majorities are the norm rather than the exception. Government sponsored measures have been rarely defeated, except in Switzerland<sup>72</sup>



and Australia.<sup>73</sup> The subject matter of referendums provides the explanation. They have been called in the main, to endorse constitutional<sup>74</sup> or territorial changes and they would not have been put before the electorate unless there was good reason to suppose that they would be accepted.<sup>75</sup>

World experience of the referendum suggests various functions:

- a) **Constitutional:** A referendum may be a convenient check on constitutional change; in some states referendums have acted as restraints on enthusiastic politicians who would like to make amendments to the constitutional framework and structure of that state.<sup>76</sup>
  
- b) **Legitimation:** Fundamental changes in territorial boundaries, or sovereignty will be respected more readily when it has been demonstrated, beyond doubt, that they command the support of a majority of the electorate.<sup>77</sup> The referendum held in Austria and Germany in 1938 to approve Anschluss serves as an illustration.
  
- c) **Moral problem solving:**  
 Governments may want to avoid responsibility for some kinds of decisions. The 1975 British referendum on the European Econo-

mic Community question can be cited here as an example. Moral issues often cut across party lines, and are a convenient way of bypassing the issue by passing it to the electorate.<sup>78</sup>

d) Political problem solving:<sup>79</sup>

Governments divided on policy dilemmas can also save themselves from their own divisions by referring the problem<sup>80</sup> to the voters, as in the 1979 referendum held in Wales.

Although referendums have often been employed as pragmatic mechanisms of political management, on the whole they have been conservative in effect and have proved to be a useful reinforcement of central authority.<sup>81</sup> By way of illustration, the use of the referendum in Switzerland, the United States of America and Australia (the states where it has occurred most frequently) will be examined. Of course referendums, at one time or another, have occurred in just about every state, but the analysis of the referendum in practical use will be limited to these three.

#### 1.7.1 The referendum in Switzerland

Swiss referendums are popular votes where voters are asked to approve or reject laws and constitutional measures by means of a "yes" or a "no". Referendums and initiatives are seen as foundations of direct democracy in contrast to elections. Issues submitted to referendums may come from the legislative authority, in the form of constitutional reforms or

laws, or from voters in the form of a popular initiative.<sup>82</sup>

The referendum in Switzerland was suppressed with the development of the oligarchic government in the seventeenth and eighteenth centuries, but reappeared in the early nineteenth century, and then more frequently around the 1830's. During this period most cantons accepted the principle of submitting their constitutions to the electorate, a practice which was expanded to include their ordinary laws as well. When Switzerland became a federation the new constitution was submitted to the electorate for ratification.<sup>83</sup>

Swiss referendums are always mandatory, never consultative. Should the voters reject the proposal, the issue submitted to them cannot be put into effect. Thus the Swiss do not give advice to their authorities, but strict orders. Swiss referendums are intrinsically devices of postponement in that the referendum procedure has to be completed before the law or measure in question can be put into effect. Other characteristics of the referendum in Switzerland are:

1. Votes on parliamentary proposals have usually been in favour of those proposals.
2. Votes which are demanded over parliamentary proposals, decrees, or treaties, are more often negative than positive (fifty-one "no" and thirty-four "yes").
3. Votes which arise from popular initiatives are more often than not negative (sixty-seven "no" and seven "yes").<sup>84</sup>

The referendum appears in two distinct forms in Switzerland, namely the compulsory and optional referendums. The compulsory referendum is found when a popular vote (in the form of a referendum) is required before a measure can come into effect. Any change in the federal constitution, or the constitution of a canton, must be submitted to a referendum. For other legislation, the practice differs within the Confederation. The optional referendum is found where a petition, signed by the required number of voters is presented or when the Swiss legislature decides to submit ordinary legislation to the voters, at its discretion.<sup>85</sup> Almost any issue can be made the subject of a referendum by 100 000 signatures (prior to 1977, 50 000) in Switzerland. The credibility of a referendum result might be imagined to depend substantially on the electoral turnout, and without compulsory voting, voters might be expected to go to polls only when a salient measure is at stake. The record of referendum turnouts has remained stable over the years, although the percentage poll has only passed 50 percent on five occasions between 1968 and 1978.<sup>86</sup>

Optional referendums refer to those referendums whereby voting on laws takes place at the insistence of the Great Council itself or at the request of a group of deputies<sup>87</sup> and not the federal government (in contrast to the rule in some cantons).<sup>88</sup> The referendum at the discretions of the Great Council is scarcely ever used, and no particular value is attached to it. The optional referendum cannot be highly regarded according to Deploige, because the principle whereby the representatives of the voters can arbitrarily submit or withhold laws according to their will and pleasure is not right. A shortcoming is that the measures referred to the voters will be those which are certain to be adopted, or those for

which the government does not wish to take the responsibility.<sup>89</sup>

The optional referendum has been adopted by the cantons of Lucerne, Zug, St. Gall, Vaud, Neuchâtel, Geneva and the half canton of Balse - City. The following matters may be submitted to the popular vote: All laws; certain decrees which are of general importance and not urgent, and which the constitution of that canton does not declare to be within the exclusive jurisdiction of the Great Council; and treaties, but only in the cantons of Lucerne and Zug.<sup>90</sup>

The compulsory referendum on the other hand, has been adopted in the cantons of Zurich, Berne, Schwyz, Solothurn, the Grisons, Aargau, Thurgau, the Valais, and in the half canton of Rural-Basle. Laws and a certain number of decrees in these cantons, do not come into force until they have been expressly ratified by the voters. A referendum must take place on all matters which are not placed exclusively within the province of the Great Council by the constitution. The distinction between the optional and compulsory referendum is that in the cantons where the compulsory referendum is in force, the popular sanction is always expressed; in the optional referendum cantons, however, it is sometimes expressed and sometimes tacit. The difference is, therefore, merely external; as a matter of right and final effect, there is no difference at all.<sup>91</sup>

The method of voting is the same whether the referendum be compulsory or optional. All voters receive their voting-tickets and elector's cards during the week preceding the vote. On the voting-paper the question is printed, " Do you accept the (particular) law, Yes or No?" The voter's

answer always accepts or rejects the laws as a whole, except in Zurich and in Aargau where the canton council can in exceptional circumstances order that the law be voted on in sections. The points of difference between the compulsory and optional referendum in practice are as follows:-

1. Under the compulsory referendum, popular voting takes place as a matter of course, whilst under the optional system, it must be demanded by either the Great Council or the deputies.
2. In all the cantons where the referendum is compulsory, the measure is accompanied by an explanatory message but this need not be so in an optional referendum.<sup>92</sup>

A frequent criticism levelled against the Swiss referendum is that it increases the influence of pressure groups. In elections, pressure groups find it difficult to give substance to their demands. Referendum situations are different as legislators are well aware that if a group has a wide following, their votes cannot be ignored.<sup>93</sup> Other charges levelled against the referendum, are that it deals with complicated issues. Moreover, some Swiss think that they vote too often, as referendum votes for federal referendums take place every three months. Coupled to these are the (less frequent) votes in cantons, and finally ordinary elections.<sup>94</sup> In conclusion, Switzerland is the home of the referendum. It is the state in which most referendums have taken place, making referendums an integral part of Swiss political life. Switzerland has provided the model on which advocates for direct democracy based their arguments in the 1890's and 1900's, and by which referendums continue to be measured against.

### 1.7.2 The referendum in the United States of America

The United States of America is one of the few democratic states that has never had a national referendum. In fact, the constitution does not ever refer to referendums. Yet it rivals Switzerland as the state with the most experience of referendums.<sup>95</sup>

The referendum has been introduced in three different forms in American history. The first in 1778, appeared in the form of submitting state constitutions to the voters for ratification. The second development of direct popular intervention arose from a demand for a check upon the legislature when dealing with measures that involve uncommon interests. The third and most comprehensive movement for the referendum is more recent, and takes the form of a clause in the state constitution, that upon the petition of a certain number of voters any law, not declared as urgent (by the legislature), shall be submitted to the voters. This phase was a conscious imitation of the Swiss optional referendum, unlike the two earlier phases which are native in origin.<sup>96</sup>

The use of the initiative and the referendum is a phenomenon of the western states, reflecting the impact of the progressive reforms on this part of the United States of America. None of the eastern states has adopted the direct initiative for statutory change. Reflecting the disproportionate western usage, seven states - Oregon, California, North Dakota, Colorado, Arizona, Washington and Oklahoma - account for more than three-quarters of these measures; Oregon and California alone for nearly one-third.<sup>97</sup>

The use of the referendum in American states covers a wide variety of issues, for example women suffrage, the regulation on nuclear power plants, the prohibition on the sale of liquor, the death penalty and abortion. Most frequent of all measures - twenty-five percent of the total - have been those dealing with the judicial system. Revenue and taxation issues constitute the second most frequent subjects, about twenty percent. Bond issues or debt authorisation, the subject of constitutionally mandated referendums in many states, also appear on the ballot in large numbers. Only a few state legislatures appear to make frequent use of the optional (legislative) referendum. One of these is Oregon, another, Washington where the legislature placed twenty-seven measures on the ballot from 1944 to 1973.<sup>98</sup> The once popular petition or protest referendum has fallen into disuse, as it is becoming increasingly difficult to obtain the required number of signatures.<sup>99</sup> Furthermore, the declining use of the petition referendum indicates greater popular agreement with what the legislature has actually passed.<sup>99</sup>

### 1.7.3 The Australian referendum

The referendum was incorporated by the Australian constitution-drafters as a method of amending the constitution. As a result of this, thirty-six national referendums have occurred since 1906, while it has been used on three other occasions to ascertain the voter's views on non-constitutional matters.<sup>100</sup> In practice national referendums have often become the area of contention between alliances of federal and state politicians. The federal government has control over parliamentary business but without its support, a proposed change to the constitution has little chance of success. However, there is no legislative prerequisite that



such amendments to the constitution have to be put forward by the government of the day.<sup>101</sup>

Aitkin is of the opinion that referendums follow closely upon the decision to hold them, which has resulted in the referendum campaigns being of a short duration. Legislation stipulates that each voter is supplied with statements written on behalf of the parliamentary supporters and opponents of the proposal, and these have served as a basis of the campaigns.<sup>102</sup>

### 1.8 Conclusion

Democratic theory argues that government actions should be in close concert to the wishes of the electorate. This implicitly advocates a position whereby some form of participation by the electorate is called for in order to influence government decision-making. Due to the fact that modern society has outgrown the Ancient Greek concept of mass democracy, some form of representation has become necessary. This has resulted in various conceptions being associated with representation. However, even though representation has taken on an ambiguous connotation, some other means of expressing voter's views has become necessary. For this reason, a device was called for whereby the voters could signal a particular course of action without an intervening agent (the representative). This form of direct participation or direct democracy has come to be known as the referendum. Quite obviously then, the referendum fulfils a two-fold function; to act as a complement or supplement to representation, and/or to initiate legislation.

Modern usage has tended to make use of the term "referendum," even though most direct votes of this nature are plebiscites. It is important to note the

distinction between the two terms, as the outcome of a referendum per definition, binds a government to the wishes of the voters. A plebiscite however, is merely advisory. Current practice tends to indicate, with the exception of Switzerland, that states employ the referendum in an advisory capacity. From the history of the referendum, it is clear that the referendum has often been used as a means of lending credibility to a controversial issue, as was the case with Napoleon, Hitler and numerous other political leaders who subjected controversial issues to the electorate in order to avoid moral problem solving.

Closely associated with the referendum are two other direct democracy devices, viz, the initiative and the recall, and as far as the former is concerned, in no state in the world is it found without the referendum. The recall too is a product of an ultra-democratic society and as such has not carried favour amongst most states.

There are in use today various types of referendums viz, the government-controlled referendum, the constitutionally-required referendum and the referendum by popular initiative or petition. Government-controlled referendums, or optional referendums take place at the government's discretion, and even though there is a moral obligation on the government to honour the outcome, there is no legal argument for it to do so. The compulsory or constitutionally-required referendum is found in states with a long tradition of the referendum. Referendums by popular initiatives or petitions are found in a very few states, a practice that seems unlikely to change.

There is no doubt that referendums bring voters and political institutions closer together. Moreover,

governments can turn to a referendum to secure majority appeal when more than parliamentary approval is necessary. This means that voters cast a direct, unmediated vote; an aspect which lends legitimacy to more than just controversial issues. Hence decisions taken with the aid of a referendum reflect a more accurate expression of the electorate's will than do decisions taken by representatives. Various arguments have however, been articulated in opposition to the use of the referendum.

One of the major concerns about referendums is that they place important decisions directly in the hands of the electorate - an aspect which is often interpreted as a threat to the established political system. Other arguments centre around the fact that referendums delay the promulgation and execution of laws. As referendums are win/lose situations, there is no room for reaching consensus, the critics continue. And finally, the view held by representatives that they are better able than the electorate, to make decisions.

The experience of the referendum throughout the world has suggested various characteristics. Switzerland has accounted for more than half the referendums held worldwide. As such, the Swiss belief in the referendum remains unscathed. The United States of America, Australia, Canada and other Western democratic societies have employed the referendum to gauge voters' opinions on a wide range of issues.

In conclusion, it may be said that although the referendum was introduced to augment representation, and hence lead to greater democracy, authoritarian states have regularly employed it to lend legitimacy and credibility to their existence; a paradox which

has unfortunately reduced the value of the referendum.

Having considered referendums, and their use throughout the world, attention is now focussed upon the referendum device as found in South Africa. South Africa had prior to 1983, experienced two referendums; one in Natal in 1909, to decide whether or not that province would become part of the Union of South Africa and the second in 1960, to decide whether or not South Africa would become a republic.

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## 2. THE REFERENDUM IN SOUTH AFRICA: 1909 AND 1960

### 2.1 Introduction

Unlike Switzerland, the United States of America and Australia, South Africa has not had many referendums. In fact, up to the 1983 referendum it had held only one nationwide referendum in 1960, and one restricted to the province of Natal.

The first occasion where the referendum was employed as a means of gauging public opinion, was in Natal in 1909. The issue put to the electorate of Natal was to decide as to whether or not Natal would come to form part of the (in 1909) proposed Union. Moreover, the discussion in this chapter will also focus on the type of referendum that was employed.

The second referendum to be discussed, was a nation-wide referendum held in 1960, to determine whether or not the government had a mandate to amend the 1910 constitution in such a way that a republican form of government would come into being. The events leading up to the referendum, the aspirations for a republican government, and finally the outcome of the referendum are all issues that will be dealt with. In addition, this referendum will be reviewed in relation to the type of referendum that it constituted.

### 2.2 The 1909 referendum in Natal

#### 2.2.1 The origins of the Natal referendum

While the end of the Anglo-Boer War united the Transvaal, Orange River Colony, Natal and Cape, it did little to remove inter-colonial friction and jealousies, and mutual distrust between Afrikaners and those English-speaking South Africans who had

sided with Britain.<sup>1</sup>

The treaty of Vereeniging had established British supremacy in unequivocal terms, and for the first time since 1852 all the colonies or provinces in South Africa were under British rule. For whites, the Zulu troubles in Natal (in 1906) stressed the dangers inherent in the separate states of South Africa having no common non-white policy. Friction between the colonies in the economic sphere also emphasized the disadvantages of discenity.<sup>2</sup>

The National Convention which met at Durban<sup>3</sup> in October 1908 represented almost all the parties and interest groups.<sup>4</sup> The most salient task of the Convention was to draw up the framework of the proposed Union which was to be embodied in the constitution. In addition to the formulation of a new constitution, the debate on the great principles resulted in a compromise on every front. The principles included; the form of the Union, language equality, the non-white franchise, the position of the British protectorates, and the future capital of the Union.<sup>5</sup> The different attitudes and laws prevalent in the colonies concerning non-white political rights made the franchise question a contentious one, as did the problem of parliamentary representation.<sup>6</sup>

Even though the proposed Union was not a federal one, the delegates from Natal were convinced that Natal's best interests lay in joining the Union. They knew that amendments contrary to the basic principles of the draft constitution would never be accepted by the Convention, and feared that the Natal electorate would reject Union if the Natal Parliament recommended (fundamental) amendments and the Convention rejected them.<sup>7</sup> Although the Natal delegates were not able to establish a federation,

they nevertheless tried to increase the powers of the provincial governments so that the constitution would be a federal one in all but name. Unfortunately for Natal while most delegates favoured the principle of provincial government, they insisted that the provinces should be subordinate to the central government.<sup>8</sup>

The Legislative Council of Natal endorsed the draft South Africa Act on 20 April 1909, with the Assembly's amendments and resolutions. Thus the Natal Parliament endorsed the draft South Africa Act with only a few, minor amendments, and left the final responsibility for determining the fate of the colony to the Natal electorate.

#### 2.2.2 The referendum campaign

The interest in Natal shifted to the referendum. The referendum campaign in Natal was a vigorous one, leading up to June 10, the date designated for the referendum. Those who favoured federation and those who favoured isolation stood together against those who favoured the proposed unitary constitution.<sup>9</sup>

The anti-Unionists included men like C.A.S. Young, Major P.A. Silburn, Sir D. Hunter, J.J. Hillier, F.S. Tatham and F.A. Laughton. The Natal Labour Party too was anti-Unionist with the result that towards the end of May, these two groups (Imperialists and Labour) coalised to form the Natal League to oppose Union. On 4 June 1909 the League issued a manifesto in which it called on the voters to reject the draft act, and undertook at the next general election to put forward candidates pledged to promote the "international development" of Natal and to work for Natal's eventual entry into the Union on "fair, just and equitable terms, securing the independence of Natal."<sup>10</sup>



The advocates against the draft constitution, the Natal League, had a vocal press organ in the Natal Witness, and in a manifesto published by it (the Natal Witness) on 9 June 1909,<sup>11</sup> called for a union based on; a fixed broad franchise with permanent delimitation of powers between the central and state governments, the promotion all its parts equally, free language rights, state control of primary education, equal treatment of all native races, one federal government, senate, parliament and state government and parliament in each colony of the federation. Finally, the Natal League called for a union to be established on permanently fixed principles, not an indefinite union entirely dependent on the arbitrary changeable will of one supreme parliament.<sup>12</sup>

The Unionist forces on the other hand, were powerful and well organized. The cabinet, the convention delegates, and most members of parliament exerted their influence on the side of Union. Moreover, the concessions which had been made to Natal at Bloemfontein and the publication of the letter from Louis Botha of Transvaal to Prime Minister Frederick Robert Moor on the Mozambique Convention went some way towards soothing the Natal electorate, as did the Transvaal loan of £500 000.<sup>13</sup>

On 26 May 1909 the Natal Closer Union, a pro-Unionist body, issued a manifesto which concentrated on the material aspects of the issue before the electorate.<sup>14</sup> The manifesto pointed out that Union would alleviate the trade chaos, there would be no customs union, fiscal and railway rates being gerrymandered, intercolonial markets being endangered, Natal's established industries imperilled or ruined, shrinkage of traffic, increased taxation, more unemployment, a departing white population, more parliamentary blundering,

increase of public debt and a further decrease in the value of property.<sup>15</sup>

Earlier that year (1909), the Legislative Council of Natal had enacted and promulgated the Referendum Act, 1909 because it was "expedient that the question whether the Colony of Natal shall enter into a Union in terms of the amended draft act should be specially referred for decision by the electorate of the Colony."<sup>16</sup>

### 2.2.3 The results of the referendum

The outcome of the referendum in Natal was by no means a foregone conclusion. The result of the poll for and against the draft South Africa Act was as follows: For the act, 11 121, while against the act, 3 701, and thus a majority of 7 420.<sup>17</sup> Even the victorious pro-Union forces did not expect so large a majority. There was in fact, a majority for Union in every constituency including Pietermaritzburg, which despite the popular excitement and support of the Natal Witness, only registered 722 votes against Union and 1 122 for it.<sup>18</sup>

The sole grain of comfort for the Anti-Unionists was the paucity of the poll. Of the 25 463 registered voters, only 58,2 percent cast their votes in the referendum, and of those seventy-two percent voted in favour of the draft Act.<sup>19</sup> The size of the total voting figure was ascribed to the fact that women did not yet have the vote and that very few non-whites were on the voter's roll.<sup>20</sup> On the basis of the votes actually cast, the pro-Union ascendancy was striking.

In the districts of Utrecht, Vryheid, Weenen, Umvoti, Newcastle and Klip River (referred to as the "Dutch" districts in 1909), 86 percent voted for

Union, the highest percentage of pro-Union votes in any part of Natal. In Durban City, however (which was almost entirely English-speaking) 71 percent voted for Union. In the rural areas of the colony only 19 percent of the votes cast were against Union. Clearly, the victory was overwhelming in all areas.<sup>21</sup>

Parliament met on 16 June 1909, and on that day both Houses approved (without a division) an address to the King forwarding the draft Act and asking for its enactment.<sup>22</sup> Now that Natal had agreed to join the Union, only the royal assent remained outstanding. The draft constitution was taken to Britain by a delegation headed by Chief Justice de Villiers who had acted as chairman of the National Convention. The constitution was introduced in the House of Commons and passed as the South Africa Act. The bill was assented to by King Edward VII on 20 September 1909, and came into operation on 31 May 1910.<sup>23</sup> The importance of the referendum in Natal was that it secured a majority vote in favour of Union. Even though the turn-out was disappointing, the outcome proved a symbolic gesture in favour of Union and enabled Natal to join the Union.<sup>24</sup>

The 1909 referendum in Natal serves as an example of a consultative referendum. As far as such referendums are concerned, a popular vote can be facilitated by various procedures and is held to be purely advisory. The Natal referendum also displayed characteristics of a plebiscitary referendum, in that the legislative authority (the Legislative Council of Natal) was the sole authority that decided upon whether (a) a referendum should be held or not, (b) the subject matter, and (c) the wording of the proposition.

As this referendum did not require certain measures (as defined in a constitution) to have been approved by the voters prior to taking effect it was not a constitutionally-required referendum. Neither was it a referendum by popular petition or initiative, both of which would have required some initial action by the voters (such as filing a petition). Government-controlled referendums, on the other hand, are usually employed with discretion on only a few occasions, and primarily for reasons of political consideration or expediency, a description that seems to fit the 1909 referendum.

However, in considering the reason of the Referendum Act of 1909, as spelt out in the Act (that the question of entry into the Union be referred for decision by the electorate), it is clear that the referendum had been suggested as a means of checking unpopular legislation. In addition, the decision to refer Natal's entry into the proposed Union to the voters in the form of a referendum, helped to legitimize the outcome. All political decisions should be as legitimate as possible, and the highest degree of legitimacy is achieved by decisions made by the direct vote of the people, as in a referendum.

The referendum in world practice also suggests a number of functions, all of which were prevalent in the decision to put Natal's participation in the Union to a referendum. Such functions include the referendum being employed as a convenient check on constitutional change, and moral and political problem-solving. While this referendum introduced South Africa to the concept of direct democracy, it would be another fifty-one years before South Africa would again venture to make use of the referendum device as a means of securing popular consent.

## 2.3 The 1960 Referendum

### 2.3.1 The republican ideal

Since 1910 and after the race-issue, the most salient issue facing South African politics was the constitutional/republic question. This constitutional dilemma centered around the relationship between South Africa and Great Britain, but it was only after 1948 with the success of the National Party that the republican ideal could be brought to fruition.<sup>25</sup>

In 1930 republicans got together to form the Republican Bond, which was to serve as a vehicle towards the creation of a republic. In 1932 Adv. A.S. van Hees formed the short-lived Republican Party, which prescribed a federal republic for South Africa. A watershed was reached in 1948 when the Hereenigde National Party and the Afrikaner Party defeated the United Party at the polls. For the first time in South Africa's history, a republican-orientated party governed South Africa. However it was only after Dr H.F. Verwoerd became Prime Minister in 1958 that impetus and movement were lent to the republican ideal.<sup>26</sup>

### 2.3.2 The referendum campaign

On January 20, 1960 Prime Minister Verwoerd announced that the time had come to establish a republic.<sup>27</sup> Dr Verwoerd went on to add that it was important to use a method to determine where the South African "volk" stood, and for this he thought that something besides a general election was required. "Ek kondig dus aan dat die vraag aan die Volk sal gestel word by wyse van 'n volkstemming, 'n referendum. Die rede waarom die metode gekies word is omdat dit 'n vraagstuk geld waaroor 'n volk oor

sy toekoms moet kan oordeel vry van alle ander verwikkelinge," Dr Verwoerd went on to say.<sup>28</sup> In his initial speech Dr Verwoerd added that the government would introduce minimal changes in bringing about a republic. The Prime Minister also stated initially that while South West Africa would not participate in the referendum, its connection with South Africa would remain unaffected and furthermore, the inhabitants of the territory should be spared unpleasantness and suspicion. But in March he reversed his policy on the grounds that both the Opposition and the voters in the territory desired its (South West Africa's) participation in the referendum.<sup>29</sup>

Furthermore, the government made it known that while the results of each constituency would be made available, the decision would be based upon whether the voters in total were in favour of a republic or not. The decision would be a majority decision even if that majority was gained with the consent of one. The total number of votes cast, and not the number of seats, would determine the result of the referendum.<sup>30</sup>

Even as far back as 1948 the National Party had made it clear that a republican form of government could only be brought about on the basis of the people's will and only then due to a special and decisive mandate for it from the voters, and not as a result of a parliamentary majority. Clearly, Prime Minister Verwoerd saw the outcome of the electorate's will as binding on the government,<sup>31</sup> and although he was under no constitutional obligation to honour the result, he was obviously under a moral one. Hence, should the result have been a negative one, it seems unlikely that South Africa would have become a republic. The Prime Minister took care to point out that he was not making the referendum issue a motion

of no confidence in the government in that the government would remain in power irrespective of the outcome.<sup>32</sup> This statement was motivated by the government's belief that more republicans sheltered in the opposition camp than the reverse, and it would therefore assist the republicans to emphasize the distinction between a vote in favour of the republic, rather than a vote in support of the government.<sup>33</sup>

Dr Verwoerd's statement on the republic precipitated Sir De Villiers Graaff's comments that the United Party would stand by its declared policy to oppose the republic and he called upon the electorate to vote against it.<sup>34</sup>

According to the Prime Minister, the proposed constitution of the republic would reflect the following characteristics: it would be a republic based on Christian values and norms, it would be a democratic constitution which would retain the parliamentary form of government, and finally, it would protect the language and the rights of English and Afrikaans-speaking people. The essential change that republicanism would bring about would be that South Africa would alter from a monarchy to a republic. This change, the Prime Minister went on to say, would not require any radical changes to the existing parliamentary institutions or constitutional practices, as legislation dealing with issues such as the Privy Council, citizenship, the national anthem and the flag, had all been enacted with a view to the eventual severing of ties with the British monarchy.<sup>35</sup>

One of the points that was sure to cause consternation for the advocates of a republic, was the change in relations between Britain and South Africa. On this issue, the government made it clear that no

change in relations was either envisaged or desired. In fact, South Africa wanted to engage a foreign policy of friendship with Britain, as the good relations were not only satisfactory, but of mutual benefit.<sup>36</sup>

The Progressive Party, on the other hand, took a rather different stand. In a resolution the Progressive Party maintained that there could not be any change to a republic without a reformed constitution guaranteeing the rights of all sections of the multi-racial South Africa. This point was expanded to mean that if there was to be a republic, all sections of the population should have the opportunity of deciding whether or not to change the form of government and live in peaceful co-operation.<sup>37</sup> In addition, the party felt it could not support the call for a republic without the assured continuation of membership of the Commonwealth. As far as the referendum was concerned, the Progressives said that they could not recognize a constitution in which non-whites were not given the opportunity of expressing their views on a form of government for South Africa.<sup>38</sup>

The 1960 referendum found the National Party in a favourable position. The parliamentary elections of 1958 had allowed the National Party to secure an electoral victory with a majority of 140 000. Also to the government's advantage, there was nothing in the basic principles of the United Party to prevent its members favouring a republic.<sup>39</sup>

What further helped the case of the republicans was the fact that in 1960 there were 1 790 000 Afrikaners as opposed to 1 150 000 English-speaking people. Coupled with this was the fact that the Afrikaner youth had little or no sentimental ties to the British monarchy and was therefore unlikely to



support it when referendum day came.<sup>40</sup>

Verwoerd said in March 1960 that the referendum would establish the broad basis of the will of the people, and thus constitutional change was to be brought about only as a result of a "special and definite mandate from the European electorate, and not merely by a parliamentary majority".<sup>41</sup> Other government spokesmen reiterated this position in the Senate by stating that the purpose of the Referendum Bill was to establish the means by which the will of the European electorate could be tested to create the mechanism by which to count heads on a date which would be decided by the Governor-General.<sup>42</sup>

The Referendum Act, 1960, (Act 52 of 1960) was passed to give effect to the government's proposal for a referendum, and merely provided for a positive or negative answer to the question on the ballot paper,<sup>43</sup> following the precedent as set out by the Natal Referendum Act, 1909, (Act 2 of 1909). No provision was made for giving expression to the electorate's will, either positively or negatively in the sense of compelling the legislature to act or not.<sup>44</sup> The statute took over in large measure the provisions of the Electoral Consolidation Act, 1946, (Act 46 of 1946) *mutatis mutandi*, with a few additional changes.<sup>45</sup> Although actual votes would be cast in parliamentary electoral divisions (constituencies) to facilitate administration, the whole of the Union and South West Africa were to be regarded as a single constituency. In the result returns would become available for the entire electorate as well as for individual constituencies. In addition the Governor-General was given the widest powers to repeal, amend, or add to the applicable parts of the Electoral Consolidation Act, 1946, (Act 46 of 1946).<sup>46</sup>

Prime Minister Verwoerd announced that the electorate would vote on 5 October 1960,<sup>47</sup> and that in the event of a majority being in favour of a republic, he would request the other members of the Commonwealth for permission to remain in the Commonwealth. If this permission was refused, the government would nevertheless proceed with the establishment of a republic outside the Commonwealth that would seek to maintain friendly relations with other Commonwealth states.<sup>48</sup>

The nationalists gave enthusiastic support to the republican ideal, whereas the leaders of the opposing movements found it difficult to conjure up sentiment for the maintenance of the monarchy.<sup>49</sup> At a public address on 3 August 1960, the Prime Minister made it known that the slackening of racial tension between black and white and the continuation of economic progress could be expected only when the constitutional issue had been disposed of.<sup>50</sup>

Dr Verwoerd appealed to English-speaking South Africans to vote for the republic, as they would make the biggest contribution to national unity. He argued that Western civilisation stood at bay, fighting for its existence. In the fight for its existence South Africa stood alone in Africa and could only survive if the white people stood together.<sup>51</sup> Nationalist leaders went to great lengths to bring the English-speaking voter into the republican camps. In marked contrast to the sectional appeal made by the National Party in its 1958 election campaign, the new theme was national unity - English-Afrikaans co-operation. The republican referendum campaign was directed at persuading the electorate that only under a republic could the ideal of national unity be achieved. Under the status quo it was argued, the English-speaking section continued to have divided loyalties, while

Afrikaners failed to identify with a head of state who was always chosen from the heirs of the royal family in Britain.<sup>52</sup>

A central issue of the referendum campaign that the National Party and the United Party focussed upon, concerned the possibility of the Commonwealth members consenting to South Africa (in republican form) remaining in the Commonwealth and the consequences if this consent was not forthcoming. The United Party considered that South Africa would then face the risk of not being accepted by other Commonwealth members. The political, economic, and military effects of this would be grave; South African citizens would lose their status as British subjects; relations with the High Commission territories would become more strained; and the continued existence of the mandate over South West Africa would be suspect.<sup>53</sup>

Many English-speaking voters felt that what was being asked of them was not only co-operation with Afrikaans-speaking South Africans, but co-operation with a government that was repugnant to them. Demonstrations in the major English-speaking centres of South Africa indicated these appeals were not likely to induce them to abandon their opposition to the National Party or to the republic that it advocated.<sup>54</sup> The United and Progressive Parties countered the republicans by accusing Verwoerd of trying to break away from the Commonwealth, and calling on the electorate to save South Africa in this "hour of crisis". The United Party held that the proposed republic would cause greater division internally and it would break the important relations with the West.<sup>55</sup> De Villiers Graaff went on to ridicule the idea that a republic would unite the two major white groups. Dr Steytler of the Progressive Party, argued more broadly that any

republic designed to perpetuate white domination was sure to fail and would help bring about a situation like the Congo in South Africa.<sup>56</sup>

### 2.3.3 The turn-out and the result

The procedure for the referendum was kept simple and sensible, and the only point to which exception could be taken was the provision that if the ballot papers were marked in some way other than a plain cross (but in a way giving a clear indication of the voter's intention), then the vote would still be counted as valid. Otherwise the referendum was conducted on similar lines to a general election, the votes being counted for each parliamentary constituency using the 1958 general election boundaries. The complicating factors in the referendum campaign had included the problem of mobilizing the new "teen-age" vote, the problem of ensuring maximum registration of voters, and the problem of creating an effective party-machine in constituencies uncontested for a considerable time.<sup>57</sup>

The turn-out per province<sup>58</sup>

Province	Electorate	Votes cast	Percentage poll	1958 Percentage poll
Cape	591 298	544 083	92,0	90,5
Transvaal	818 047	734 930	89,8	89,5
Natal	193 103	178 585	92,5	87,1
OFS*	160 843	144 407	89,8	89,1
Union	1 763 291	1 602 005	90,9	89,6

Based on the 1958 general election, the National Party had justifiably good grounds to believe that it would be successful, while a defeat in the referendum would have constituted a serious setback to its prestige. As expected, the Orange Free State and the rural areas of the Transvaal proved to be the most solid centres of republican support, with 73,3 percent and 71 percent of the votes respectively being cast in favour of the republic. The rural areas of the Cape with 67,2 percent, and the Pretoria areas with 68,3 percent affirmative votes were not far behind. The centres of opposition were equally well-defined, for their part. The Durban-Pietermaritzburg seats cast 83 percent of their votes against a republic; of the Johannesburg votes, 73 percent were negative.<sup>59</sup> The percentage poll rose marginally from the 1958 figure of 89,6 percent to 90,9 percent, which was hardly a significant increase in light of the additional "teen-age" voters that had come onto the voter's roll since 1958.

\* OFS - The Orange Free State

The outcome of the referendum was received with mixed feelings. Yet, minimal that the constitutional changes (that might follow in order to give effect to the referendum) could be, was a feeling that South Africa was about to take a critical and irrevocable step. For many Afrikaners it was a return to the days preceding the Anglo-Boer War and the peace treaty of Vereeniging. The internal political significance, as far as the United Party was concerned, was that they (the United Party) had thrown away an opportunity to use their political leverage as an opposition to moderate the policy of the government.<sup>60</sup> The anti-republicans however, were anxious to save what they could from the defeat; the Progressive Party appealed to the Prime Minister to call a national convention to help in the drafting of a new constitution. Sir de Villiers Graaff made a similar plea on behalf of the United Party, although more negatively when he claimed that any republic established on the basis of the slender majority as obtained in the referendum, would be a sectional and divided republic.<sup>61</sup>

Substantial similarities and parallels exist between the 1909 and 1960 referendums. Both referendums were government-controlled referendums, although neither referendum fits into the theory and characteristics of either a plebiscitary or consultative referendum. While many features of the 1960 referendum correspond to those of a plebiscitary referendum, it would be unfair to link the 1960 referendum to an expression of opinion with support for the particular political leadership that called for it. This means that the referendum to decide upon whether or not South Africa would become a republic, was not reduced to a manipulative device. In fact, the close result defies this description.

Furthermore, while this referendum was intended to be consultative, in that no statute existed whereby the outcome could be entrenched by law, the government gave an undertaking to the voters that it would honour the result.

It is significant to note that to a very great extent, this referendum could be better termed a plebiscite, in that plebiscites are expressions of opinion by the enfranchised individuals on a course of action proposed by the government-of-the-day, with the outcome not being legally binding. However, it is also important to note that the use of the referendum in 1960, was precipitated by legislative action which statutorized the legality of the device as a referendum as opposed to a plebiscite. Although the Referendum Act, 1960, (Act 52 of 1960) was wide-ranging, it failed to secure the outcome as a legislative fiat, or a *fait accompli*, for the government to accept. Morally, though, the government was under obligation to put the outcome into effect.

#### 2.4 Conclusion

The importance of the outcome of the 1909 referendum in Natal was that firstly, it brought that province into the Union of South Africa, and secondly, as far as this discussion is concerned, marked the introduction of referendums as a device for securing popular consent and ensuring direct democracy. Although it is impossible to predict what the outcome of South Africa's and Natal's histories would have been had the result been a negative one, it is still salient to note that the positive results obtained in the referendum brought about certain changes in Natal and South Africa's constitutional future. The purport of this study is not to investigate the merits of a decision reached

by means of a referendum, but to examine the referendum in question. Towards this the decision as to whether or not to hold a referendum (and the ensuing campaign) is, of greater importance than the decision and any changes that may ensue from such a referendum.

The 1909 referendum clearly, was a consultative referendum with certain provisos. The Natal Referendum Act, 1909, (Act 2 of 1909) was drafted and passed by Parliament with the express aim of referring the decision as to whether or not the Colony of Natal should enter into the proposed Union. Thus the act statutorized the question. The importance of this is that while the issue and wording of the question were made into an Act of Parliament, the outcome was omitted. At no time in the Act is it held that the outcome would be binding upon the government. Yet it seems strange to believe that the converse would have been true. Clearly, although the drafters and creators of the Act went some way towards introducing a referendum in the policy decision-making of Natal, they fell short of binding the government to the result.

While the 1960 referendum was also not constitutionally binding, it too was made possible by legislation, the Referendum Act, 1960, (Act 52 of 1960). However, the important difference is that this Act is of such a nature as to enable the government-of-the-day to call referendums, rather than, as in Natal in 1909, to define both the issue and the wording of the proposal to be put to the enfranchised individuals.

As in the 1909 referendum, the 1960 referendum put a major issue before the voters, one that precipitated a change in the constitution. Unlike the Natal referendum though, the result of this referendum was



harder to predict, and in fact the outcome was less overwhelming.

The 1909 and 1960 referendums served to introduce the referendum to South Africa as a means of referring (controversial) issues to the voters. The next chapter deals with the gamut of opinion tendered in favour of either a "yes", "no", or spoilt ballot option, during the 1983 referendum and demonstrated the wide range of political sentiments within South African politics.

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34. Krüger, D.W., op. cit., p.323.
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37. Ibid., col.141.
38. Ibid., col.143.
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41. "Are you in favour of a republic for the Union? Yes or No." See Referendum Act, 1960, (Act 52 of 1960).
42. Republic of South Africa, Debates of the Senate, 1960, col.2472.
43. Ibid., col.2475.

44. Kahn, E., op. cit., p.2.
45. Again the Natal Referendum Act, 1909, (Act 2 of 1909) was used as a precedent. See Ibid., p.3.
46. Ibid.
47. Krüger, D.W., op. cit., p.327.
48. Kahn, E., op. cit., p.3.
49. Krüger, D.W., op. cit., p.32.
50. Ibid., p.328.
51. Ibid.
52. Heard, K.A., op. cit., p.109.
53. Kahn, E., op. cit., p.5.
54. Heard, K.A., op. cit., p.109.
55. Krüger, D.W., op. cit., p.328.
56. Heard, K.A., op. cit., p.110.
57. Ibid., p.111.
58. Ibid. See appendix 2 for a breakdown of the figures.
59. Ibid., p.114.
60. Brotz, H., The politics of South Africa, Oxford University Press, Oxford, 1977, p.38.
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### 3. THE POSITIONS TAKEN BY THE POLITICAL ACTORS IN SOUTH AFRICA ON A NEW CONSTITUTIONAL DISPENSATION FOR SOUTH AFRICA.

#### 3.1 Introduction

After the establishment of a republican form of government in 1961, the issue that became the central focus of governmental decision-making was the question of non-white political rights. The new constitutional dispensation, as introduced in Parliament in 1983, had its origins in the early 1970's, and stemmed from the government's failed attempts to create separate political structures for the Indian and coloured population groups. Therefore, it was quite natural that the political debate in South Africa during the late 1970's and early 1980's would come to be dominated by the government's constitutional initiatives for the coloureds and Indians and the reaction by the different political actors in South Africa.

Political actors are groups or individuals whose actions, and policy statements affect the decision-making process within the political system. Political actors can be parliamentarians or parties of voters, which need not directly relate to the formulating and implementation of authoritative decisions for a body politic. By this definition, the following have been identified as political actors for the benefit of this study; the National Party, the Progressive Federal Party, the Conservative Party, the Labour Party of South Africa, the South African Indian Council, the United Democratic Front, and Inkatha.

The scope of such a wide-range of political actors includes the spectrum from the extreme right-wing political parties, such as the Herstigte Nasionale

Party, which argue that the new constitutional dispensation endangers White self-determination, to the radical left-wing organizations which demand black majority-rule in a unitary state.

### 3.2 Political actors in favour of the constitution

The political actors which came out in support of the 1983 constitutional proposals included the National Party, the New Republic Party, the Labour Party of South Africa and the South African Indian Council.

#### 3.2.1 The National Party

As National Party decisions are usually made by a small elite (the caucus), it may be characterized as a well-disciplined political party, although the freedom to express opinions and dissent within the party structure exists, for example, at federal and provincial congresses. It is a decentralised party in which each province has its own constitution, party machine and provincial congress.<sup>1</sup> The National Party can be associated with the following key issues; minority protection, the self-determination of groups, recognition of community interests, effective government, decentralisation, and joint consultation between whites, coloureds and Indians with a separate constitutional framework for blacks.<sup>2</sup>

Prime Minister (now State President), P.W. Botha announced on 30 March 1983 that the new constitutional legislation would be submitted to the voters in the form of a referendum.<sup>3</sup> Later that year, in introducing the Referendum Bill for a second reading in Parliament, the National Party said that "... a dynamic society requires the Government regularly to implement processes by means

of which public opinion can be tested."<sup>4</sup>

Although the government had introduced a Referendum Bill, in 1982, it was felt that referendum legislation should enable regulations to be made subject to each referendum and thereby lend greater flexibility to the government-of-the-day. Throughout the debate in Parliament, Nationalist spokesmen emphasised the differences between referendums and general elections, and that in referendums constituencies and voter's rolls became less relevant as voters were able to vote outside their constituency.<sup>5</sup>

The National Party added further that their decision to hold a referendum should be seen as a result of their faith in the new constitutional proposals and their belief that the South African voters had reached political maturity.<sup>6</sup> Any process of change or reform necessitated gaining the opinion of the voters and towards this end the referendum was employed as an instrument to test the opinion of people.<sup>7</sup>

In articulating its support for a new constitutional dispensation for South Africa, the National Party claimed that a situation in which approximately 3,5 million people (2,7 million coloureds and 721 000 Indians) remained voteless, and without any legislative capability at any level of government, was not only unsatisfactory but dangerous.<sup>8</sup> All cultured, self-respecting people had the right to self-determination and as such the National Party endeavoured to resolve the potential ethnic power-struggle by decentralising power as far as possible to homogeneous national states.<sup>9</sup>

To achieve this, the 1983 constitution was based on two cardinal principles. Firstly, each population



group should enjoy executive decision-making concerning its own affairs (such as education, community development, social welfare and cultural affairs) through its own institutions (own voters roll, own House of Parliament, own Ministerial Council). Secondly, all three population groups should enjoy co-responsibility for general affairs (foreign affairs, defence, transport, etc.) through joint institutions such as Parliament (which included all three Houses), the Cabinet, and the President's Council.<sup>10</sup> Thus the principle of self-determination over particular community interests and co-responsibility for matters of mutual concern on both the legislative and executive levels, was reaffirmed.<sup>11</sup>

The new constitutional dispensation was fair and reasonable according to the Nationalists, because it granted full access to political rights to the coloureds and Indians. In only two facets of the new constitution was there a bias in favour of the whites; in the electoral college and in the President's Council. The argument of the National Party was that the new dispensation was better than a one-man one-vote system as in South Africa, the electorate tended to vote along ethnic lines, and this would have resulted in the coloureds and Indians being reduced to permanent minority partners in Parliament.<sup>12</sup> The new dispensation on the other hand, guaranteed participation at the highest level in Parliament and group security. Without group security whites would not have the confidence to embark on a course of reform, to which there was no alternative. Group security would apply equally to the white, coloured and Indian communities.<sup>13</sup>

Problems of nation-building become complete if the existence and aspirations of various interest or population groups and minorities are ignored,

resulting in forced assimilation, suppression and even genocide. The National Party hence, rejected any such solution but was endeavouring to create a dispensation in which all would participate effectively in decision-making processes affecting their interests and aspirations.<sup>14</sup>

The real issue of the referendum according to the Prime Minister, concerned the granting of rights of self-government to two population groups (coloureds and Indians).<sup>15</sup> The dilemma was thus to reconcile the urge for freedom and self-determination of all minorities while maintaining civilised standards and orderly development. Unless South Africa achieved this, it would not be possible to have peaceful evolutionary development.<sup>16</sup>

As to the omission of blacks from the new constitutional dispensation, the National Party claimed that the political aspirations of a large section of the black people were already met by the national states in which they exercised political rights. The national states alone however, were unable to provide the complete solution for those blacks living outside the borders of the national states. Towards this, a Commission for Co-operation and a Special Cabinet Committee had been appointed to investigate ways and means of accommodating the higher political aspirations of the urban blacks. The allegation that blacks had been left out of the constitutional process in South Africa was therefore incorrect, according to Nationalists.<sup>17</sup> Furthermore, the circumstances of the blacks were so significantly different from those of the coloureds and Indians that they (the blacks) could not be treated in the same way. The political, economic and social position of the blacks, according to the National Party, was more complex and a greater problem than that of the coloureds and Indians.<sup>18</sup>

The Prime Minister disputed the claim that the exclusion of blacks from the 1983 constitutional plan meant that seventy percent of the population were being omitted from the constitution. Only forty-three percent of the black population was urbanised while the balance were accommodated politically in the homelands.<sup>19</sup> Referring to Progressive Federal Party charges that the constitution was fatally flawed because it excluded blacks, the National Party said it was dangerous and in many cases reprehensible, to create a feeling of being rejected among blacks.<sup>20</sup>

Over the years the National Party had made the point that the development of coloured and Indian and black political aspirations had been handled along separate lines by the government. In some ways, black people were more constitutionally developed than the coloured and Indian communities as in some cases blacks had the vote in the homelands, as well as in autonomous local governments. As a result of this, the National Party reiterated that the political development of coloureds and Indians on the one hand, and blacks on the other was unrelated.<sup>21</sup>

A secondary reason as to the omission of blacks, according to the National Party, was because it was politically simpler to extend political rights to coloureds and Indians at that stage. While acknowledging that this was perhaps a more party-political reason, the National Party claimed that the road to reform could be prepared in a psychological and contextual way.<sup>22</sup> In addition black participation was one of the government's highest priorities, and was being undertaken by means of consultation and negotiation with black leaders. The National Party did however acknowledge that the 1983 constitution failed to answer South

Africa's constitutional dilemma; black constitutional development.<sup>23</sup>

The problem of bringing the coloured and Indian communities into the constitutional process had been solved in a way that would not lead to one group dominating the other. If the coloureds and Indians were nations with a feeling of national pride similar to that of the black nations, and if they had had traditional territories of their own with a history of self-government similar to blacks, then it would have been possible to grant them full political rights in separate territories. The difficulty was that coloureds and Indians were not nations, nor did they have historical territories of their own, and had never had a tradition of self-government in South Africa. However, that alone should not be a reason why they should not have a say over their own affairs, be allowed to vote, or determine their own future.<sup>24</sup>

Prime Minister Botha conceded that while the 1983 constitutional proposals were not perfect, they were the best possible solution in the prevailing circumstances, and offered a good foundation on which to build a secure future for South Africa.<sup>25</sup> The new constitution accepted by Parliament was the best the National Party could come up with after a decade of deliberations. If it was rejected, constitutional development would be brought to standstill.<sup>26</sup>

Constitutional development in South Africa would not only be brought to a standstill if there was a "no" vote, but would be seen inside and outside South Africa as a victory for the right wing, for those who were not in favour of reform, and wanted separate homelands for coloureds, Indians and blacks. It would signify that whites were incapable

of instituting orderly reform in South Africa, and would be the beginning of the stagnation of white politics.<sup>27</sup> Should the outcome be negative, the only solution to change in South Africa would come about through violence.<sup>28</sup> The white electorate thus had the responsibility to determine if change was going to be peaceful or not.<sup>29</sup> On a similar note, the Prime Minister claimed that "no" voters would be siding with the African National Congress, who had earlier called for a "no" vote because they saw the constitution as an obstacle to their aims.<sup>30</sup> A "no" result would therefore assist the African National Congress' campaign against South Africa.<sup>31</sup>

If on the other hand, the constitution was accepted, it offered new horizons of hope for a more prosperous, peaceful, secure and democratic South Africa, because it posed no threat to white survival, opened the door to democratic participation for coloureds and Indians, closed no doors on the blacks and was therefore a vote cast in favour of peaceful reform.<sup>32</sup>

The National Party emphasised that the proposed constitution did not preclude further constitutional development on any issue provided that the various interest groups could reach agreement on further reforms. Any type of reform offered had to be acceptable to all "reasonable" South Africans and had to take into account the need to maintain stability and economic viability. Therefore, it was impossible to stay at the drawing board while all the "whims and fancies" of every political party were satisfied.<sup>33</sup>

On the question of Christianity within the new constitution, the National Party said that just as in the old dispensation where there were non-Christians, so too there would be non-Christians

in the new dispensation, but the majority of voters would remain Christians.<sup>34</sup> The state would therefore continue to retain its Christian character. The National Party charged however, that the Conservative Party had used this issue of religion as an emotional argument, but had donated a colour element to the issue of non-Christians. The National Party remained adamant that the Christian nature of the state would remain unhindered.<sup>35</sup>

In early September 1983, the Prime Minister made a call for national unity, calling on South Africans to support the new constitution in a spirit of South Africanism and national unity. He said it was necessary that South Africans should engage a positive spirit regarding reform that would secure peace, prosperity and security.<sup>36</sup>

In conclusion, the National Party's arguments can be summed up as follows; blacks had not been accommodated because alternate structures already existed or had to be developed for them, coloureds and Indians did not have any political rights and a structure had been developed to expand democracy to them, the workings of the new constitution were fair as each minority group enjoyed group security and finally, a "no" vote meant acknowledging violence as the only means of bringing about constitutional change.

### 3.2.2 The New Republic Party

The New Republic Party was formed from a merger of the United Party with the small Democratic Party.<sup>37</sup> The New Republican Party formed a few months prior to the 1977 general election advocated both a federal and confederal system of government. The federal system was intended to regulate the relations between whites, coloureds and Indians, and

the homelands within South Africa, while the confederal system was designed to deal with relations between South Africa and independent homelands like Transkei, Boputhatswana, Venda and Ciskei. In terms of New Republic Party policy, whites, coloureds and Indians are to share the common area of South Africa and to participate fully and equitably in decision-making at all levels of government. The form of representation in a federal system would take account of the need to protect the interests of all groups or communities. The federal policy of the old United Party provided for each racial group to be given a measure of local autonomy in its domestic affairs as well as providing for a central parliament.<sup>38</sup>

The leader of the New Republic Party, Mr W.V. Raw, welcomed the announcement of the referendum in Parliament. According to him, the referendum would constitute a measurement of opinion amongst the voters and in addition, it was correct that voters should be consulted about any fundamental change was brought about to the constitution.<sup>39</sup> However, the New Republic Party objected to the 1983 Referendum Bill as it felt that the greater body of regulations should be embodied in the Act. Significantly, the New Republic Party had supported the 1982 Referendum Bill.<sup>40</sup>

The New Republic Party proposed a constitution which would secure the following; that the plurality of South African society would be recognised and accommodated, that all groups would have the option to govern themselves as far as possible, that all groups would have an input into matters of communal interest, no group or groups would be in a position to dominate because of strength of numbers and finally, enforced destruction of group identity would not take place.<sup>41</sup>

At the New Republic Party's Natal Congress on 16 August 1982, Raw urged the party to support the National Party proposals. He said the New Republic Party could agree with the government on five areas of principle;<sup>42</sup> the extension of political rights to other races at all levels of government; groups administering their own local affairs; groups participating and deciding together on common affairs in a single legislature and at local level; local and metropolitan governments based virtually entirely on the New Republic Party's plan for Natal; and finally acceptance of the local option on the form of cooperation between local authorities.<sup>43</sup>

Objections to the government's constitutional proposals included: the exclusion of urban blacks from decision-making at the first and second tiers of government; the system of nominated provincial governments; the absence of a single joint forum for national decision-making; totally inadequate safeguards against misuse of power by the State President and the Cabinet; and finally, the exclusion of opposition parties from vital constitutional procedures.<sup>44</sup>

The Cape Congress of the New Republic Party urged the leadership to pursue with utmost urgency the building of a broad-based central political movement of all moderate South Africans which could effectively counter the threats from both radical left and right-wing groups.<sup>45</sup>

In January 1983, Raw reaffirmed his belief in the above principles and went to add that the New Republic Party was committed to working towards change through constructive engagement. The creation of a new constitution was an evolutionary process and the presence of serious defects did not justify sabotaging the whole initiative before it started.



Therefore, the New Republic Party wanted to use the 1983 constitutional proposals as a platform from which to fight to eliminate its defects and achieve the ideal that they envisaged. The New Republic Party stressed however, that this approach was in no way a blank cheque, nor was there any question of "...supporting the government", as the New Republic Party's positive approach applied solely to the National Party's constitutional changes.<sup>46</sup>

On 8 September 1983, the New Republic Party formally launched its national campaign for a "yes" vote in the referendum. Sir De Villiers Graaff said that while the new constitution had many imperfections, it should be supported because, firstly it gave coloureds and Indians the vote without taking anything away from blacks, and secondly, it created a new situation that would generate its own momentum.<sup>47</sup> Raw said that a "yes" vote would be an endorsement by the white electorate of a constitutional shift from white domination and exclusive rule to power-sharing and consensus government with members of other population groups, and help sever South Africa's ties with the Verwoerdian concept of a solely white government. This in itself would provide new horizons and encourage a more open-minded attitude towards the accommodation of the aspirations of blacks.<sup>48</sup> Therefore, if the constitutional proposals were implemented, the first task of the new government would be to negotiate with blacks to find a new political accommodation for them.<sup>49</sup>

According to the New Republic Party, there were three political options for South Africa, each with its own obvious results. There was firstly the position of white domination, which could only lead to increased race polarisation and conflict. Secondly, there was the option of acceding to

demands for "one-man-one-vote" majority rule, and finally, there was the alternative of power-sharing based on the recognition of group rights and operating through consensus and negotiation. It was in this area that the New Republic Party had applied its mind, formulating the concept of power-sharing between the groups over general affairs. With support from the electorate, the new constitutional proposals were a step into the future, an act of faith in the belief that through evolutionary reform, different groups can live in peace and co-operation, and thereby broaden the base of responsibility. A "no" vote would however signify a step into political stagnation with dire prospects of a bleak and troubled future.<sup>50</sup>

### 3.2.3 The Labour Party of South Africa

Meeting in Natal in January 1983, the Congress of the Labour Party of South Africa (the Labour Party) voted overwhelmingly in favour of participating in the government's proposed new constitutional dispensation. There was no talk at the Congress on the 1983 referendum, and any support that was forthcoming emanated solely for the new constitutional proposals. However, when the question as to whether or not to hold a referendum for coloureds was put to the Labour Party, the decision was not to hold such a referendum.<sup>51</sup>

The Labour Party believed in the effective participation by all South Africans, regardless of race, colour, or creed, at all levels of government and did not regard the guidelines of the National Party as the solution to the constitutional requirements of the state as they excluded the majority of South Africans. The Labour Party reaffirmed its demand for a one-man one-vote system within a unitary state.<sup>52</sup>

Labour Party leader The Rev. A. Hendrickse said that no constitutional arrangements which did not include Africans could be regarded as final. He emphasized that the Labour Party saw itself as a constituent part of the black community and would not be threatened by radical and irresponsible elements in the black community or the government. Hendrickse said the fact that Prime Minister Botha had been prepared to split the National Party to give coloureds the vote showed that he (Botha) was genuinely interested in reform.<sup>53</sup>

In February 1983, the Labour Party embarked on a nationwide campaign to explain its decision to participate in the new constitution. According to Hendrickse, coloureds had no cultural traditions of their own and were not a race but a "conglomeration", and it was thus their calling to be the catalyst in the growing polarisation between whites and blacks.<sup>54</sup> And yet at meetings in Transvaal, the main theme was that coloured people as a group, should look to their own self-interest before looking to the needs of other communities. Prominent members of the Labour Party leadership<sup>55</sup> said that blacks did not need coloured leadership and that coloured people would have to fight on their own. Other arguments were that the coloured people were caught between whites and blacks, and suffered rejection from both.<sup>56</sup>

The Labour Party believed that its participation in the tri-cameral Parliament and consequent standing committees, commissions and councils, could assist it in the achievement of its constitutional objectives and therefore it would continue on the road of negotiation with the government. The Labour Party warned that this decision should not be seen as one of condoning any of the "evil and iniquitous" actions of the Nationalist government, but as a

point of departure rather than a place of arrival. Its decision to participate was not intended as support for a proposed constitutional programme that was inadequate and unacceptable, but rather as a means to halt and reverse polarisation and violence.<sup>57</sup> The Labour Party was pledged to participate at all levels of government, and to negotiate with the government-of-the-day to promote and advance the interests of all the people of South Africa.<sup>58</sup>

Hendrickse added that the historical perspective of the coloured people was important; in that coloureds had no culture, identity, language, ethical code or value system of their own. Furthermore, since 1910, coloureds had moved from the politics of protest to the politics of challenge. This latter movement had now led to politics of negotiation. Therefore, the Labour Party was not denying its principles by participating, but aimed to use the facilities to bring about the changes that they believed in.<sup>59</sup>

Responding to suggestions that participation in the new constitution would lead to conscription in the South African Defence Force, the Labour Party said that coloured youths were already joining the army. However, at a later meeting, Hendricks gave his assurance that the Labour Party would never accept conscription until a new South Africa was created, where all people were free and equal citizens.<sup>60</sup>

The decision of the Labour Party did not meet with unanimous approval even within the party. Several leaders resigned to form their own political platform after the Labour Party Congress of January 1983. Hendrickse emphasized however, that the Labour Party's decision to take part had been made without any "horse-trading" with the government.<sup>61</sup>

### 3.2.4 The South African Indian Council

Those in favour of the South African Indian Council's (SAIC) participation in the new constitution believed that rather than "opportunists", should participate in statutory bodies. Furthermore, it was the wish of the SAIC to work within the system to achieve the goal of full participation for the Indian community in a single Parliament. Mr. A Rajbansi of the SAIC, said there were certain positive features of the new constitutional proposals which he could support, such as the "bringing in of people of colour to a previously white executive and legislature". He did point out however, that the proposals did not satisfy the ideals for the constitutional future of South Africa as expressed by the SAIC.<sup>62</sup>

In January 1983, Mr. R Bhana, an executive committee member of the SAIC welcomed the Labour Party's decision to participate in the government's proposals, and said that the SAIC would be guided by this. He attacked Chief Minister Buthelezi of Kwazulu for suggesting that Indians and coloureds would become enemies of blacks for accepting the government's constitutional proposals. Rajbansi said that the National Party's constitutional proposals should be given a fair trial, that it was strategic to participate in order to get changes, and that the voice of protest was better heard within Parliament than outside it.<sup>63</sup>

At the end of September 1983, Rajbansi said the SAIC would ask the government for an opinion survey amongst Indians. During the white referendum campaign, Rajbansi said that if the whites voted "yes", he would recommend that the Indian community follow suit. At the end of November (after the white referendum) the SAIC decided to give the

constitutional proposals a "fair trial". Rajbansi said this proposal of his was pragmatic, in that even though the SAIC did not approve of the constitution, it had decided to work within it to bring change.<sup>64</sup>

### 3.3 The political actors which rejected the 1983 constitutional proposals

The political actors which did not support the 1983 constitutional dispensation included the Progressive Federal Party, the Conservative Party, the Herstigte Nasionale Party, Inkatha and the United Democratic Front.

#### 3.3.1 The Progressive Federal Party

The Progressive Federal Party was formed from a merger of the Progressive Reform Party with a group of ex-United Party Members of Parliament. The objectives of the Progressive Federal Party are to eliminate discrimination on the grounds of race, religion, colour or sex, and to create conditions which would allow equality of opportunity. The Progressive-Federalists seek to eliminate discrimination in an integrated society, as opposed to the creation of separate states. They aim for a federation of self-governing states including such homelands as have not chosen independence.<sup>65</sup>

The Progressive Federal Party believes, further, that a new constitution can only be achieved by negotiation and consultation between the various political groupings, and that this can only be achieved within the confines of a National Convention. The Progressive Federal Party rejects the unitary constitutional structure, believing in a federation with decentralisation and separation of powers. The concept of consensus-government is

desirable over that of a majority party, and the present winner-take-all voting system.<sup>66</sup>

The rights of individuals and constituent groups in South Africa are to be protected by a Bill of Rights written into the constitution and supported by an independent judiciary. The Progressive Federal Party also pledges itself to the maintenance of the Rule of Law and the protection of civil liberties and although aiming for an equitable sharing of power, is opposed to compulsory integration or compulsory separation.<sup>67</sup>

Replying to Prime Minister Botha's announcement on the date and question of the referendum, the Progressive Federal Party said that it welcomed a referendum as a means of securing public opinion.<sup>68</sup> During the 1983 Referendum Bill debate, the Progressive Federal Party came out in support of the referendum concept, arguing that a referendum is the "ultimate test of the will of the people",<sup>69</sup> and advocated the use of a referendum in judging the sentiments of the white population with regard to the 1983 constitutional proposals. This argument concurred with the party's stance during the 1982 Referendum Bill, when it signalled its support for referendums in general, as a procedure and mechanism for submitting changes to the constitutional structure to the voters, for their decision-making.<sup>70</sup> The party in fact, came out with a call to submit the new constitutional proposals to the voters in the form of a referendum.<sup>71</sup>

The Progressive Federal Party's top decision-making body, the Federal Congress unanimously endorsed the recommended "no" vote of the party's leadership in the referendum. Dr. F. Van Zyl Slabbert, the leader of the Progressive Federal Party, said that anyone supporting the new constitution would, in the eyes

of blacks, be supporting pass laws, homeland removals and the break-up of family life through the migrant labour system.<sup>72</sup>

Van Zyl Slabbert rejected the proposed constitution bill as dangerous on three grounds; firstly it would increase racial conflict, secondly, it was simply a 1983 model of apartheid, and thirdly, it ensured a one-party dictatorship. In addition, the key laws which discriminated against people on the basis of colour were still built into the constitution.<sup>73</sup> According to the Progressive Federal Party, the attention of white South Africans was being focused onto a minor constitutional dilemma, namely, how to accommodate coloureds, Indians and whites within one constitution, while the most urgent constitutional problem, namely black and white coexistence, remained unresolved.<sup>74</sup>

A majority "no" vote in the referendum would force the National Party to turn its attention to the real problem threatening South Africa's stability, racial discrimination, the Progressive Federal Party said. Other serious threats to stability included the government's apartheid laws, rural poverty, unemployment and black urbanisation, and the new constitution failed to address these problems. The government could embark on a wide range of meaningful reforms, such as the scrapping of apartheid legislation, without introducing a new constitution.<sup>75</sup>

The most dangerous aspect of the constitutional model was that the key aspects of the policy of one party, the National Party, had been built into the constitution for South Africa. In this way, a political party's ideology was being constitutionalized and in a sense, by doing this, the government was demanding of all its opponents



that they should first accept the National Party's ideology as a basis for participating in the constitution for South Africa.<sup>76</sup> As it stood, the proposed constitution "legalized" the policies of one political party and enshrined issues of conflict which were potential causes of instability.<sup>77</sup>

The Progressive Federal Party advocated that moving away from the exclusive white political domination would secure peace and stability. While it was essential that no one group dominate all others, the new constitution, in all the important aspects, maintained and secured the preservation of white domination. Examples of this domination included the electoral college and the President's Council. Hence, the majority party in the House of Assembly would be in a dominant position, and in the present (1983) party-political set-up, it simply amounted to the entrenchment of National Party dominance.<sup>78</sup>

Van Zyl Slabbert said some people might wish to support the new constitution as a "step in the right direction", but no constitution (which was a step in the right direction) needed to be bulldozed through Parliament and prevented from being fully debated and protected from public scrutiny and debate. He added that the claim that a "yes" vote would bring about more reform, had been refuted by the National Party, who had made it clear there was no hidden agenda and that the Nationalists had the fullest intention of continuing with their policy of separate development.<sup>80</sup> A "no" vote in the referendum would not mean that people were opposed to reform, but that they rejected the new constitution in particular, and if a "no" vote was to carry the day, the need to move away from white domination would be as strong as ever.<sup>81</sup>

In principle, the Progressive Federal Party did not reject reform out of hand. The party's argument was that a plan was needed which would generate more support than the National Party's constitutional proposals. In order to achieve this, certain minimum requirements were essential: the leaders of all population groups should participate in negotiation for a new constitutional plan based on the consensus achieved through negotiation and not imposed by one group or political party on all others. Any new constitution should involve a commitment both to getting rid of discrimination and to the prevention of group domination. These minimum essentials were contained in the Progressive Federal Party's alternative programme for a new constitution for South Africa and represented the basis of a move towards racial co-operation and democratic government.<sup>82</sup>

To the Progressive Federal Party, the exclusion of blacks was a defect of such magnitude that on this issue alone, no South African should support the new constitutional proposals. If blacks were to be involved in decision-making at central government level, this constitution would first have to be destroyed.<sup>83</sup> Blacks had made it clear that they rejected the new constitution as it encouraged racial conflict and amounted to a sophisticated model of apartheid.<sup>84</sup> The potential for conflict in South Africa would be heightened considerably if blacks were excluded from the constitutional future of South Africa, as urban blacks were aware of their disadvantaged position and their demands for reform continued to escalate.<sup>85</sup> Not only would this increase racial conflict between whites and blacks, but it would also increase conflict between coloureds and Indians, and blacks. Moreover a "yes" vote would see the growth of an anti-free enterprise, pro-Marxist ideology among young urban

blacks, and strengthen the growth of right-wing extremism.<sup>86</sup> Dr Boraine challenged Prime Minister Botha to put the government's plan for blacks to the test in a referendum if he believed black people had accepted and were happy with the plans. He said he was convinced that there would be an overwhelming "no" vote and a demand for constitutional participation.<sup>87</sup>

In September 1983, Van Zyl Slabbert and Buthelezi issued a joint statement urging voters to reject the constitution. According to them, it was vital that the "no" vote should be seen as a rejection of the proposals which were counter-productive to the real reform to which blacks and whites were committed. No new constitution could be effective and enduring unless all the people to be affected by it were involved in its making, and the 1983 constitutional proposals perpetuated and entrenched the apartheid policy of the National Party which was repugnant to the majority of South Africans and divided the people.<sup>88</sup>

The Progressive Federal Party objections can be summarised as follows: Firstly, the problem of the legitimacy of the constitution had been compounded as the new constitution was not based on negotiation between the different communities, but rather a National Party package that was being imposed on the rest of South Africa.<sup>89</sup> The constitution did not emanate from consensus, consultation, or negotiation with the people it would affect. There was no negotiation with the coloureds and Indians or even with the Official Opposition and certainly none with blacks. The result of this was that the constitution divided coloured, Indians and whites. Only blacks were unified - but in their opposition to the constitution.<sup>90</sup>

Secondly, black exclusion from the new constitution was a precondition for coloured and Indian inclusion. Blacks had made it clear that they saw a "yes" vote as condoning their permanent exclusion from the constitution, their permanent loss of South African citizenship and the pass laws. Thirdly, the new constitution had not solved the problem of domination in any way, but had entrenched one-party domination in the House of Assembly and created the infrastructure within which South Africa could slide towards dictatorial rule.<sup>91</sup>

In the fourth instance, the constitutional proposals were nothing more than another manifestation of apartheid.<sup>92</sup> The new Parliament consisted of three racially-defined chambers, which would embody and enshrine in constitutional form, the principle of race/colour separation.<sup>93</sup> The most objectionable aspects of the apartheid policy, the division of matters into own and general affairs, were entrenched in the new constitution. The policy of apartheid was thus "constitutionalized" in that the new constitution was based on the Population Registration Act, the Group Areas Act, and the Separate Amenities Act.<sup>94</sup> The division of matters into own and general affairs was not only a mechanism to perpetuate the apartheid system, but a belief that important aspects of life in South Africa (such as schools, hospitals, community development and hospitals) could be separated into racial compartments.<sup>95</sup>

In conclusion, the Progressive Federal party rejected the government's constitutional proposals because instead of uniting people in a common-loyalty, the constitutional proposals became a factor which was more divisive than anything since 1910; instead of creating a democratic system in which all could share, they excluded the majority of

South Africans; instead of being an instrument to move away from apartheid, they in fact entrenched apartheid and racial discrimination; and instead of rejecting the majority winner-takes-all principle, they simply applied it in another fashion.

### 3.3.2 The Conservative Party

The Conservative Party was formed in March 1982 by a group of National Party Members of Parliament who were dissatisfied with the course that the party had embarked on.<sup>96</sup> In February 1982, Prime Minister Botha said that the Cabinet had accepted the concept of power-sharing by accepting the 1977 proposals. Dr Treurnicht, the leader of the National Party in Transvaal and a member of the Cabinet, rejected the idea of people of different races within one government, and walked out of a caucus meeting on 23 March 1982. This break proved irreparable and led to the formation of the Conservative Party. Separate development forms the cornerstone of the Conservative Party's domestic policy and implies, inter alia, the recognition of nationalism, the maintenance of self-determination and self-government, and no form of power-sharing with people of other colour.<sup>97</sup>

The Conservative Party believes that while the principle of the self-determination of whites must be safe-guarded, so too must the self-determination of the coloureds, Indians and blacks, but within their own geographic areas. Therefore, any form of power-sharing is ruled out because this would be at odds with the concept of self-determination.<sup>98</sup> The Conservative Party believes that blacks within white South Africa are still citizens of their respective national states and exercise all their political rights there. Influx into white areas should be carefully monitored and the outflow of blacks to the

national states encouraged and brought to fruition. Measures pertaining to the permanence of blacks within the area of white South Africa, are unacceptable.<sup>99</sup>

The Conservative Party came out in favour of the Prime Minister's announcement on the holding of the referendum, and supported the simplicity and clarity of the question to be posed.<sup>100</sup> In the later debate of the Referendum Bill, however, the party expressed reservation about the fact that opposition parties would come to play a decreased role, as only the government had the right to call a referendum, and determine dates and issues.<sup>101</sup> They also accused the government of using the referendum process to its own advantage.<sup>102</sup> Spokesmen for the Conservative Party did add however, that the party would approach the referendum in a positive spirit, and would "make a contribution to the finest ideas and principles of democracy".<sup>103</sup>

The Conservative Party's primary objection to the new constitution was that the proposals would deprive whites of their sovereignty as a result of power-sharing with people of other colour. In addition, whites would lose political self-determination, as the National Party plan included a multi-racial Cabinet and government, in which non-whites would be made co-governors over whites.<sup>104</sup> For whites to accept a three-chambered Parliament was tantamount to entering a political prison by virtue of the restrictions that would be placed on white decision-making by the presence of the other two chambers. A second objection was that the President's Council would have a final and binding decision over white self-determination, and this body would not be answerable to the electorate. The President's Council would act as arbiter in case of a clash between the chambers of Parliament and

as a result of this, future power-stuggles would most likely centre on the composition of the President's Council.<sup>105</sup>

Another objection was that the new constitution would destroy party government. A political party which had the majority support in a House of Parliament would be relieved of any or all of its election promises, simply on the basis that it could hide behind any non-acceptance by either of the two other Houses.<sup>106</sup>

Fourthly, the National Party's constitutional proposals deviated from the Conservative Party's stated policy of separate development and self-determination and undermined the sovereignty of Parliament. Whites would be dependent on two other Houses which would have the power to veto the House of Assembly. These proposals would mean the end of democracy in South Africa, and lead to polarisation and revolution amongst whites in South Africa. The implications of the constitutional proposals would signify a racial federation, with the result that whites would be divided.<sup>107</sup>

On the issue of dictatorship, the Conservative Party believed that a situation in which the State President alone could decide what own and general affairs were to be, with little or no effective parliamentary control over him, was unacceptable. The new constitution would eventually destroy the self-determination of whites, coloureds and Indians in order to create a National Party dictatorship. Whites, coloureds and Indians would occupy three politically impotent legislative Houses in a tri-cameral Parliament, while the real political power would vest in the "dictatorial" State President.<sup>108</sup>

### 3.3.3 The Herstigte Nasionale Party

The Herstigte Nasionale Party was formed in 1969 by a right-wing breakaway faction of the National Party. The programme of principles of this party may be summarised as follows: a republican system of government combining the offices of Head of government and Head of State; the stricter application of apartheid; the gearing of assistance for blacks and black areas to their "development potential"; no further extension of urban residential areas for non-whites; a cut-back on immigration; the freeing of foreign and diplomatic relations from the influence of financial and commercial considerations; recognition of the cultural rights of English-speaking South Africans and the protection of the small-man against money power.<sup>109</sup>

Although the Herstigte Nasionale Party had no representative in Parliament during the debate on the new constitution, it was still able to generate a great deal of publicity and actively campaigned in favour of a "no" vote.<sup>110</sup> In August 1982 the Federal Congress of the Herstigte Nasionale Party rejected the new constitution and called on Prime Minister Botha to call a referendum. At the Congress, the proposals were seen as a step in the direction of ultimate black majority government, and a call was made for all Christians to reject the constitution as it constituted an attack on Christianity.<sup>111</sup>

The Herstigte Nasionale Party's opposition to the constitution was based on two points; firstly, in the light of South Africa's constitutional development since 1910, and secondly, the political process carried out in other African states. The new constitutional system was directly opposed to the historical constitutional development of South



Africa, since 1910. The new constitution implied a return to the British colonial system which had led to the handing over of power to a black government and the dispersal of the whites settled there, and signalled the start of an inevitable development which would be in the direction of more racial integration of political and social life. As race and colour were removed as distinguishing factors between whites, coloureds and Indians, there could be no moral or fundamental grounds on which blacks outside the homelands and national states could be excluded from the constitutional dispensation. The coloureds and Indians would advocate and promote black permittance and, because the National Party would wish to prevent the system from failure, they would yield to the coloured and Indian Houses' demands.<sup>112</sup>

The new constitution was seen by the Herstigte Nasionale Party as a dangerous step towards racial integration which would weaken the position of the whites and lead to black government and the disappearance of white South Africa.<sup>113</sup> The fulcrum of the 1983 constitution was the race issue, and each racial group had preference for its own group and was prejudiced against others.<sup>114</sup> The constitutional dispensation directives in South Africa had been drawn since 1910 and only a constitutional dispensation in which the identity of each racial group was recognised and where each group's political rights were bound to a territory, could offer a lasting solution.<sup>115</sup>

According to the Herstigte Nasionale Party, black majority government had followed in all African states after the removal of race and colour as a distinguishing factor from the political order. The starting point to black majority government was hence the removal of race and colour from a

constitution and this was what the National Party was attempting to do. The timing of the National Party's plan was also inopportune and dangerous, as it was unthinkable that a state involved in a "war" against terrorism could change its constitution in the delusion that this could help win the "war".<sup>116</sup> South Africa's priority was to win the "war" and to restore the sense of security and the self-confidence of the whites, rather than to introduce a new integration.<sup>117</sup>

The Herstigte Nasionale Party's most serious grievance was that the 1983 constitution signified a move towards black rule.<sup>118</sup> In an article in Die Afrikaner in 1981, the party made it known that non-whites could have no share in the government of white South Africa, because no system of power-sharing within one geographic area had ever succeeded, which meant that non-whites would have to exercise their political rights within their own separate areas. The most obvious facet of this new constitution was that the colour bar would eventually be removed from the South African constitution, and would preface a process of continual constitutional changes toward concessions and racial integration. Once the colour bar was removed from the constitution, it would have to be removed from society in general. The way towards black majority rule was to end white rule by introducing multi-racial rule as a starting point, as was the case with the 1983 constitution.<sup>119</sup>

#### 3.3.4 Inkatha

The aims and objectives of Inkatha have been identified in its constitution as better living conditions and a better distribution of prosperity, unity among blacks in South Africa, the removal of racism, colonialism and discrimination, the

maintenance of fundamental human rights and freedoms, and participation in any activity that can promote the objectives of Inkatha.<sup>120</sup>

Chief Minister Buthelezi, the leader of Inkatha called for the new constitution to be scrapped on the grounds that the majority of South Africans rejected it. The new constitution he said, was seen as a specific act of aggression directed at the majority of South Africans, as blacks were excluded from ever participating in domestic, foreign and economic policy decision-making. Buthelezi rejected the right of the National Party to "...arrogate to itself the power to pursue its own interests at the expense of others," and therefore rejected the constitutional proposals because "...they were based on racism and amounted to no more than giving sanctity of the constitution to Afrikaner party political policy."<sup>121</sup>

Apart from the objections on the grounds of racism, Buthelezi claimed that the new constitution fundamentally misconceived the nature of democracy, in that democracy with no prospect of moving away from minority to majority government ceased to be democracy. According to Buthelezi, it was undemocratic for any government to entrench any ruling (white) political party by constitutionally ensuring its victory in parliamentary debates and by excluding the bulk of South African's population from legitimately challenging the exclusiveness of the power being wielded. Buthelezi went on to warn that the new constitution would force the evolution of opposing racial political blocs, which would lead to an increase in black political identity with exclusive black aims. Blacks would be left with no option but to employ worker and consumer power to extend their political influences, and boycotts and strikes could be employed as "irresistible

weapons".<sup>122</sup>

On the issue of the new constitution being a "step in the right direction," Buthelezi pointed out that the constitution itself was "a ... giant step away from power-sharing", and that the inclusion of Indians and coloureds was "...part of a terrible retrogression in our political situation and can in no way be described as a small step in the right direction".<sup>123</sup> Buthelezi added that the constitution was not even an interim measure, but rather a betrayal of democracy. He also warned that a "yes" vote would have a devastating impact on black thought, goodwill, and political feeling.<sup>124</sup> On the other hand, a "no" vote would be a vote for caution and allow time to deliberate further on a political dispensation to include all South Africans.<sup>125</sup>

### 3.3.5 The United Democratic Front

In January 1983, Dr Allan Boesak made a call to the Anti-South African Indian Council meeting, for unity and joint action against the government's new constitutional plans. From this call was born the United Democratic Front, a body which aims to unite all freedom-loving people who reject apartheid. Natal was the first region to launch a regional United Democratic Front. This was soon followed by a movement in the Transvaal when forty organisations agreed to form a United Democratic Front. United Democratic Front movements have also sprung up in the Western and Eastern Cape.<sup>126</sup>

The United Democratic Front rejected the constitutional proposals arguing that the government was determined to keep the people oppressed by entrenching apartheid.<sup>127</sup> Boesak said that the constitutional proposals endorsed apartheid and he called upon Christians to reject the proposals. He

added that the constitution bill would modernise apartheid and give the present system more elasticity, making it more difficult to create a democracy.<sup>128</sup>

Other United Democratic Front member organizations such as the Transvaal Indian Congress also rejected the constitution because as they claimed, it was racist, divisive and undemocratic and would not remove social or economic inequalities. Moreover, the new constitution would entrench authoritarianism and apartheid and would not remove any of the unjust laws of apartheid.<sup>129</sup>

The Natal Indian Congress, another member organization of the United Democratic Front said the constitutional proposals of the National Party posed a great threat to black unity. The Natal Indian Congress criticised the SAIC in that they (SAIC) did not represent the Indian people and therefore should not take part in the new system. The Natal Indian Congress added that acceptance of the constitutional proposals would imply participating in violence against blacks. Indians in South Africa, it was argued, had never taken sides against blacks and did not intend to do so at this stage.<sup>130</sup> Further, the new constitutional proposals were rejected as there was no intention on the part of the government to create a non-racial, united South Africa,<sup>131</sup> as in fact, the government was doing nothing to create the necessary conditions for democratic change.<sup>132</sup>

#### 3.4 Other interest groups as formulators of opinion during the referendum campaign

On 27 October 1983, The Star newspaper came out with an editorial which called for the electorate to abstain from voting in the referendum. Other newspapers in South Africa all came out with

editorials either supporting or rejecting the 1983 constitutional proposals. The Star's attitude was therefore unique and obviously, as the newspaper with one of the largest circulation figures, very important. As far as The Star was concerned, abstention was a positive, effective action in the circumstances as, should the turn-out be as low as fifty- or even fifty-five percent, the abstention movement would be the biggest force in white politics. Moreover, there were greater issues at stake in South Africa than the referendum; issues such as the bridge between black and white people. The Star urged its readers to consider the force a message would have if it came from a great body of concerned South African distancing themselves from the confusion.<sup>133</sup>

The government-recognised leaders of 12-million blacks condemned the new constitution as the embodiment of the narrow Afrikaner ideology of the white supremacy. The declaration was signed by the leaders of six of South African's ten black territories; Chief Minister Buthlezi, Chief G. Mataanzima, Dr C. Phatudi, Professor H. Ntsanwisi, Mr K. Mopeli and Mr E. Mabuza. They warned that the new constitution would undermine the good will on which negotiation depended.<sup>134</sup>

Another group to come out in favour of a "no" vote was a group of Afrikaner clergymen. On 2 September 1983, 220 representatives of all three of the major Afrikaans churches rejected the constitution outright, saying that they believed in the peculiarity of each nation and the right of the nation to continue its own identity and self-determination. They went on to say that there were other ways of obtaining peace and co-existence which would be more answerable to the Bible.<sup>135</sup> The Anglican Archbishop of Cape Town, Archbishop Phillip

Russell, was another clergyman to reject the 1983 constitution, because of the type of society it would perpetuate. He called on the Cabinet to remove apartheid legislation, rather than to embark on reforming the constitution.<sup>136</sup>

South African businessmen also entered the referendum campaign, advocating both "yes" and "no" positions. 135 leading businessmen took out advertisements in national newspapers warning that a "no" vote would have harmful political and economic consequences, nationally and internationally and would be detrimental to the reform already underway, especially with regard to labour, housing and training.<sup>137</sup> The Progressive Federal Party also published a list of people and organisations which had rejected the constitution, to counter the National Party advertisements. The Progressive Federal Party advertisement listed fifty-five organisations as rejecting the new constitution, among them the Methodist Church, the Black Sash, the Democratic Lawyer's Association, and the Soweto Committee of Ten.<sup>138</sup> The National African Federated Chamber of Commerce (NAFCOC) also joined the voice of rejection of the constitution, calling the new constitution the embodiment of the "...ideology of white baasskap".<sup>139</sup>

### 3.5 Conclusion

The wide range of opinions that faced the voter, ran the whole spectrum of political opinion in South Africa. The arguments in favour of the constitution were that it was a vote for reform and a step in the right direction, the outside world wanted a "yes", there was a hidden agenda for blacks who would be given political rights soon after the implementation of the constitution, and that a "no" vote could be interpreted as a vote for the ultra-right/ultra-left.

In favour of a "no" vote were the following arguments; the new constitution entrenched apartheid constitutionally for the first time, a possible increase in black alienation was too high a price to pay for including coloureds and Indians in central decision-making, the new constitution was a step forward for the National Party but not South Africa, and finally, the constitution as a legal document, was fatally flawed and unworkable.

The two prominent arguments for the third option included; it would be wrong to block reform by saying "no" and wrong to vote "yes" for a constitution that entrenched apartheid, hence ballots should be spoiled. Alternatively, white voters could vote with the majority of black and brown South Africans, who did not have the vote in any event, by abstaining.

One of the main points of contention centered around the omission of blacks from the constitution. For the Nationalists, black political aspirations were being fulfilled by the national states, and the only sector of the population whose aspirations had yet to be met were the urban blacks. Using this as a point of departure, the Nationalists claimed that a Special Cabinet Committee was investigating this problem. Group ethnicity was for the National Party, of major concern. Their proposals, they said, would expand democracy to include 3,5 million people, without endangering the position of the whites. Moreover, the Nationalists argued that while self-determination would be extended to the coloured and Indian communities they would also participate in matters of common concern.

The Progressive Federal Party called on the electorate to reject the constitution, so as to enable the National Party in conjunction with all



the other interest groups to redraft a new constitution more in line with Progressive Federal Party dogma. However, the National Party had made it known earlier that no such steps would be taken, should the electorate reject the constitution. In fact, the National Party would return to the status quo.

The Progressive Federal Party opposition to the constitution centred around four principles; that the new constitution would increase racial conflict, that apartheid would be more entrenched than ever before, that the parliamentary process would be dominated by the majority party in the House of Assembly and finally, that the National Party proposals lacked legitimacy in that very little canvassing had been done with regard not only to other white parties, but with other population groups.

On the right wing, the Conservative and Herstigte Nasionale Parties both saw the new proposals as inroads made against the self-determination of the white volk. For these two parties, who had failed to come to any co-operation agreement during the run-up to the referendum, the constitutional proposals manifested the end of white sovereignty, and the beginning of moves toward black majority. The Conservative Party, apart from drawing objection to the system of power-sharing, also pointed out to what they perceived as being an illegal constitution, for they saw the power and functions of the State President and the President's Council as being further irregularities of the constitution.

Inkatha's and the United Democratic Front's objections to the constitution ran parallel to their stated objectives on the issue of the political fulfillment of black political aspirations. During the referendum campaign Buthelezi had allied himself

to the Progressive Federal Party campaign, in the hope of influencing the electorate. Some Nationalist politicians had warned the Inkatha leader of getting himself involved in "white politics", while the Progressive Federal Party was accused of using "swart gevaar" tactics in trying to win over the voters, when they made the projections that they thought the constitutional proposals would lead to violence, as Inkatha and Buthelezi had also forecast.

The whole spectrum of opinions covered in this chapter formed for the most part, the articulation of interest that manifested itself in the outcome of the referendum. The next chapter focusses attention on the legislation and regulations pertaining to the 1983 referendum, and the results of the referendum.

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#### 4. THE LEGISLATION, REGULATIONS AND OUTCOME OF THE 1983 REFERENDUM

##### 4.1 Introduction

On 30 March 1983 Prime Minister P.W. Botha announced to the House of Assembly that it had been decided that before the 1983 Constitution Bill was to become legislation, it would be submitted by means of a referendum to the electorate for their approval. The Leader of the Opposition agreed that it was important to gauge the support for the constitution in this important step of changing the constitution. He went on to make three recommendations: firstly, that the referendum should present the electorate with a very simple choice in which they should cast their votes; secondly, that in addition to whites, the referendum should involve coloureds, Indians and blacks as well; and finally, that the information services and the media should allow free access to the political parties on a proportional basis for them to articulate their standpoints. The Conservative Party welcomed the Prime Minister's announcement and the Leader of the Opposition's statements about access to the media. Finally, the leader of the New Republic Party expressed his support for a referendum, but added that he too was in favour of a referendum for coloureds and Indians.<sup>1</sup>

Botha pledged that he would abide by the result of the referendum, even if it went against him. He reiterated the precedent that had come up in the 1960 referendum, namely that he did not view the referendum result as a means of testing the faith that the electorate had in the government. Both the Progressive Federal and Conservative Parties said that they would accept the result of the referendum.<sup>2</sup> Almost two months later, Botha

announced that the referendum for white voters would take place on 2 November 1983 and that the question on the ballot paper would be: "Are you in favour of the implementation of the Constitution Act, 1983, as approved by Parliament." The Progressive Federal Party, the Conservative Party and the New Republic Party all welcomed this announcement as well as the simple phrasing of the question.<sup>3</sup>

The first part of this chapter deals with the legislation and regulations that were brought into being for the purposes of the 1983 referendum. A breakdown of the referendum results constitutes the second part of this chapter. Principles examined included the majority, the percentage-poll, the spoilt votes, and analogies between the provinces. The fifteen voting regions are handled separately in terms of quantification, but are collated for the purposes of quantifying the results per province.

#### 4.2 Legislation and regulations

Although Parliament passed the Referendums Act, 1982, (Act 97 of 1982) to provide for the holding of referendums, it nevertheless repealed this Act and in September 1983, again passed a referendum bill, the Referendums Act, 1983, (Act 108 of 1983). The most important difference between the two is that the 1983 statute lends to the State President not only the right to act, but more importantly, the right to make regulations which will be of bearing in a specific referendum. The 1983 Referendum Act is therefore of greater significance not only because it grants approval to the State President for future referendums, but it makes provision for changes in circumstances by affording to the State President discretion to alter regulations and to draw up completely new ones prior to a referendum.<sup>4</sup>

In addition it lends to the State President the

right to:

- (a) announce referendums for the purpose of determining the electorate's point of view (or of a particular group of the electorate) on any specific issues;
- (b) determine when a referendum shall take place;
- (c) determine who (coloureds, Indians or whites) will be entitled to vote;
- (d) determine the form and particulars of the ballot paper; and
- (e) appoint a public service officer as chief referendum officer who will be responsible for the organisation and control of the referendum.<sup>5</sup>

The State President proclaimed in the Government Gazette of 16 September 1983 that the referendum would take place on 2 November 1983 to determine whether the white voters supported the Constitution of the Republic of South Africa Act, 1983, (Act 110 of 1983). Section (c) of the proclamation goes on to specify that only whites<sup>6</sup> would be entitled to vote if they were South Africans over the age of 18, had not been disqualified,<sup>7</sup> and had been issued with an identity document. Moreover, the voter had to have resided in South Africa or have been in the service of the state and employed abroad. People living permanently in South West Africa (except Walvis Bay) were not entitled to vote.<sup>8</sup> Voters whose abode was in the Transkei, Bophuthatswana, Venda and Ciskei were however, able to vote in the referendum.<sup>9</sup>

Section 4 of the Referendum Act allows the State President to make regulations which are of bearing

on a particular referendum.<sup>10</sup> Under this authority the State President issued the Regulations made under the Referendums Act 1983, which were published in the Government Gazette. The regulations enabled the chief referendum officer to appoint a polling officer for each polling area who in his turn, appointed presiding officers, polling clerks and agents (after nomination by a political party). In the case of the 1983 referendum, only one referendum agent per "yes/no" vote could be appointed which meant that in the polling area where more than one political party advocated a similar stand but for radically different reasons (such as those parties which called for a "no" vote), dissatisfaction prevailed.<sup>11</sup> The polling officer had to base his choice on various factors including which political party -if any- had a representative in Parliament or the provincial council, and which party had won the most votes in the previous election. All three "no" parties (the Progressive Federal Party, the Conservative Party and the Herstigte Nasionale Party) rejected the possibility of negotiating and said they would nominate agents and leave the decision to the polling official concerned.<sup>12</sup>

The position and role of the identity document came to play an important role in the referendum. Even as early as the Minister of Internal Affairs's budget vote, it was clear that identity documents would play a very important role in the referendum.<sup>13</sup> At a press conference of 28 October 1983, the chief referendum officer said that because voting would take place by means of identity documents and not by voter's rolls, a voter could cast his vote at any polling station in South Africa. According to the Department of Internal Affairs, 2 713 000 potential voters were in possession of identity documents by the time of the referendum. This figure represented ninety-seven percent of the total number of eligible



white voters in South Africa, and 314 000 more voters than the number of voters on the voter's roll of 30 June 1983.<sup>14</sup>

Section 27 of the referendum regulations described ballot papers that had to be rejected. These included those that bore more than one point of view, failed to show the official mark or stamp, were unmarked or void for uncertainty and those which a voter had written his name on and could thus be identified. The referendum officer for each polling area had to announce the result by reading it out in and outside the place where the votes were counted and once this was done, the referendum officer had to send a return to the chief referendum officer, indicating the number of votes recorded and the number rejected, which would be published (by the chief referendum officer) in the Government Gazette.<sup>15</sup>

The infringement of secrecy is protected in the Referendum Act in that no voter need communicate any information likely to defeat the secrecy of his voting.<sup>16</sup> Furthermore, no voter could be canvassed after he had cast his vote at the polling station.<sup>17</sup> The Referendum Act also stipulates that no voter need disclose in any legal proceeding how he may have voted or even if he did.<sup>18</sup> Used ballot papers' counterfoils must be sealed and kept separately after being sealed. The counterfoils are kept by the chief referendum officer in Pretoria whilst the marked ballot papers are kept by the fifteen referendum officers in the voting areas. Only the Supreme Court has the authority to order that the counterfoil be combined with the ballot paper. This is done with a view to declaring a vote invalid in which case the proceedings are held in camera.<sup>19</sup>

The prohibition of opinion polls during referendums is also outlined in the Referendum Act. Not only is conducting an opinion poll an offence, but so too is the publishing of results conducted prior to the date of the proclamation. However, canvassing opinions, or publishing the results thereof is permitted.<sup>20</sup>

#### 4.3 The results of the 1983 referendum

The results of the referendum showed that the National Party's constitutional proposals were supported with a significant two-thirds majority by the white voters (Appendix 3). This two-to-one support represented a victory for the Prime Minister and the National Party, backed by the New Republic Party, while signifying a loss for the Progressive Federal Party, whose (predominantly) English-speaking voters had supported the new constitution. Equally important, the Pietersburg "no" (the only voting region to record a "no" vote) was by a small majority of 3 424 and not as severe as political analysts had expected.<sup>21</sup>

The total "yes" votes numbered 1 360 223, as opposed to the 691 577 "no" votes, giving the "yes" votes a majority of 668 646 (a 65,95 percent majority). There were 10 669 spoilt ballot papers, or 0,517 percent of the total votes cast. Johannesburg had the highest percentage of spoilt papers (3 906) which represents 36,6 percent of the total spoilt papers cast. Beaufort-West had the least number of spoilt papers, (93 or 0,87 percent). The strongest "yes" vote, as a percentage, was recorded in East London, where 77,6 percent voted in favour of the constitution. The single largest figure in favour of the 1983 constitution was polled in Cape Town, where 221 511 voters recorded a "yes" vote.<sup>22</sup>

The overall turn-out at the polls was 76 percent, down from 91 percent in the 1960 referendum. The turn-out for the Cape Province was 74,55 percent, Natal 79,74 percent, the Orange Free State 78,75 percent, and the Transvaal 75,6 percent. The "yes" majority in the Cape Province was 274 446 or 73,66 percent. In Natal the majority in favour of the constitution was 109 800 or 72,65 percent. The Orange Free State had an overall majority in favour of 48 224 (64,2 percent of votes cast). Finally, the Transvaal recorded a 326 176 majority of "yes" votes. Spoilt papers for the Transvaal represented 0,64 percent of the votes cast, but more interestingly, 65,58 percent of the total spoilt ballot papers.<sup>23</sup>

The most distinct feature of the referendum was not that the "yes" vote won, but the extent of the majority. The outcome was also a personal triumph for the Prime Minister as he had staked a great deal on the new constitution. Conversely, the magnitude of the defeat of the parties against the constitution must have exceeded their worst fears.<sup>24</sup>

What added to the "yes" victory, was that it was so broadly based, as there was a "yes" majority in all four provinces and in 14 of the 15 voting areas. The voting not only cut across geographical areas but across political party and language groups. Apart from solid National Party support for the new constitution, the "yes" majority could not have reached 66 percent were it not for the sizeable non-National Party supporters which came from the New Republic and Progressive Federal Parties. The Progressive Federal Party appeared to be the biggest loser with followers ignoring party policy. For the Progressive Federal Party, the outcome held little to rejoice. In not even in such politically favourable voting areas as Johannesburg,

Cape Town, and Durban could the Progressive Federal Party mobilise the anticipated and expected support for a "no" vote. Even the controversial "Buthelezi factor" apparently failed to impress the electorate, although, as Geldenhuys says, this was a symptom, rather than a cause, of voter dissatisfaction with the Progressive Federal Party.<sup>26</sup>

The referendum also demonstrated that the Conservative Party's strength was widely exaggerated. For the National Party, the Conservative Party's poor performance must have been one of the more pleasing features of the referendum.<sup>27</sup> The National Party was able to obtain the largest non-Afrikaans speaking support yet, with many English-speakers and non-Nationalists deserting traditional political loyalties to support Nationalist policy. While the supporters of opposition parties who voted with the Nationalists would not necessarily vote for the National Party in forthcoming general elections, some loosening of traditional political allegiances no doubt occurred.<sup>28</sup>

A survey conducted by Van Vuuren and De Waal found that a significant proportion (64,23 percent) of respondents polled had voted in favour of the 1983 constitution because they believed it would result in further constitutional change. Other reasons for supporting the constitutional proposals included the fact that they were a departure point for reform which would create an evolutionary process for development, and improve race relations between whites and non-whites. On the other hand, 42,95 percent of those who voted against the 1983 constitutional proposals did so on the grounds that the proposals signified power-sharing, or the first step to integrated representation. A further reason was that it was necessary to maintain a sovereign white Parliament, and hence they were against the

introduction of any multi-racial Parliament.<sup>29</sup>

The importance of these findings cannot be overemphasized. The figure of 64,23 percent, as given by Van Vuuren and De Waal, corresponds with the 65,95 percent "yes" majority, thus indicating that the greater proportion of white voters felt that the 1983 constitutional proposals constituted some change or reform in the constitutional field. The message that emanated from this majority was that white voters were prepared to accept reform.

#### 4.3.1 The Cape Province

The first figures made available were those of the Port Elizabeth region. Voters in the eight (mainly) urban constituencies were in favour of the constitution by 69,9 percent.

There were 60 661 "yes" votes to 25 901 "no" votes. The turn-out of 73,18 percent was slightly less than the national average. Although a major "yes" vote had been expected, the size of the turn-out and the 18 000 increase in votes cast, (as compared with the 1981 election), did come as a surprise. The spoilt papers numbered only 0,23 percent of the total votes cast in that region. The Prime Minister's home region of George had a turn-out of 84,4 percent, and a majority of 72,98 percent in favour of the constitution. The spoilt papers were only 0,32 percent of the region's vote. Those against the constitution numbered 11 426 or 26,68 percent of the votes cast. The 1981 general election had registered turn-out of 74,4 percent with the Swellendam constituency going unopposed.<sup>30</sup>

The sprawling rural voting region of Beaufort-West had a 74,19 percent majority in favour of the constitution. The call for a spoilt ballot did not

receive much enthusiasm, as only 93 voters destroyed their ballots. The Beaufort-West voting region had a poll turn-out of 78,17 percent, as opposed to the 65 percent in the 1981 general election.<sup>31</sup>

Cape Town's "yes" vote reflected 52,24 percent of the "yes" votes cast in the Cape Province, and 16,28 percent of the total "yes" votes cast country-wide. The "yes" votes were up by about 109 000 on the 1981 election results, but comparisons are difficult as there were five National Party seats unopposed at that time. Cape Town registered 11,5 percent of all spoilt papers, with a voter turn-out of 73,6 percent.<sup>32</sup>

Kimberley recorded 34 815 votes in favour of the new constitution (65,9 percent) and 8,21 percent of the total "yes" votes cast in the Cape Province. The percentage poll for Kimberley was 75,76 percent. Meanwhile, East London had a turn-out of 72,6 percent and a "yes" majority of 77,61 percent.<sup>33</sup>

By voting the way that it did, and registering a turn-out of almost 75 percent, the Cape Province sent a message to the government that it supported the constitutional changes to be brought about. The more rural regions of this province (such as Beaufort-West and Kimberley) registered some of the highest majorities in favour of the new constitution, while the city of East London recorded the single highest majority in the province. In the case of spoilt papers, the rural areas of this province were the least affected.

#### 4.3.2 Natal

Early predictions had indicated that the Durban region would have a low turn-out at the polls, but

on referendum day 168 975 voters cast their vote. This vote was up 33 000 on the 1981 general election figure, and represented a poll of 75,95 percent. The "yes" majority was 73,25 percent. The "no" figure was also up on the 1981 general election figure, but only by 10 000. Spoilt papers in the Durban region were the sixth largest countrywide (750), and represented 0,44 percent of the total vote, well below the national average of 0,51 percent. Durban contributed 71 percent to the total "yes" votes in Natal, while only having 70,12 percent of the eligible voters.<sup>34</sup>

Pietermaritzburg also experienced a significant cross-over to the "yes" side. The 50 519 ballot papers cast in favour of the constitution represented a 71,2 percent majority. The 20 060 votes which rejected the constitution suggested that the New Republic Party had persuaded many Progressive Federal Party supporters to accept the constitution. Pietermaritzburg experienced one of the largest poll turn-outs, 90,48 percent. The percentage poll in the 1981 general election had been 71,47 percent. There was a very small figure of 366 which indicated that the "third option" of spoiling the ballot paper had failed as this figure represented only 0,51 percent of the total votes cast in the region.<sup>35</sup>

Both the Durban and Pietermaritzburg voting regions experienced greater "yes" majorities than the country-wide majority. The calls made by the Progressive Federal Party and Chief Buthelezi for voters to reject the new constitutional proposals were of little importance. This is especially important with respect to the Pietermaritzburg voting region, as the constituencies that fell into this group tended to support the Progressive Federal Party, and this must have been a great disappoint-

ment to the party.

#### 4.3.3 Orange Free State

Bloemfontein cast 52 019 votes in favour of the new constitution, representing a 65,58 percent majority. The Bloemfontein voting region contributed 48,38 percent to the total "yes" votes cast in the Orange Free State, and 3,8 percent to the country-wide total. The votes rejecting the constitution were 33,9 percent of the votes cast. The poll turn-out was 79,43 percent, while the spoilt ballots represented only 0,41 percent of the votes cast in that region.

The Kroonstad result soon followed the Port Elizabeth results. 55 486 voters were in favour of the new constitution, as opposed to 32 321 against, indicating a "yes" majority of 63,05 percent. The turn-out was 78,15 percent, while the spoilt papers represented just 0,21 percent. The outcome meant that while the Orange Free State's voters had gone to the polls in greater numbers than the national average of 76 percent, they had recorded a smaller majority in favour of the constitution. Although at that stage, all the parliamentary seats were held by the National Party, support for the right-wing parties kept the majority in favour of the constitution down.<sup>36</sup>

#### 4.3.4 Transvaal

Johannesburg recorded a 68,48 percent "yes" majority, which represented 29,7 percent of the votes cast in the Transvaal and 14,2 percent of the total votes cast nation-wide. The 85 554 "no" votes represented 12,3 percent of the total "no" votes. The Johannesburg area was the most unpredictable, with swings to both sides expected to balance each other for a possible close result. In the event, the



approximate two-to-one ratio was maintained, with the "yes" ballot up by 87 000, compared with 1981. The Progressive Federal Party failed to persuade its voters to reject the constitution - hence a result which indicated a major swing to the "yes" side. The turn-out of 70,79 percent was the lowest of any voting region, and the city where The Star newspaper made its greatest impact, calling for an abstention.<sup>37</sup>

In Germiston, earlier predictions had indicated that the "yes" majority would be a small one, as the region had a predominantly middle-class Afrikaner, with pockets of an English-speaking, electorate. Furthermore, there were nine National Party, one Progressive Federal Party and three Conservative Party seats. However, the result was a sixty-five percent majority in favour of the new constitution. The 0,51 percent figure that the spoilt papers contributed was equivalent to the national average. The Germiston region percentage poll was 71,24 percent. In Roodepoort 186 454 voters went to the polls to record a 73,5 percent turn-out. This fourteen-seat region has a fairly strong rural community, with right-wing supporters among the voters. Nevertheless 105 307 voters cast their ballots in favour of the constitution, which meant that the majority was 56,47 percent. The "yes" votes polled were slightly less than in 1981. The spoilt papers (909) reflected 0,48 percent of the region's vote. The large discrepancy between the 68,48 percent "yes" for the Johannesburg area, and the 56,47 percent "yes" in Roodepoort, demonstrates the influence of the conservative rural vote. In the 1981 general election, the Helderkrui constituency was the only one in which the Progressive Federal Party put up a candidate. In all the other constituencies in this voting region there was a dominant Herstigte Nasionale Party or National

Conservative Party presence, with only Roodepoort going to the National Party unopposed.<sup>38</sup>

The Pietersburg region had been expected to vote against the constitutional proposals, as the region included the right-wing areas of Waterberg and Soutpansberg, where by-elections had been fought in May 1983 and which had shown significant support for the Conservative Party. However, the "no" majority was only 3 424. In fact, the "no" ballot papers represented only 52,38 percent, although the poll turn-out had been 84,7 percent. Spoilt papers numbered only 247, the lowest in the Transvaal, or 0,37 percent.<sup>39</sup>

The largest "no" vote of 157 433 was recorded in Pretoria, and represented 42,75 percent of the total "no" votes cast in the voting region. There were only 1 035 spoilt ballots or 0,28 percent of the votes cast in Pretoria, and 9,7 percent of those country-wide. Pretoria recorded a 32,05 percent "yes" vote in the Transvaal and 15,42 percent of total "yes" votes cast. The turn-out in the Pretoria region was 87,46 percent. In 1981 the percentage of the "yes" parties (the National Party and New Republic Party) was nearly 65 percent, indicating that the Conservatives had dragged down the percentage. It is interesting to note that the total number of "no" votes cast in the Pretoria voting region exceeded the combined "no" totals of the Orange Free State and Natal, and represented 22,7 percent of the total number of "no" votes cast in the referendum.<sup>40</sup>

Undoubtedly the voting regions in the Transvaal demonstrated the largest opposition to the 1983 constitutional proposals. These voting regions also showed the voting strength and power-base of the Conservative Party, in such areas as Pietersburg,

Roodepoort and Pretoria. The Progressive Federal Party was not able to muster its voting strength in Johannesburg with the result that their voters crossed over to the "yes" camp, and in so doing recorded the highest majority in favour of the 1983 constitutional proposals. In fact, Johannesburg was the only voting region in the Transvaal to exceed the nation-wide majority.

#### 4.4 Reaction to the outcome of the referendum

As soon as the results became known, Prime Minister Botha called the result "...a decisive majority in favour of national unity,"<sup>41</sup> adding that because it was such an overwhelming victory, it would have a significant influence internationally. Moreover, according to the Prime Minister, the outcome was an attempt to create peace, prosperity and security in South Africa. Botha also hinted at constitutional reforms for blacks, when he said that the decision to accept the new constitution in no way affected the constitutional development of any population group, as the government would continue to move toward evolutionary reform.<sup>42</sup>

Van Zyl Slabbert meanwhile, said it was the duty of the Progressive Federal Party to encourage and support the momentum for reform, by accepting the outcome as a political reality in white politics and trying to interpret its implications towards further positive evolutionary reform. He said his recommending that the Progressive Federal Party support this move would depend on whether the government interpreted the result as a mandate for reform and succeeded in receiving the co-operation and support of the coloureds and Indians. He conceded that a considerable number of Progressive Federal Party supporters had voted against the party line, and ascribed this to two reasons; firstly, the

party supporters had feared an increase in right-wing support and secondly, they (the Progressive Federal Party supporters) had believed that reform was essential and saw the constitutional proposals as a "step in the right direction".<sup>43</sup> The argument of defection was proved to be correct, when Laurie found that more than half of the Progressive Federal Party supporters had voted "yes". Laurie also ascribed 10 percent of the 33 percent who had voted "no", to the Progressive Federal Party, the balance going to the right-wing parties; the Conservative and Herstigte Nasionale Parties.<sup>44</sup> Van Zyl Slabbert said that the Progressive Federal Party had put its best case forward but would accept the outcome as part of the party's reality in white politics.<sup>45</sup>

Van Zyl Slabbert added that although many of his supporters had voted against the Progressive Federal Party's stance, they had done so because they believed that reform was essential despite the flaws in the constitution and towards this he said he hoped their wishes would not be frustrated. Furthermore, if the government failed to establish proper support amongst coloureds and Indians it could jeopardise the 1983 constitution if it was overhasty in implementing the constitution. Van Zyl Slabbert urged the government to hold referendums to establish support for the constitution amongst coloureds and Indians. Schwartz said the referendum's outcome posed questions <sup>46</sup> such as how the Progressive Federal Party would regain the voters who had supported the constitution, what role the Progressive Federal Party could play in the new constitutional dispensation and finally, what advice, if any, the Progressive Federal Party should give to the coloured and Indian leaders.<sup>47</sup> Suzman said she was surprised and disappointed that "...the government had conned English-speaking voters into

believing that the government intends meaningful reform."<sup>48</sup>

According to the Conservative Party, the result of the referendum were only one battle in the war to establish the white power base, and hence the Conservative Party not only rejected both the outcome as the final choice of a race wishing to maintain its freedom, and the 1983 constitution with its fatal implications. Treurnicht said that while he was disappointed with the result of the referendum, he was encouraged by the nearly 700 000 voters who had rejected the new constitution, and felt confident that the Conservative Party had a strong case. Of the nearly 700 000 voters, Treurnicht said he estimated "... at least 500 000"<sup>49</sup> of the "no" votes to have been conservative votes, a fact borne out by Laurie.

The Herstigte Nasionale Party emerged the least damaged from "...the wreckage of the opposition parties,"<sup>50</sup> after the referendum, according to the Herstigte Nasionale Party. The party said that their struggle would continue until they were in a position to elect a new, more-powerful State President and thereby change the political dispensation. Marais also ruled out any immediate talks with the Conservative Party, leading to a new political alliance on the far right, saying that the way in which the Conservative Party had let the opportunity slip of co-operating with the Herstigte Nasionale Party showed poor political judgement.<sup>51</sup>

For the New Republic Party, the outcome was a vindication of their decision of qualified support for the constitution and the commitment to campaign for a "yes" vote.<sup>52</sup> As far as the result in Natal was concerned, the electorate had demonstrated a

wholesale rejection of "... blackmail and threats and of the distortion and misinformation of the Progressive Federal Party."<sup>53</sup> The New Republic Party claimed that white voters had chosen the road to peaceful, evolutionary reform by supporting the constitutional proposals.<sup>54</sup> The size and distribution of the "yes" majority had been a firm rejection of the radicalism of both the left and right-wing political parties.<sup>55</sup> The referendum result also heralded a green light for the government to move further and faster with reform, the New Republic Party said.<sup>56</sup> The electorate had rejected a one-man one-vote, majority-rule system in favour of a group-based system tailored to the plural nature of South African society.<sup>57</sup> The party said they would not relinquish their identity as there were still important policy and principle differences with the National Party.<sup>58</sup>

Chief Minister Buthelezi suggested that the result of the referendum might lead Inkatha, the African National Congress and the Pan-Africanist Congress towards concluding a "marriage of convenience" as English and Afrikaans speakers had left black Africans out. Buthelezi said that the outcome of the referendum presented blacks with one of two choices - namely, to join the violent strategy of the Pan-Africanist Congress and the African National Congress, or the non-violent strategy of Inkatha. As far as Buthelezi was concerned, the road to a negotiated future was closed to blacks, and blacks could only succeed in bringing about change if they were united in using their "worker and consumer power."<sup>59</sup>

Coloured and Indian leaders who had been negotiating with the government expressed pleasure at the considerable "yes" vote in the referendum. Labour Party Leader Hendrickse said that his party was

surprised at the overwhelming support that the new constitutional proposals had received, which showed that whites were conscious of the need for reform and peaceful change and would mean that for the first time people of other races could take part in the decision-making process.<sup>60</sup> The People's Congress Party said the outcome showed that the Nationalists could never again use the threat of a right-wing backlash as an obstacle to reform, as the white electorate had shown that while not yet in favour of a completely open society, they (the white electorate) were also not in favour of "regression politics".<sup>61</sup>

Rajbansi said he would call on the (Indian) National People's Party to give the 1983 constitution a fair trial in the light of the whites' large support for it. The chairman of the Laudium Management Committee, Mr B Abramjie, said the referendum had finally broken the Verwoerdian concept of total white government.<sup>62</sup>

The United Democratic Front pledged to follow a systematic policy of non-co-operation with the government. Expressing disappointment at the overwhelming majority in favour of the new constitution, the United Democratic Front said it was determined to ensure the constitution would not be implemented. The United Democratic Front added that the white electorate by agreeing to accept the constitution, had entrenched the apartheid system and endorsed the denationalisation of the vast majority of blacks. This would only serve to establish white political domination, instead of giving expression to greater social and political justice for all South Africans.<sup>63</sup>

#### 4.5 Conclusion

Without doubt, the outcome of the referendum changed South African politics permanently. The white electorate had decided to support the National Party's constitutional proposals by a two-thirds majority, and thereby introduce a new constitution for South Africa.

The National Party and the New Republic Party had demonstrated that they were able to mobilise a great deal of support for what was, after all, controversial legislation. More importantly however, was the fact that the white electorate had shown themselves in favour of reform. In only one voting region (Pietersburg) had a "no" vote been cast. The rejection in Pietersburg demonstrated that the new constitutional dispensation could not rely upon the far northern Transvaal for support. On the other hand, the Cape Province and Natal's support for the 1983 constitution signified that these voting regions were behind the National Party's reform initiatives.

For the National Party, the outcome posed the question, what could be done about the Progressive Federal Party defectors who had supported the constitutional proposals? While many of them had voted "yes", this did not imply that they were ready to leave the Progressive Federal Party for the National Party. However, many of them had chosen different values to subscribe to, and it was possible for a new-style National Party to try to accommodate them.

Just as important nevertheless, was the problem of the Progressive Federal Party to win back the defectors. Van Zyl Slabbert made an important announcement in this regard when he vowed to



participate in the new constitution, thus succeeding from ostracising his party's supporters of the 1983 constitution. For the New Republic Party, the result heralded a bleak future. The very reason for its existence had been lost when it had decided to support the National Party principles as espoused in the new constitution.

To the right, the Conservative Party failed to consolidate its initial electoral gains when it split from the National Party in 1982. The referendum result did however define the areas and extent of right-wing support. The Roodepoort and Pretoria voting regions, by recording the slimmest "yes" majorities, demonstrated that the Conservative Party had been able to make significant gains, although it was only in the three Northern Transvaal voting regions that the Conservative Party was able to make an impact.

Based on Laurie's projections, the Conservative Party captured approximately 494 992 votes in the referendum. The government therefore lost very little support to the right, beyond what it had already lost in the 1983 by-elections in Waterberg, Soutpansberg and Waterkloof. In the Middelburg by-election held on the same day as the referendum, the combined right-wing vote of the Conservative and Herstigte Nasionale Parties beat the National Party, but the Nationalists held on to the Provincial seat. The "no" vote must have sent a clear message to all the parties intending to fight parliamentary seats that these Northern Transvaal regions could realign themselves towards the conservative parties at the next elections.

Although the 76 percent turn-out in the referendum was significantly lower than in the 1960 referendum it would be dangerous to ascribe this drop to any

single factor. Obviously calls by The Star and other individuals had a role to play, as did the significant increase in the electorate. In most of the urban areas however, with the exceptions of Pietermaritzburg, Bloemfontein and Pretoria, the percentage poll was lower than the 76 percent average cast.

Beyond these aforementioned observations, it is necessary to record exactly what the result of the referendum would mean to South Africa's constitutional history. For the first time, South Africa's Parliament would consist of three Houses which in their own way would be responsible for legislation pertaining to own and general affairs. In addition to this, members of the Indian and coloured communities could aspire to executive positions, such as ministerial portfolios. The outcome thus signified that the white electorate (albeit in guarded terms) had cast a vote in favour of non-white involvement in decision-making. Viewed within the context of South African political development and the policies of separate development the outcome signified a major change in policy, and opened the door further to black participation.

## 4.6 References

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3. Ibid., part 108, col. 11949-11952.
4. Interview with a spokesman from the Department of Home Affairs, 31 July 1985.
5. Referendums Act, 1983, (Act 108 of 1983) Section 2(a)-(e).
6. As identified by the Population Registration Act, 1950, (Act 30 of 1950).
7. Under Section 4(1) or (2) of the Electoral Act, 1979, (Act 45 of 1979).
8. Even if the address in their identity documents showed an address in South Africa. See Referendum Regulations, Government Gazette, 16 September 1983, no 8885.
9. Department of Internal Affairs, press statement released on 28 October 1983.
10. Any such regulation made under this section has to be published in the Government Gazette within fourteen days from the date of the proclamation.
11. Referendum Regulations, op. cit., sections 4 to 6.

12. Friemond, C., Rand Daily Mail, 17 September 1983.
13. Department of Internal Affairs, press statement of 28 October 1983.
14. Ibid.
15. Referendum Regulations, op. cit., Section 27 to 30.
16. Except for some purpose authorized by law. See Referendums Act, 1983, Section 5.
17. Ibid.
18. Ibid., Section 15.
19. Department of Internal Affairs, press statement, 28 October 1983.
20. Referendums Act, 1983, Section 11.
21. Meyerowitz, A., Pretoria News, 3 November 1983.
22. Notice 874 of 1983, Results of the referendum held on 2 November 1983, Government Gazette 11 November 1983, No 8960, p.22.
23. Ibid.
24. Political Staff, The Star, 4 November 1983.
25. Ibid.
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32. Ibid.
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35. Ibid.
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41. Friemond, C., Rand Daily Mail, 4 November 1983.
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58. Political Correspondent, Rand Daily Mail,  
4 November 1983.
59. Ibid.
60. Cohen, M., The Citizen, 4 November 1983.
61. Political Correspondent, Cape Times, 4 November 1983.

62. Meyerowitz, A., Pretoria News, 4 November 1983.
63. Political Staff, The Star, 4 November 1983.

## 5. CONCLUSION

On 2 November 1983 the white electorate voted by a two-thirds majority in favour of a new constitutional dispensation for South Africa. The two features of the constitutional proposals that have gained most attention are; the opportunity for direct participation for coloureds and Indians in the legislative process and central government and the exclusion of blacks from decision-making at central government level. While it is not always possible to know why South African governments have made use of referendums to endorse their actions, it seems clear that the National Party felt that the extensive revision of the constitution which they had undertaken warranted being tested against the feelings, opinions and political sentiments of the white electorate.

Democratic theory argues that governmental actions should be to the wishes of the electorate. This implies that some form of citizen participation is called for in order to influence government decision-making. However, even though representation has taken on ambiguous connotations some other means of expressing voters' views has become necessary. For this reason a device was called for whereby the voters could signal a particular course of action without an intervening agent (the representative). This form of direct participation democracy has come to be known as the referendum. Referendums are therefore instruments which enable the electorate to play a role in public decision-making. There is no doubt that referendums bring voters and political institutions closer together and decisions taken with the aid of a referendum reflect a more accurate expression of the electorate's will than do decisions taken by representatives. Various arguments have over time been articulated in



opposition to the use of the referendum. One of the major concerns about referendums is that they place important decisions directly in the hands of voters - an aspect which can be interpreted as a threat to the established political system. Other arguments centre around the fact that referendums delay the promulgation and execution of laws. Moreover, as referendums are win/lose situations, there is no room for reaching consensus and finally, the arrogant view held by representatives that they are better able to make decisions.

Modern usage has tended to make use of the word referendum, while in fact most direct votes of this nature are plebiscites. It is important to note the distinction between the two terms as the outcome of a referendum per definition, binds a government to the wishes of the voters. A plebiscite however, is merely advisory. Examining the history of the referendum, the conclusion drawn is that the referendum at the pleasure of the government has often been used as a means of lending credibility to a controversial issue.

Switzerland has accounted for more than half the referendums held worldwide. As such, the Swiss belief in the referendum remains unscathed. Although many critics of the referendum argue that Switzerland holds too many referendums, voters continue to turn out in favourable numbers to support the issues put before them. The United States of America, Australia, Canada and other Western democratic societies have employed the referendum to gauge voters' opinions in a very wide range of issues, while other less developed states have made sparser use of it and when they have it is usually on major constitutional amendments. The referendum has also been known to occur in dictatorships where the voters are asked to either

justify the political system or extend the leaders' term of office. It is in these states that one usually encounters a ninety-nine percent vote cast in favour of a particular measure after a ninety-nine percent turn-out. Although the referendum was introduced to augment representation and hence lead to a greater democracy, authoritarian states have regularly employed it to lend legitimacy and credibility to their existence. This paradox has unfortunately reduced the value of the referendum and meant that fewer states have turned to it to solve their political or social problems.

The 1983 referendum on a new constitutional dispensation for South Africa was a consultative/plebiscitary referendum in that though the new constitution had already passed through Parliament and had been assented to by the State President the government sought to legitimise their actions by establishing popular support from the white electorate.

The 1909 and 1960 referendums too, were consultative referendums whereby the outcome acted merely as advice to the legislative and executive authorities. However, in all three South African referendums the government-of-the-day exercised the sole authority to decide whether or not a referendum would be held, the wording of the proposition to be voted upon and the proportion of majority needed for the resolution to become law.

The 1983 Referendum Act explicitly states that its intention is to ascertain the views of voters on any issues. Therefore, the outcome of the referendum could not have affected the legal validity of the 1983 constitution even though Prime Minister Botha had indicated that he would honour the outcome. Although the Prime Minister had no statute binding

him to honour the outcome, he would certainly have been under both moral and ethical pressures to do so. Therefore the raison d'être of the 1983 referendum was to give the electorate an opportunity to express its views and opinions on the new constitution. Clearly, a "yes" vote would ensure more confidence and political authority as far as the National Party leadership was concerned, as opposed to a "no" vote which would not only be politically undesirable but also dangerous for the government.

The most important difference between this referendum campaign and general or by-elections was that even though the political parties conducted their strategies and campaigns along party political lines, the result obtained did not allow for an easy quantification of party support. This situation came about because the constituencies had been grouped together to form various voting regions or referendum areas. However, those political parties that charged that quantification had been compounded miss the point entirely. The purpose of this referendum and any South African referendum in fact, is to test the opinion of the electorate as a whole. Contrary to an election, it is not the purpose of a referendum for each constituency to send a separate message to the government; rather, the message must emanate as one.

The 1983 Referendum Act lends to the State President powers that have no parallel in an election. Not only is the State President given the authority to call a referendum, he is also in a position to draw up regulations governing the conduct of such a referendum. Although the Prime Minister was under no constitutional obligation to hold a referendum he decided that the government could not be seen to be acting without the full support of the white

electorate. But the decision to hold a referendum also showed the Prime Minister's political courage. Should there have been a "no" majority it would have been very disturbing to those coloureds and Indians who, in principle, were prepared to join the new constitution - a "no" vote would also have shown to blacks that the white electorate was unwilling to proceed with any kind of mixed rule. Against the background of the split in the National Party+ the Nationalists must have hoped that a positive outcome would give them more confidence and political authority in implementing other reforms.

The Progressive Federal Party opposition to the constitution centred around four fundamental principles; that the new constitution would increase racial conflict, that apartheid would be more entrenched than ever before, that the parliamentary process would be dominated by the majority party in the House of Assembly and finally that the National Party proposals lacked legitimacy in that very little canvassing had been done with regard not only to other white parties but with other population groups.

The Progressive Federal Party argument that the constitution should be rejected on the grounds that it did not take reform far enough and did not elicit sufficient electoral support. They called on the electorate to reject the constitution so as to enable the National Party to redraft a new constitution more in line with Progressive Federal Party policy and principles. However, the National Party had made it known earlier that no such redrafting would be undertaken should the electorate reject the constitution. In fact, the National Party would return to the status quo. As far as the New Republic Party's and the Labour Party's position was concerned, the support given to the constitution

should not be seen as a "blank cheque" for the National Party proposals but rather constructive engagement on the constitutional proposals, although still remaining fundamentally opposed to apartheid.

On the right wing, the Conservative Party and the Herstigte Nasionale Party both saw the new constitutional proposals as inroads made against white self-determination. For these two parties, the constitutional proposals spelt the end of white sovereignty and the beginning of moves towards black majority. The Conservative Party, apart from drawing objection to the system of power-sharing, also pointed out to what they perceived as being an illegal constitution for they saw the institutions of the State President and the President's Council as irregularities in the constitution. The Conservative Party however, failed to consolidate its initial electoral gains when it split from the National Party.

What the referendum result did achieve was to define the areas and extent of the right-wing danger. Hence, the government lost very little support to the right beyond what it had already lost. The "no" vote in Pietersburg must have sent a clear message to all the political parties intending to fight parliamentary seats; namely that this region could realign itself toward the conservative parties at the next election.

Although the 76 percent turn-out in the referendum was significantly lower than that in the 1960 referendum (ninety-one percent) it would be dangerous to ascribe this drop to any single factor. Calls by The Star and other individuals obviously had a role to play as did the significant increase in the electorate.

In the light of the government's convincing victory however, the aforementioned reasons can only be marginal factors. It is plain that the government and other political actors who supported a "yes" vote succeeded in putting across a difficult message and a complex constitution by convincing the white electorate that "evolutionary reform" was in the best interests of South Africa. The referendum campaign served to underline the diversity and confusion in white political thinking, the depths of the division in Afrikanerdom and black suspicions of the National Party's intentions.

Occupying the middle ground, the National and New Republic Parties not only retained majority Afrikaner support but also attracted many English-speaking votes across traditional party lines. In contrast with the right wing, they succeeded in creating an image of the future, while the Conservative and Herstigte Nasionale Parties always seemed to be portraying an image of looking to the past. In contrast with the Progressive Federal Party, the National and New Republic Parties conveyed stability as well as mild reform in the face of an uncertain and insecure Progressive Federal Party option. The referendum campaign also produced a novelty in that business leaders, organised business and publications closely associated with business gave public support to the National Party's initiative and turned their back on the Progressive Federal Party.

The implications of the referendum result for South Africa were that they focused attention more firmly than ever before, firstly, on the future of black people, secondly, developments in coloured and Indian politics as these groups mobilised to take various positions vis-à-vis the new constitution and thirdly the new dispensation introduced a liveliness

into black politics by stimulating opposition groups such as the United Democratic Front.

Although blacks were excluded from the new constitutional proposals they were galvanised into a series of moves by the referendum as witnessed by the three major new alliances which emerged since 1983. One is the United Democratic Front, while another is the National Forum, an alliance of some 200 organisations which follow the ideas of the Black Consciousness Movement. The third is an alliance of six homeland leaders, the representative body of some 200 urban black councils and a number of business organisations, called the South African Federal Union.

In summing up the referendum campaign and the merits of the government's constitutional proposals, it is essential to approach this from two frames of reference. Firstly, what does the 1983 constitution entail and secondly, what has been omitted? As far as the former is concerned the new dispensation has little to do with power-sharing. Granted it extends the franchise to coloureds and Indians and changes their status from being repressively dominated, to being co-optively dominated. This is because that even though coloureds and Indians have been co-opted into central government they do so in segregated legislative and executive structures. The new constitutional dispensation therefore rests on group identities which form the fulcrum around which the three legislative chambers and Minister's Councils have been created.

Turning to the omissions of the new constitutional dispensation attention is focused on the exclusion of blacks from the constitution. This resulted in the Conservative and Progressive Federal Parties rejecting the constitution although for wholly

different reasons. The Conservative Party rejected the constitution because of the fear that it would bring blacks into Parliament, while the Progressive Federal Party was for its part, not prepared to accept the constitution as blacks had been excluded. Both stressed black participation to such an extent that the groups actually involved, the coloureds and Indians, were lost from sight.

The findings of the Human Sciences Research Council correlate with the above in that the "yes" vote did not symbolise support for the new constitutional dispensation, but rather for the fact that it was a movement towards reform. Likewise, the "no" votes were not cast because the constitution was a flawed legal document (although for some voters this was obviously a reason). Rather the constitutional proposals had either gone too far and would lead whites away from self-determination (the right-wing argument) or that the proposals did not go far enough in incorporating the non-white segment of the population (the Progressive Federal Party argument).

In conclusion the direct significant result of the 1983 referendum campaign on a new constitutional dispensation for South Africa was to extend to the coloured and Indian communities the vote, while doing nothing to affect the political position of the blacks.



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## 7. APPENDIX 1

THE OUTCOME OF THE 1909 REFERENDUM IN NATAL

	The Act	
	For	Against
Durban borough	3 509	1 435
Maritzburg city	1 122	722
Umgeni division	171	82
Lion's River division	317	124
Ixopo division	16	252
Durban county	747	303
Victoria county	606	117
Weenen county	500	174
Umvoti county	424	70
Klip River division	547	141
Newcastle division	1 128	180
Alexandra county	185	25
Alfred county	184	33
Eshowe	201	17
Melmoth	71	7
Vryheid	679	37
Utrecht	504	5

Source: Natal Advertiser, 15 June 1909.



## 8. APPENDIX 2

THE RESULTS OF THE 1960 REFERENDUM\*

Area	%poll	For	Against	Majority	Spoilt
Cape Town	90,7	54 185	107 269	-53 084	616
Port Elizabeth	92,8	26 801	36 725	- 9 924	269
Border	92,8	12 824	40 636	-27 812	346
Rest of Cape	92,5	177 608	85 154	+92 454	1 650
<u>Total Cape</u>	<u>92,0</u>	<u>271 418</u>	<u>269 784</u>	<u>+ 1 634</u>	<u>2 881</u>
Johannesburg	89,3	45 587	128 346	-82 759	655
Witwatersrand	90,2	132 155	100 407	+31 748	932
Pretoria	88,3	79 631	36 602	+43 029	374
Rest of Transvaal	90,0	149 259	59 686	+89 573	1 296
<u>Total Transvaal</u>	<u>89,8</u>	<u>406 632</u>	<u>325 041</u>	<u>+81 591</u>	<u>3 257</u>
Durban and Pietermaritzburg	92,4	21 757	108 878	-87 121	481
Rest of Natal	92,7	20 542	26 720	- 6 178	207
<u>Total Natal</u>	<u>92,5</u>	<u>42 299</u>	<u>135 598</u>	<u>-93 299</u>	<u>688</u>
<u>Total O.F.S</u>	<u>89,8</u>	<u>110 171</u>	<u>33 438</u>	<u>+78 733</u>	<u>789</u>
<u>Total Union</u>	<u>90,9</u>	<u>830 520</u>	<u>763 861</u>	<u>+66 649</u>	<u>7 624</u>
South West Africa	86,8	19 938	12 017	+ 7 921	280
<u>Union and South West Africa</u>	<u>90,8</u>	<u>850 458</u>	<u>775 878</u>	<u>+74 580</u>	<u>7 904</u>

\* Source: Heard, K.A., General elections in South Africa 1943-1970, Oxford University Press, London, 1974, p.117.

## 9. APPENDIX 3

THE OUTCOME OF THE 1983 REFERENDUM\*

Province	Referendum Area	For	Against	Number rejected	Votes polled
Cape of Good Hope	Beaufort West	22 502	7 733	93	30 328
	George	31 156	11 426	141	42 823
	Cape Town	221 511	71 456	1 229	294 196
	Kimberley	34 815	17 898	110	52 823
	East London	53 202	15 087	255	68 544
	Port Elizabeth	60 661	25 901	208	86 770
		423 947	149 501	2 036	575 484
Natal	Durban	123 783	44 442	750	168 975
	Pietermaritzburg	50 519	20 060	366	70 945
		174 302	64 502	1 116	239 919
Orange Free State	Bloemfontein	52 019	26 960	331	79 310
	Kroonstad	55 486	32 321	189	87 996
		107 505	59 281	510	167 306
Transvaal	Germiston	113 600	60 241	900	174 741
	Johannesburg	194 396	85 554	3 906	283 856
	Pietersburg	31 403	34 827	247	66 477
	Pretoria	209 763	157 433	1 035	368 231
	Rooiberg	105 307	80 238	909	186 454
		654 469	418 293	6 997	1 079 759
<u>TOTAL</u>		1 360 223	691 577	10 669	2 062 469

\* GOVERNMENT GAZETTE, 11 November 1983, Notice 874 of 1983  
Number 8960, p.27.

10. SUMMARY: A POLITICAL ANALYSIS OF THE 1983  
REFERENDUM IN THE REPUBLIC OF SOUTH  
AFRICA

by

Jack Christofides

Leader : Mr J.T. Bekker  
Department : Political Science  
Degree for  
which the  
dissertation  
has been  
presented : Magister Artium  
(Political Science)

The aim of this historical-analytical study is to examine the 1983 referendum in South Africa. On 2 November 1983 the white electorate was asked to vote on the Republic of South Africa Constitution Act, 1983, (Act 110 of 1983). The theoretical framework of referendums in general is considered, as is the correlation between referendums, participation and democracy.

Previous referendums in South Africa are discussed with a view to examining the form and structure that the South African referendum appears in. The 1983 referendum regulations and legislation are examined, and from this it is clear that the 1983 referendum represented a consultative or plebiscitary referendum rather than a constitutionally-required referendum. However, even though there is no statute which obliges a South African government-of-the-day to heed the outcome of the referendum, Prime

Minister Botha had announced that he would honour the outcome of the 1983 referendum.

From the result of the 1983 referendum, it was clear that many voters believed the constitutional proposals to be another step in the reform process. It was during the parliamentary debate on the 1983 constitution bill that the Prime Minister announced that the constitutional proposals would be submitted to the white electorate in the form of a referendum. Political actors campaigned for various options; "yes", "no", or abstention of spoilt ballot. Although the outcome of the referendum was a significant two-to-one majority for the "yes" parties, the referendum also helped define the more conservative geographic areas. The outcome thus secured a mandate for the National Party to embark on further reforms. The one aspect that characterised both the referendum campaign and the outcome was the question of black political rights. On the right-wing, sentiments were that the next proposals from the National Party would lead to the enfranchisement of blacks, while moderates and the left wing felt that the status quo was not sufficient and some attempt had to be made at address black political aspirations.

11. SAMEVATTING: 'n STAATKUNDIGE ONTLEDING VAN DIE  
1983 REFERENDUM IN DIE REPUBLIEK  
VAN SUID AFRIKA

deur

Jack Christofides

Leier : Mnr J.T. Bekker  
Departement : Staatsleer  
Graad waarvoor  
verhandeling  
ingedien is : Magister Artium (Staatsleer)

Die doelwit van hierdie histories-analitiese studie is om die 1983 referendum in Suid-Afrika te ondersoek. Die blanke kiesers was gevra om te stem vir die aanvaarding of verwerping van die Republiek van Suid-Afrika Grondwet, 1983 (Wet 110 van 1983). Die teoretiese agtergrond van referendums in die algemeen is oorweeg, asook die verband tussen referendum, deelname en demokrasie.

Vorige referendums in Suid-Afrika is bespreek om die vorm en struktuur van die referendum, soos dit in Suid-Afrika voorkom, te verduidelik. Die 1983 regulasies en wetgewing is ondersoek, en die afleiding kan gemaak word dat die 1983 referendum was eerder 'n konsulterende of plebisiet referendum as 'n grondwetlik-voorgeskrewe referendum. Alhoewel daar geen wetgewing bestaan wat 'n Suid-Afrikaanse regering-van-die-dag verplig om die uitslag van 'n referendum te respekteer nie, het Eerste Minister Botha aangekondig dat hy die uitslag sal eerbiedig.

Die uitslag van die 1983 referendum bewys dat baie kiesers geglo het dat die nuwe grondwetlike bedeling 'n stap verder was in die hervormingsproses. Die Eerste Minister het gedurende die parlementêre debat van die 1983 grondwet aangekondig dat die nuwe voorstelle voor die blanke kiesers gelê sal word, in die vorm van 'n referendum. Politieke akteurs het vir verskillende opsies bepleit; "ja", "nee", of om weg te bly. Alhoewel die uitslag 'n belangrike twee-derde meerderheid vir die "ja" partye beteken het, het die referendum ook die meer konserwatiewe geografiese gebiede omskryf.

Die uitslag het 'n mandaat vir die Nasionale Party gegee om met verdere hervormingsinisiatiewe te begin. Die een aspek van die referendum veldtog wat die uitslag getipeer het, was die kwessie van swart politieke regte. Aan die konserwatiewe kant, was die mening gehuldig dat die volgende stap die toekenning van swart politieke regte in die blanke R.S.A. sou wees, terwyl die gematigdes en linkses gevoel het dat die status quo nie voldoende was nie, en derhalwe moes sekere pogings aangewend word om swart politieke aspirasie aan te spreek.