

AN ANALYSIS OF THE INTERIM REPORT OF THE

COMMISSION OF INQUIRY

A) INTRODUCTION

This report has been prepared not in order to counter the arguments put forward as a justification of the bannings of the 8 NUSAS individuals. There can be no justification for punishment of this nature without due legal process - but because we believe that the students and the public have been misled and misinformed by the report of the Schlebusch Commission and that they have the right to be informed of the true facts.

We wish to make it clear, therefore, that even were the Commission to have submitted a faultless report, the banning of eight NUSAS office bearers, NUSAS personnel and individuals can never be justified. They have not been proven to have acted illegally (there is, in fact, not one iota of evidence of illegal activity) and thus cannot be punished for acts which they regarded as both legitimate and lawful.

The report of the Schlebusch Commission is a collection of truths, falsehoods, and insinuations. It comprises basically evidence from two major sources - evidence exhibits and reports from State sources, and evidence both documentary and verbal, from a number of people connected with NUSAS.

The Commission has, however, erred seriously both in fact, and in deriving its conclusions from those facts, and has left gaping holes in its work (as represented by its first two interim reports). One of the most notable features of the Commission evidenced in the reports is its refusal to even contemplate conclusions other than those which correspond with its preconceived ideas of the National Union. The nett result of these errors and omissions has been to condemn eight people thus far.

In its extremely superficial approach to its work, the Commission has come to its conclusions on the basis of preconceived ideas, substantiated in its own mind by its own interpretation as to the meaning of the evidence placed before it, with the exclusion of the many other possible interpretations.

The most frightening aspect of the report is that it has revealed that the individuals involved in the work of the Commission are completely out of touch with the youth of South Africa, with their thinking, their ways and their general views and attitudes. They have judged the NUSAS individuals purely on the basis of their own rigid attitudes, and time and again prove themselves incapable of contemplating change without "revolution". Many of the Commission's conclusions appear to have been reached purely on the basis of a different interpretation of terms used by the youth and by members of the Commission.

Mention must also be made of the fact that several members of the Commission have virulently attacked NUSAS in the past.

Lastly, the motives of the Commission in publishing its second interim report must be seriously questioned. In its last paragraph, the report stated that the report is published in order to precipitate action against individuals, and not against NUSAS as an organisation. One must remember the tactic used by the Nationalist Government time and again (e.g. the Defence and Aid Organisation and the Liberal Party) of picking off the top leadership in order to cripple the organisation. Action against duly elected NUSAS leadership is per se action against the organisation.

#### ESTABLISHMENT OF THE COMMISSION

##### The announcement of the Committee : 4th February, 1972

At the end of his speech in reply to the Opposition's traditional no-confidence debate, on the 4th February, 1972, the Prime Minister, Mr. Vorster announced his intention to establish a Select Committee to investigate four organisations, namely NUSAS, the University Christian Movement, the C.I. and the S.A.I.R.R. This announcement was preceded by a warning to the whole House on the dangers of international communism.

#### 2) Attitudes of the Parliamentary Parties

##### a) The Nationalist Party

Mr. Vorster said in the House: "The years ahead are not merely going to be of very great importance for if we consider what is happening in various parts of the world, if we consider the progress the communists have made, if we consider the chaos, the struggles and the bloodshed occurring in various parts of the world at the present time, then it arouses concern for the period ahead; ..... the time has come for one to ask oneself again: What lies behind it all? Against what must we entrench ourselves, and against what must we be on our guard?"

In relation to the Select Committee, he continued: "I do not want to pronounce any judgement on these people at the present moment; I do not want to place them in the dock in anticipation, but in view of the information at my disposal, I would be neglecting my duty if I did not tell Parliament that the information indicates that there is a prima facie case here which needs to be investigated. I believe that Parliament, as the guardian of liberty should undertake that investigation by means of a Select Committee.

##### b) United Party

Speaking immediately after the Prime Minister, Sir de Villiers Graaff, leader of the Opposition moved an amendment, later rejected by 86 to 43, calling on the Government to consider the advisability of appointing a judicial commission.

He said: "We are politicians, but are we the people to go and form a nice balanced judgement as to the innocence or otherwise of the activities of organisations of that kind? As far as I am concerned, I believe that not only would a judicial commission be a better body for an investigation of this kind, but also that the public would have more confidence in it. It is clear that the organisations concerned will have more confidence in it. In a

matter of this kind it is not only sufficient that justice be done, but that justice must be seen to be done.

"Cross examination before a Select Committee is difficult. Questions have to go through the chair, while in cross examination in a court of law, which is the procedure adopted for a judicial commission, the cross examiner gets a much better opportunity than in a Select Committee.

"It is easier for the counsel to operate before a judicial commission. It is a forum with which he is familiar, and counsel leading evidence can sift the evidence that is to be given to the Commission concerned. Nobody will deny that judges have more experience in sifting and weighing up evidence than have ordinary members of Parliament who have never sat on a Bench in their lives.

Before a judicial commission a witness has certain rights and he need not answer incriminating questions. Before a Select Committee there is not such protection for the witness. As far as I am concerned I believe that a Judicial Commission should be the right body to enter into an inquiry of this kind...."

Mr. Marais Steyn, M.P., then Leader of the United Party in the Transvaal, and later to serve on the Commission of Inquiry, said "..... in 99 cases out of 100 we divide on the Select Committees according to our political views. We are not trained as judges, but we are well trained as politicians."

### c) Progressive Party

Mrs Helen Suzman, Progressive Party M.P. , said in the House: "I want to say unequivocally that I will have no part of this Select Committee. I will not serve on this Select Committee. I say again that I believe that the official opposition is making a parlous mistake in agreeing to serve on this Select Committee. I believe that we ought to leave it to the Nationalists to sit on this Select Committee. That will make it clear to the whole country just what a farce the whole thing is going to be, I think it is foolishly allowing itself to be co-opted by the Nationalists if it does agree to sit on this Committee. I also think it will be lending respectability to the whole idea of this farcical investigation into these four organisations.

The comments of these political parties when the commission was first set up are interesting indeed in the light of the commission's interim reports and the subsequent action taken. In particular, we regard the involvement of the United Party in the commission, their reports and findings as hypocritical in terms of their statements as quoted above.

### 3) Objections by NUSAS to the Commission

Immediately following the announcement of the appointment of the Select Committee, NUSAS challenged Mr. Vorster to look at the facts of life of our country if he wanted to find the real cause of the situation in South Africa - facts such as the migrant labour system, low Black wages, the pass laws and forced removals under the Group Areas Act.

At an emergency meeting of the NUSAS National Council, it was decided that NUSAS would have nothing to do with the Select Committee unless it was compelled to do so by law.

Paul Pretorius had earlier called for the establishment of a judicial commission of inquiry which the Prime Minister refused to appoint.

NUSAS lodged major objections to the Party-political select committee:

- i) The members of the committee were politicians, not impartial judges - this contention was upheld by Sir de Villiers Graaff, Mr. Marais Steyn and others.
- ii) Many members of both the Nationalist and United Party had already committed themselves publicly against NUSAS and could in no way be said to be impartial.
- iii) The Committee would operate in secret outside the eye of public scrutiny.
- iv) No charges had been laid against the organisations for it to answer.
- v) NUSAS would have no access to any evidence given against the organisation, nor would it know who had presented the evidence, nor be able to cross examine such witnesses.

The objections are more valid today than they were when first made. The validity of these objections is dealt with in the following section.

## B) THE OPERATION OF THE COMMISSION

### (a) A FAIR HEARING?

- i) The Commission in its report laid some considerable emphasis on the fact that the majority of those who gave evidence were accompanied by a lawyer. (1st Interim Report, pg 3, 7 (c). In particular, they note that all of the eight banned individuals with the exception of Chris Wood had legal representation (2nd Interim Report pg. 18 (16). It is necessary to clarify the very limited protection which this legal representation offered. The facts are that lawyers who accompanied witnesses were only allowed by the Chairman to intervene when an incriminating question was asked (sic). Lawyers were only permitted to advise witnesses during the Commissions proceedings after permission had been given by the Chairman. A separate request was required in each case.
- ii) The second point to note here is that with one exception no witness, to our knowledge, was ever allowed to see any of the evidence led against the organisation. In

the one instance where Mr. Pretorius was handed a document to examine, a cursory glance indicated that it was riddled with inaccuracies and half-truths. From the time of the conversion of the committee into a commission of enquiry, no witness was permitted a transcript of his own evidence.

- iii) Cross-examination of witnesses giving evidence was not permitted.
- iv) As result of the first two interim reports, eight people have been banned. We should like to establish from the members of the commission whether they attended every sitting of the commission. We would, further, in this connection ask whether all members of the Commission read all the evidence given by witnesses and examined the written material submitted on NUSAS, totalling some 13,000 pages. (1st Interim Report 3 7 (c) (d) and whether this was done thoroughly.

(b) FACTUAL INACCURACIES

It is further necessary to comment upon actual factual inaccuracies in the report: on pg 9 and 11 of the Second Interim Report, Ian Barry Clayton Streek is referred to as Ian Barry Cadman Streek.

Secondly, the report mentions that the only member of the full-time NUSAS executive not staying in the so called "communes" was Roy Ainslie who allegedly lived in Claremont. He lived in a University Men's Residence in Mowbray for most of last year, moving into 21, Milldene Ave at the beginning of December, 1972.

(c) OMISSIONS

(i) In addition cognisance must be taken of the actual omission of information in order to suggest certain 'facts'.

This technique is particularly noticeable in the Second Interim Report 10 (11) where the list of NUSAS Executive and Executive elect members who stayed at Belvedere Rd, and Milldene Road, are listed. It is only in the case of Mr. Philippe le Roux and Mr. Renfrew Christie that their academic careers are mentioned. No mention is made of the fact that of the rest of the full-time office staff past and present:

- i) Barry Streek was studying for an M.A. in African Government
- ii) Paul Pretorius was a post-graduate law student and has an outstanding academic record.
- iii) that Paula Ensor following an excellent academic career was studying for an honours degree in economics
- iv) that Jeanette Curtis was a B.A. graduate with a higher diploma in librarianship
- v) that John Frankish gained 23 out of 27 firsts in his Chemical Engineering degree.

ii) Secondly the Commission alleges in the 1st Interim Report 5, (1) (b) (i) that the leaders of NUSAS do not support any of the existing political parties in South Africa and propagated changes which would have led to the drastic replacement of the established order in South Africa. In fact, the following people have participated or are participating as full time organisers or part-time workers in the Progressive Party. They are as follows:-

<u>John Whitehead:</u>	Rhodes SRC President 1970 - 1971
<u>Barry Streek:</u>	V-President of NUSAS and Secretary General of NUSED 1970 - 1972
<u>Renfrew Christie:</u>	Deputy President 1971 - 1972
<u>Roy Ainslie:</u>	Vice-President of NUSAS, 1971 and Secretary General NUSED 1972
<u>Geoffrey Budlender:</u>	President of UCT SRC 1971 - 1972
<u>Steve Jooste:</u>	President UCT SRC 1971 - 1972
<u>Clive Keegan:</u>	Vice-President NUSAS and Secretary General Aquarius, 1971
<u>Horst Kleinschmidt:</u>	Deputy President of NUSAS 1969-70
<u>Peter Mansfield:</u>	Vice-President of NUSAS 1964-65

In any event if it were true that none of the leaders of NUSAS had ever supported the white political parties, it is nevertheless irresponsible and illogical to thus 'deduce' that NUSAS leaders advocated the radical undermining of South African society. The Commission not mention that constitutionally no NUSAS Executive member was permitted to be active in party politics whilst in office since they did not want to become influenced by members of the party.

(C) IMPRECISE LANGUAGE:

The Commission's failure or perhaps refusal to clearly distinguish between the sponsoring of violent revolution and the promotion of social and economic change its failure to define adequately, the term "liberalism" and its inaccurate and prolific misuse of the word, "political" is a thoroughly unfortunate aspect of the report. It has led to the use of wide generalisations with harmful imputations without any concrete evidence being presented to justify or validate these conclusions. In this connection; the subpoenaed witnesses found it extremely difficult, if not impossible, to persuade members of the Commission to be precise in their terminology. (see also D5)

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(d) PRECONCEIVED NOTIONS

Given the above, and this is reflected in the Commission's report, it is clear that the Commission operated in terms of certain preconceived notions. We would suggest that a careful reading of the report demonstrates this. We have chosen the following examples:

(1) The report without, in any way, substantiating adequately whether NUSAS is dictated to by the overseas organisations which raise funds for it, presents a plausible, but, nevertheless, untrue picture of the relationship between NUSAS and these overseas organisations. (1st Interim Report pg 7, 9 (b) (iv)). The Commission is not prepared to or is incapable of substantiating these allegations yet they are made 'authoritatively'. ( See also D3 (ii) ).

Secondly, the Commission's interpretation of the actual nature of the houses which various NUSAS Executive members shared is a misrepresentation of facts, suggesting a closed and limited circle, incapable of accepting new ideas from anyone but themselves. This is nonsense and ignores completely the structure of NUSAS and the responsibility which each executive member felt to the completion of their mandates, and their very real commitment to NUSAS as an organisation embodying certain clearly and publicly stated principles (see Section D2)

(e) MISINTERPRETATIONS

In this connection, it is worthwhile noting the Commission's failure to come to terms with the broad stream of thoughts and attitudes amongst students and youth in South Africa. The rejection, for example, of 'paternalistic liberalism' is bluntly seen by the Commission as a very real attempt to "undermine" the "establishment". This threat is in no way defined or proved nor is it based on an understanding of the ideals of many young South Africans. These misinterpretations are based on a misreading of the situation.

We have attempted to demonstrate in this section how the use of emotive and imprecise language, broad generalisations, omissions, inaccuracies, and half truths have been used to "prove" certain preconceived notions of the Select Commission. In the following section, it will be necessary to examine in more detail actual allegations. It is necessary, that it be understood that many of the allegations are developed through the techniques used above.

COMMENTS ON THE COMMISSION'S REPORT

DI) The "Clique" thesis

One of the cornerstones of the Commission's evidence has been that NUSAS has been dominated for a number of years by a small clique of students who are using the welfare, cultural and educational programmes as fronts for the pursuance of their own political aims