Dear Dr. Matthews,

I came to the conclusion that I could not accept the invitation to join the Progressive Party's Commission unless a public statement were clearly made at the outset that I do not identify myself with the terms of reference and statements of policy issued by the Party Congress at their meeting in Johannesburg. I feel that without such an announcement my position would be misunderstood; and that in any event I must be free to advise with no fetters than the dictates of my conscience and what I conceive to be right. It was on these terms that Lord Shawcross joined the Moncton Commission; and the Commission was the stronger for allowing him that freedom.

I have been given to understand that the Progressives would regard any recommendation of adult suffrage - even as a goal to be achieved by stages - as ultra vires the Commission's terms of reference. This I think is unfortunate.

Furthermore, although they speak of a Bill of Rights and even of "equal protection of the law", they have committed themselves in their official statement of policy to the separate but equal doctrine in matters like public school education, residential areas, and what may generally be called the "social field." This too is unfortunate in my view. I cannot accept the separate but equal doctrine in any form. Moreover, I have great difficulty with the alleged distinction between the political and economic field on the one hand and the social sphere on the other. In fact the whole experience of the U.S.A. during the last century has shown the distinction to be unreal.

In 1898 when the U.S.A. Supreme Court accepted (erroneously as it has now been held) the separate but equal doctrine in the field of public transport, there was a dissenting judgment by Harlan J., in which he said; "In my opinion the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott case."

As you know the separate but equal doctrine broke down. In 1954 the Court overruled the 1898 decision in respect of public schools. Moreover it has been held unconstitutional, under the equal protection clause of the 14th amendment, to pass zoning laws providing for separate residential areas, or separate amenities in hotels, and places of public recreation and amusement.

The social implications of the sort of constitution which I outlined in my Optima article are that race cannot be given legal recognition as a criterion for classifying people. In short the Constitution must, to quote current American decisions, be colour-blind. Indeed it is precisely because the American constitution has been held to be colour-blind that it has been possible to ha
make headway in practice towards integration in delicate fields like schooling, residential areas, hotels, etc.

In the revised version of my Optima article I have made it quite plain that I am loath to advocate a racially federated Upper House because I fear that it will perpetuate racial thinking in politics. I am looking forward very much to reading your own article.

I am not in favor of "forcing" social integration; but that is the point. I vowed you no legal encouragement in any field of racial classification.

I had hoped that in my article I would find a number of you to allow me to make my position clear and to allow things once tested unaltered. In this, however, I am mistaken.