THE NATIVES LAND ACT, 1913:

Its Antecedents, Passage, and Reception

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by

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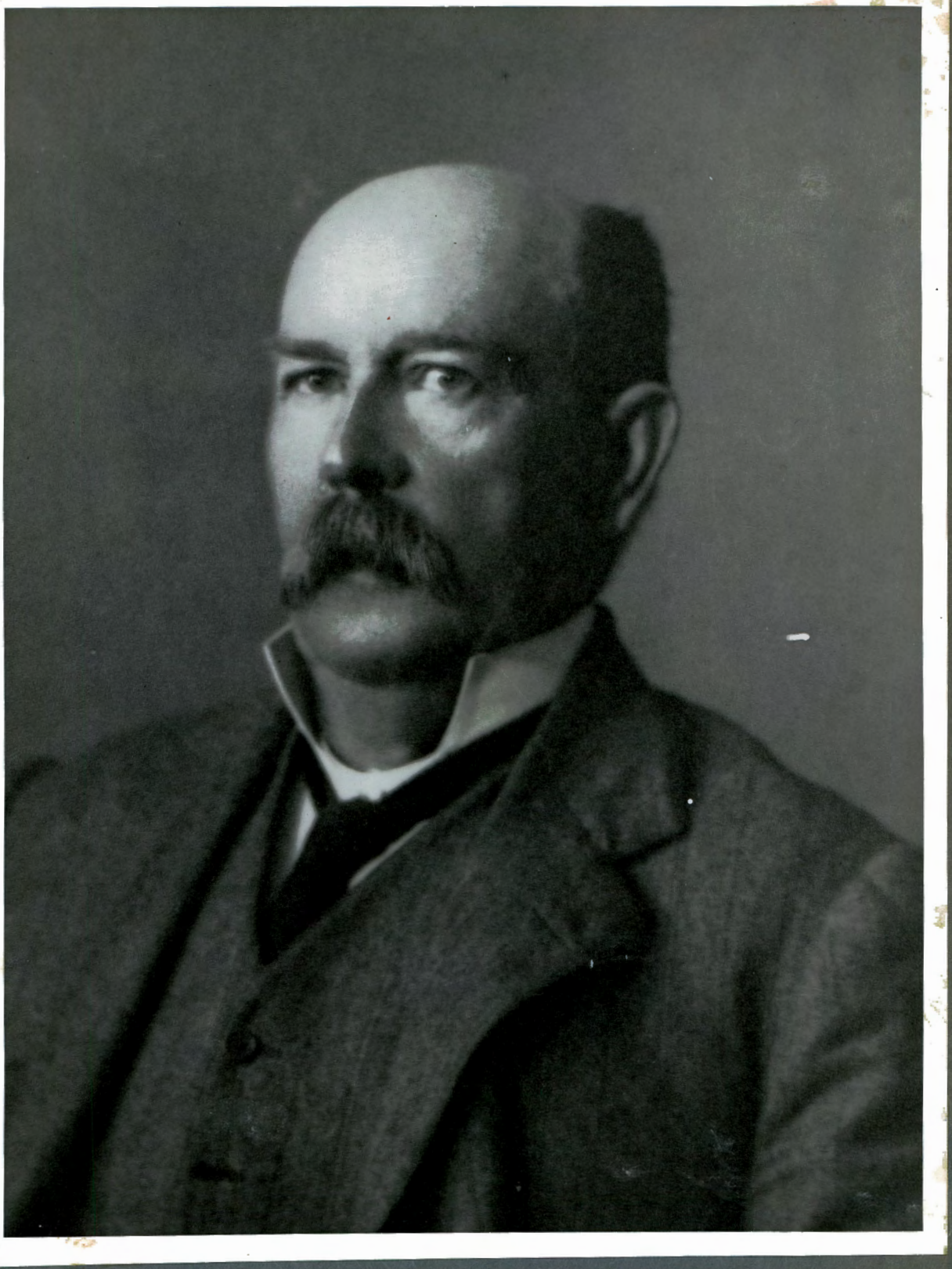

Sauer circa 1913, while Minister of Native Affairs in Botha's first Union cabinet.

TABLE OF CONTENTS.

Chapter:	Title:	Page:
I	Native Land Policy in South Africa from 1778 to 1902	1
II	Native Land Policy in South Africa from 1902 to 1913 (i) Towards Segregation; or The Growth of an Idea	43
III	Native Land Policy in South Africa from 1902 to 1913 (ii) Towards Segregation; or The Clearing of the Ground.	68
IV	The First Three Union Ministers of Native Affairs (May 1910-July 1913)	86
V	Statement of Policy and Introduction of Land Bill (25 April - 5 May 1913)	115
VI	The Natives Land Bill in Parliament Part I: The Second Reading Debates (9 May to 19 May 1913)	144
VII	The Natives Land Bill in Parliament Part II: Debates on the proposal to commit, the committee stage, the proceedings in the Senate, and the passing of the Act. (2 June to 16 June 1913)	164
VIII	Native Reactions	172
IX	White Reactions to the Natives Land Act	185
X	Death of Sauer and the Land Act Viewed in Retrospect	209

Note on Sources and BIBLIOGRAPHY 228

PREFACE

The Natives Land Act of 1913 has thus far proved something of a puzzle to South African historians. Most are agreed that its effects may have been good in the long term, yet in certain quarters at the time it was regarded as reactionary, and many were surprised that a man of J.W.Sauer's reputation should ever have lent his parliamentary flair and experience to steam-rollering it through the House.

Nevertheless, this legislation evoked little opposition from any section of the whites, either within or without parliament, from the press, or even from the majority of church leaders, most of whom urged their native communicants to accept it as a slice of official good sense intended for their ultimate good. The most that any of its fiercest critics have done since is to absolve the Minister responsible by suggesting that he was under compulsion from Prime Minister Botha and the rest of the cabinet to introduce what was, after all, the brainchild of his predecessor at Native Affairs - in other words "Hertzog's bill".

As far as is known, this is the first detailed study of the Act in all its aspects, and must necessarily be an interim one because, in addition to the absence of Sauer's personal papers, difficulties were encountered in attempting to consult certain papers in the Central Archives. The records of the Head Office of the former Department of Native Affairs, for instance, are not yet available to research workers. Separation of correspondence into "open" and "closed" sections has still to be undertaken by the Archives

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staff. The Hertzog papers, moreover, were donated under an usual set of conditions, and although they have now been sorted out and described, access to them is restricted to the chosen few approved by the donor.

As it stands then, this is primarily a history of land apportionment systems in Southern Africa prior to Union, of the attempts of the first Union government to reconcile the four existing policies before the passing of the Land Act, and of the immediate causes and effects of the Act. Although the period covered while discussing the preliminaries to the Act is a long one, stretching as it does from 1778 to 1912, not much space is given to the post-Land Act period or to the findings of the Beaumont Commission.

The Native Affairs Commission of 1936 referred to the Land Act as the "first definite step" along the road of segregationist principles. Sir Keith Hancock has called the Native Affairs Act of 1920, which set up the Native Affairs Commission and established segregation in local government for natives, the second step. The Native Urban Areas Act of 1923 reaffirmed the principle of residential separation of natives from whites in the towns, and this was quickly followed by the Native Taxation and Development Act of 1927 and the Native Administration Act of the same year.

By the Natives Land and Trust Act of 1936, the Natives lost the vote and gained a little more land under what was virtually an extension of the previous Natives Land Act. By that time, however, a succession of governments had altered the conception of Botha, Sauer, and their contemporaries,

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and any attempt to discuss the effects of the 1913 Act in the long-term would have brought me into the modern era in which Segregation has been succeeded by Separate Development.

Unfortunately, for most of the readers of this study, the leading actor, J.W.Sauer, will remain a shadowy figure. Interest in the career of this prominent "minor politician" induced me to tackle this theme in the first place, however, and his long career in the Cape parliament and later under the Union offer ample scope for a biographical study. It is rich in incident and punctuated with a number of puzzling anomalies.

Of the studies which have already been made of the subject of land apportionment, some (like those of Tatz[1] and Lekhela[2]) have been primarily concerned with the relationship between land policy and the franchise. Both express disappointment in Sauer, but while Tatz advances the "pressure" theory, Lekhela, author of a Master's thesis on land and votes for natives between 1902 and 1950, suggests no reason why this one-time "friend of the natives" should have acted, as he believes he did, against their interests.

Others (like Duly[3] and van Biljon[4]) have either not moved into the Land Act period at all, or have concentrated on the question of grensbakens (border beacons) and - at least in the case of van Biljon - have accepted Sauer's action as right and proper in the circumstances.

Though not presuming to criticise any of the general works on the history of this period as a whole, it could be said of them all that the writers have tended to gloss over the Land Act and it is accorded only the most cursory

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treatment.

It has been felt throughout the preparation of this thesis that the facts, both major and minor, which have been brought to light, may serve to place the entire question of separate development in better perspective for future students of the history of South African native policy.

In keeping with the usage of those times, however, the term "native", spelled without a capital letter, has been retained throughout; in those days it was used most frequently as an epithet to qualify "problem".

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1. Tatz, C.M.: Shadow and Substance in South Africa; A Study of the Land and Franchise Policies Affecting Africans, 1910 to 1960, Pietermaritzburg, 1962.

2. Lekhela, S.MoD.: An Historical Survey of Native Land Settlement in South Africa from 1902 Until the Passing of the Natives Land and Trust Act of 1936: (M.A., Univ. of South Africa, 1955).

3. Duly, L.C.: British Land Policy at the Cape, 1795-1844: A Study of the Administrative Procedure in the Empire, Durham, North Carolina, 1968.

4. van Biljon, P.: Grensbakens Tussen Blank en Swart in Zuid-Afrika, Kaapstad, 1948.

CHAPTER II

NATIVE LAND POLICY IN SOUTH AFRICA FROM 1778 to 1902

1.

Prior to 1778, the authorities at the Cape had no settled policy with regard to the Bantu. No need for such a policy had hitherto arisen because, within the Colony's borders, there were no native tribes or large aggregations of natives. This relative absence of contact created a form of "natural segregation" between black and white. For more than a hundred years after the arrival of the first whites under Commander Van Riebeeck, no "native question" ("naturellevraagstuk") existed.

Although six frontier wars took place between 1779 and 1835, in which the whites prevailed, the number of natives taken under white rule was not large. During the hundred years after the first frontier skirmish the advance of the natives south-westwards was slight. By 1840, however, the whites had advanced across the Orange River and into the central, northern and south-eastern regions of the country in all of which areas they had met with other tribes of natives. Some of these tribes were overcome in war, and even those who were not, saw their expansion blocked by the white man. Very little movement of native tribes took place once the Europeans had invaded or surrounded their lands.

In time, the natives found themselves faced with a choice between alternatives; they had either to remain in those areas allotted to them by the whites, or they could live among the newcomers provided that they entered their service.

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As will be seen, in each of the four states and colonies which subsequently united in the Union of South Africa, there were certain restrictions on the numbers of natives which were allowed to settle as labour tenants on each white-owned farm. The degree to which such laws were enforced varied from one state to another.

The Government of each state determined the proportion of its land which should be given over to the exclusive use of the natives within its borders. Needless to say, the authorities, since they nearly always represented a dominant power, placed their own interests first, and land allocations to the natives were made only after the whites had selected their farms and their need for labour had been, to a certain extent, assessed. The natives, who were usually a conquered people, were given no opportunity to state their own terms or to demur at the land they were given.

Although these four states were separate entities until 1910, a pattern in regard to native land settlement is nevertheless discernible in southern Africa by that time. Beyond that, it is vain to look for an overall "pattern" in the native policies pursued in each of the four states, for the differences between these policies were immense. The pattern there was had been, in each case, determined in the main by the "natural development" of the multi-racial (or,more strictly, bi-racial) situation since the "natural segregation" of the early days had gone by the board.

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Such "natural development" as there had been between 1778 (to take it from its earliest manifestations on the first frontier), and 1913 (which saw the passing of the first measure intended to bring this development to a halt) had been largely unplanned.

Whenever the authorities passed legislation designed to accelerate or retard the progress (both territorial and social) of the Bantu, it was invariably geared to meet the immediate necessities of particular situations in individual states.

The "pattern" of "natural development" within each of the four states was, at any rate, a movement away from the aforementioned "natural segregation" and towards a limited encroachment by the natives upon land regarded as the prerogative of the whites, whether or not these whites were already settled upon it.

As this encroachment proceeded, the whites, in most instances, sought to counteract it by making allocations of land to the natives and seeking to confine them more or less strictly to these areas. Because these allocations were ungenerous on the whole, they did not result in stopping the drift, but instead of <u>encroachment</u> (meaning 'the gradual occupation of blocks of territory by migrants'), there followed the <u>infiltration</u> of large numbers of blacks among the whites. It was accepted by both races that blacks living among whites should become agricultural workers and not independent farmers but the

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other provisions of such squatters' laws - those limiting the number of natives, or native families, upon each farm - soon went by the board.

From the 'eighties onward this train of development continued with scarcely any interruption on its now predictable course until the coming of Union, although soon after the Anglo-Boer War, the Milner administration had appointed a Native Affairs Commission to study the conduct of native affairs in all the territories in southern Africa (including Rhodesia) which were now part of the Empire.

Although the findings and recommendations of this commission, headed by Sir Godfrey Lagden, are of great interest to anyone reviewing the preliminaries to the 1913 Natives Land Act, no legislation was passed as a result of the report which it presented.

Once again, soon after 1910, a half-hearted attempt was made by the new Union government to take a general survey of the native policies in operation in each of the four provinces, with a view to ironing out certain anomalies and streamlining the working of the Ministry of Native Affairs, since it was considered desirable that this department should, in due course, be entirely centralised. The findings of this survey were published in the report of the Select Committee on Native Affairs for 1910.

The Natives Land Act, when it came, was a

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measure designed to create an "artificial segregation", as opposed to the "natural segregation" which had been in force when the first white colonists arrived at the Cape, but which had been destroyed by the "natural development" of the racial situation throughout southern Africa. The first of the Union Ministers of Native Affairs, Henry Burton, as will be demonstrated in the second 'Land Policy' this chapter, seems to have entered upon a course of clearing the ground for the eventual passage of such an Act as might complete this "cycle", but was not the sponsor of this legislation when it eventually came before the House.

In the course of this study it is proposed to suggest the motives of the then Minister of Native Affairs who did this, and to attempt also to discover whether any degree of self-interest on the part of one man or group of men, or of any community or race, can be said to have motivated its introduction.

I. Land, Labour, and Natives in the Cape:

After the arrival of the British in 1795, and again in 1806, no steps were taken with regard to providing land for natives, for there was still no pressing need to do so.

When Governor Cradock formulated his land system in 1812, he did so with the white colonist only in mind. In so doing, he 'did not go beyond what was to become the traditional view of the Cape', and thus (in this instance, and at this date, at least) 'no link was forged between

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the distribution of land and the problems of a population residing upon the land', as was usually the case with the Trekker leaders later.(1) Even when we remember that "natives" in this context referred principally to Hottentots and Bastaards, many of whom lived for a good part of each year on the missions, it can be seen that it was out of this set of attitudes that the native policy of future Cape governments grew. It suited them, in fact to regard the Bantu as 'the (lesser) tribes without the law' - beyond the boundaries of British territory and not, therefore, the responsibility of British administrators. Having had ample experience in India and elsewhere, of the costs involved in governing semi-civilized peoples, the British Government was not enthusiastic about extending its sway over any territory which might ultimately, by reason of adding more subject races to its commitments in this way, add to its liabilities. To this and other features of British colonial policy during this period, further reference will be made later.

After the fifth in the long series of "Kaffir Wars" in 1819, which were to disrupt conditions on the frontier, Governor Lord Charles Somerset decreed the establishment of a buffer strip, the "neutral territory"; this was to have been the cornerstone of his policy.

Though the conjecturable advantages of pursuing the policy which he had laid down do not fall within the

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1. L.C.Duly, British Land Policy at the Cape, 1795-1884; A Study of Administrative Procedure in the Empire, (Durham, North Carolina, 1968), p.47.

scope of this study, few resulted therefrom because his successors did not stand by the settlement he had made and took advantage of his absence to permit various infringements. The most serious of these was the establishment of a section of the Xhosas in the territory along the Kát River once more, and Bourke's Ordinance 49/1828, by which numbers of natives were allowed to enter the Colony to trade, or to work for the colonists. Although the Ordinance was suspended shortly afterwards, the natives driven out the following year, and the area eventually filled up with Hottentots and subsequently white farmers of British settler stock, the damage to the British imperial image of strength and stability had been done, and by this time, despite the passing and the reversal of this ordinance and that frontier policy, many natives had infiltrated the Colony, mainly to be absorbed into the Hottentot or freedmen communities or employed as farm servants or labourers.

This phase was part of the immediate prelude to the "Age of Wakefield" (between the years 1828 and about 1840), during which most colonial administrators had come to believe that the large estates in the colonies should be broken up and sold to small farmers, and that only by the systematic colonisation and development of these and other newer territories by the large numbers of new settlers who were to be encouraged to establish themselves there, could the Empire be firmly established. While the Age of Wakefield was in progress the Colonial Office was intent only upon 'building an empire of white colonials'[2]; she did not in any case

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2. L.C.Duly, op.cit., p.186.

during this same period, though it might be thought that this would have been a necessary precursor to her plans for colonial development, have an imperial land policy 'because she had little interest in enforcing any of program', even for non-whites.(3)

The British Government was thus little inclined to concern itself with the growing number of landless non-whites in a colony such as the Cape which was not marked down for large-scale development. (The number of Hottentots to whom land was given in the Kat River Settlement was not large). The numbers of these had been swelled by the Emancipation of the slaves, the granting of civil rights to the Hottentots and Cape Coloureds (though these did not constitute a major problem, could easily be accommodated upon the land which was "traditionally" theirs, and were, in the eastern districts, confined mainly to the missions), and the natives who had infiltrated while Bourke's Ordinance was in force some years before. On the other hand the "loyal Fingos" had been allowed by Sir Benjamin D'Urban (the Governor responsible for the formulation of yet another frontier policy at the end of the Sixth Kaffir War during 1834 and 1835), to settle in the territory between the Fish and the Keiskama Rivers to serve as a buffer against future invasion of the colony by natives in the territories beyond; their settlement represented, in fact, an attempt to stem the floodtide of natives by permitting limited encroachment rather than by

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3. L.C.Duly, op.cit., p.141.

allocating limited reserves within the borders of the colony - a practice which ran counter to that pursued in the Trekker state during the period following.

In any case, at this time, 'race relations was a subject too often confined to discussion of frontier and missionary problems'.

> 'The land officials and governors at the Cape shared this outlook. In order to have land within the colony, the non-European had to be a squatter or a member of a mission station..... Thus British land policy at the Cape was considered as a regulatory service for the European'. (4)

During the eighteen-forties, frontier wars continued without greatly affecting the boundaries of the Colony which, by 1850, remained substantially what they had been at the end of the Sixth Kaffir War, the Gaikas were moved from the Amatola Mountains and settled in open country nearer the coast, the territories of the Fingos were extended to the foot of these mountains, and other friendly tribes were also settled there to serve as a buffer between British Kaffraria (established after the Seventh Kaffir War in 1847) and the Colony.

This was the furthest south that native-occupied territory, as such, was ever to extend although, as will be seen, it was only the beginning of an era which was to see a massive movement of the Bantu out of their own territories and into those of the whites.

Sir George Grey's schemes for civilising the

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4. L.C.Duly, op.cit., pp.186, 187.

natives and for lessening the power of their chiefs, for all their admitted excellence, are largely irrelevant to the present subject except in so far as they affected the settlement of natives among the whites. By allowing and, indeed, encouraging native men to enter the Colony as labourers, he accelerated the process of "infiltration". It would not, moreover, be true to say that he "compensated" the whites for initiating what was to become in time one of their major problems by allowing them, in turn, virtually to "infiltrate" British Kaffraria, hitherto the preserve of the Bantu.

Though Grey had had no part in drafting the Constitution of 1853 it fell to him to guide the colonists in their first attempts at handling their own affairs after the granting of Representative Government. In view of the "practical liberalism" which he displayed in all his dealing with non-whites, what is more, it is fitting that he should have assisted the Colonists in implementing the Act which granted natives the franchise.

At the time when the "colour-blind" franchise clause was accepted as part of the constitution drafted for the proposed introduction of Representative Government, the number of natives residing within the borders of the Colony was not great, and there was thus no fear that "the native vote" would ever become a factor to be reckoned with in certain Eastern constituencies. The next forty years of the Colony's history are, however, chiefly notable, in this context, for the increase which was brought about in the amount of native-occupied land which passed into colonial hands, owing to a variety of circumstances, and by which the native franchise was substantially increased.

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British Kaffraria (the Ciskei region), for instance, was transferred from the Imperial to the Cape administration in 1864. In 1878 Fingoland and Griqualand East were united with Galekaland, and the following year Fingoland was annexed. In 1885 all this territory was formally annexed under the name of the Transkeian Territories. Bomvanaland and Tembuland were annexed shortly afterwards, and Pondoland in 1894.

Such was the growing unease of a section of the colonists that Sprigg, then prime minister, and backed strongly by Rhodes, introduced the Voters' Registration Bill in the 1887 session. As in the constitution itself, there was no mention of colour in this bill, but as it proposed to disqualify from voting all those who farmed on the communal system (the traditional native method of agriculture) its purpose was very evident. It was passed by the legislature and, in 1892, when Rhodes, now supported by Hofmeyr, became prime minister, he brought in the Franchise and Ballot Act, which introduced a higher property qualification and a literacy test.

Convinced that even this was not enough to reduce the effectiveness of the native vote, Rhodes determined to introduce, not merely another law, but an entire system, under which certain concessions were to be made to the natives on condition that they agreed to forfeit their voting privileges. By his "(native) Bill for Africa", the Glen Grey Bill, which merely "systematised" much of what was, in any case, already in existence, native farmers were to be allowed to acquire land on quit-rent. If they chose to do so, however, they might not retain the franchise. Such land, of course, had

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first to be surveyed in the European manner, and thus the expense involved deterred a good many would-be holders of individual titles from taking advantage of it.

Nevertheless, those who did so were assured of their holdings by a clause which forbade them to sell or mortgage their land without leave. As has been pointed out, however, they were obliged, in return for these individual titles, to forfeit the vote - a system which, as will be seen, was almost the exact opposite of that in force in Natal, the next colony to be discussed.(5)

II. Land, Labour and Natives in Natal.

It would be unwise to risk a direct comparison between the natives' land question in Natal and that in the Cape, because the situation in Natal was in some instances governed by factors at work similar to those in the older colony, but in others by forces totally dissimilar.

The majority of Natal natives, both those in Zululand to the north, and those in the southern part of the Colony (Pondoland and the neighbouring areas can be considered part of the Natal "situation", though in fact they nearly all came under the Cape government), were territorially separated from "white" Natal.

This was the first factor and possibly it was the one of first importance, while the second was that a serious clash between black and white had followed hard upon arrival of the first whites (the Trekkers, principally those under the leadership of Retief), and that the newcomers had won

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5. Eric A.Walker, A History of Southern Africa (London, 1957), p.p.432, 433.

a decisive victory, moreover, at Blood River, and had thereby established themselves as the stronger power. Following that victory there had not been the succession of minor wars as in the Cape. The whites had then occupied most of the central and coastal areas of Natal as conquerors, but largely because there had been no long-drawn-out border dispute, as such, and because the whites had little interest in settling on the land bordering upon that of the natives (more especially to the north), they did not police that border, and the infiltration of work-seeking or refugee natives was immense; this heavy infiltration constituted the third factor.

By the beginning of the eighteen-forties, the pattern of life on the trekker farms in Natal, which abounded in good farming country, water, and labour tenants in more than sufficient numbers, has been described as near-idyllic.(6) Modern historians are more skeptical, however, pointing out that the Trekkers did indeed set aside some land to the south, and that, according to the law, no farmer might have more than five native families on his farm, but that a grave shortage of inspecting officials prevented this statute being carried out to the letter. The problem of the Trekkers was that, though they feared for their very existence between such masses of natives as there were to the north and to the south, they could not have continued that existence without availing themselves of the masses of labour tenants it could supply. In this respect they differed from the Cape farmers who suffered from an

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(6) Maurice Evans, Black and White in South East Africa (London, 1911), p.127.

who suffered from an insufficient supply of native labourers.(7)

In 1843 the British annexed Natal for, among other things, reasons connected with the Trekkers' alleged abuse of young native indentured labourers, but with the Trekkers' native land policy as such they had no quarrel. Two years later, Shepstone was appointed Diplomatic Agent to the Natal natives and after receiving increased powers in 1856, he was induced principally by the penuriousness of the Colonial Office, which declined to supply the funds required for engaging white administrative officers to assist him, to embark upon the formulation of the "Shepstonian system". Although this program was never completed, it has been possible for his biographers and other historians, partly by observation and partly, perhaps, by conjecture, to distinguish five stages which Shepstone may well have had in mind.

The first of these involved the giving of a guarantee to the tribes of certain areas in perpetuity. This guarantee was to be made effective by the setting up of the Natal Native Trust, which was possibly Shepstone's greatest achievement in connection with the welfare of the Natal natives.(8)

The second stage was characterised by the official recognition of tribal law, of the native chiefs, and of tribal customs, but the natives were still nevertheless to be "guided and controlled" by European administrators, who would see to

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7. C.F.J.Muller (ed.) 500 Years; A History of South Africa Pretoria and Cape, 1969, p.145.

8. J.R.Sullivan, The Native Policy of Sir Theophilus Shepstone, Johannesburg, 1928, p.44.

the provision of schools, missions, and public roads, 'and would gradually bring them (the natives) to an appreciation of the value of private property'.(9)

During the third stage, they would receive individual titles, and of this the "inevitable result" would be 'the granting of some form of franchise to the natives';(10) this would, in fact, constitute the fourth stage in his policy.

Having given the natives a stake in the country, and followed this up by granting them the franchise - which they were to be taught to use "intelligently" - Shepstone seems to have believed that the natives should be raised to 'full citizenship in the South African nation'. Nevertheless, he believed that this would be desirable only if it were accompanied by some form of"differentiation" (territorial segregation) between black and white. His views in this regard have, in fact, been compared with those of General Hertzog (whose stated principles will be discussed in detail at a later stage), and to whose speech before the Native Conference in 1925, it is thought, 'Shepstone would wholeheartedly have subscribed'.(11)

It should be stressed, however, that not all Shepstone's plans were carried out, and also that as an administrator faced with a difficult situation which required

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9. J.R.Sullivan, op.cit., p.44.

10. Ibid., p.45.

11. Ibid., pp., 46, 47. He quotes General Hertzog as follows: 'Within a native area, a native ought to feel at home,... and there should be no limitations within his area except those that exist in a well-managed community .... Within those areas there will be opportunity for the native statesman as well as the native civil servant.'

immediate action, it was he who instituted the Natal Location system. His problem was to ameliorate the effects of the massive infiltration described above: 'What was to be done with the Africans - estimated at 100,000 men - who had recently come into Natal from Zululand?'(12) Plans for settling large numbers of natives in, for instance, the southern region (as the Voortrekkers had contemplated), or even in Griqualand East (as Shepstone once thought of doing, though at a much later stage) being now impractical, he decided to set up large rural Locations (reserves) in which the natives could be accommodated and governed by a "superintendent" or resident agent of the government whose duties would include the giving of instruction in systematic agriculture. It was hoped that the Locations would become 'active agencies of civilization'.(13)

Those sections of Shepstone's conjecturable policy touching upon the granting of the franchise to large numbers of native landholders were never translated into practical terms, either by him, or by those who followed him. Whereas in the Cape, the Glen Grey system, in effect, took away the vote from those who chose to become individual title-holders, in Natal landholding was the first qualification required. The purpose of this provision was, however, to keep the number of native voters to a paltry few, and to discourage those who did, after all, qualify for the vote from becoming leaders or the natives in Natal or, as the government doubtless feared, mere agitators.

It is mainly this, together with the attitude of

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12. E.H.Brookes and C.de B.Webb, A History of Natal, Pietermaritzburg, 1965, p.58.

13. Ibid., p.p. 58, 59.

white Natal landowners and the missionary influence in Natal and Zululand, which explains the relatively small number of articulate "educated" native leaders in Natal and Zululand, compared with those in the Cape.

It will be seen how this system, initiated mainly by Shepstone, served ultimately to restrict the numbers of those eligible for the franchise.(14) He may not have intended this, but since his policy was based on the maintenance of tribalism, he realised that those few "advanced natives" who wished to abandon the old, uncivilised uses of their own people, should be given the opportunity to do so. The number of these exceptional individuals was never great, for most of the Natal and Zululand missionaries pursued the 'traditional German missionary strategy', by which they set out to win, not merely individuals, but entire tribes and nations, to the fold. There was another "missionary strategy" being employed in Natal at that time, but that was the traditional "Anglo-Saxon" method,(15) and was confined to the Anglicans and American Congregationalists.

The effect upon the natives of the "German strategy" was so marked that a modern African sociologist has pointed out that, whereas the German and Scandanavian missionaries did not develop in their converts any noticeable predilection for book-learning and personal liberties, they did teach them a good deal about building, shoe-making, tailoring and carpentry.

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14. Stanford Papers, Schedule F(dd),1. Rev.Mdolemba to Stanford, 21.6.06: 'This colony is like a Dutch republic compared with the Cape . No franchise for natives exhists (sic), people are commandeered for 6 months to work on government roads and [illegible] with or without their consent.'

15. Hans Florin, Lutherans in South Africa, Durban, 1967, p.113.

Native intellectuals, he further noted, had generally come from those few missions conducted according to the "Anglo-Saxon strategy".(16)

These "intellectuals" or "educated natives" (as they were usually referred to in the Cape), were less articulate and a good deal less conspicuous in Natal than in the older Colony, mainly because of the effects of the Exemption Law in operation there. Though Shepstone himself did not sponsor this law, a native who wished to apply for exemption from native law had first to prove that he had ceased to live as a native and had embraced a quasi-European style of life. If the exemption were obtained, this did not automatically confer upon the holder the right to vote; it gave him only the right to apply for it.

The dubious status of these exempted natives created problems in that, as J.L.Dube, who was himself of their number, told the Natal Native Affairs Commission, they had "come out of" native law, yet 'were at a loss to see where they stood.'

> 'They are like hybrids or bastards, which is to say that they are not natives and cannot claim to be white people.'

Many exempted natives (kolwas) at that time were anxious to obtain land, and Dube thought that no restrictions should be placed upon them purchasing it as they desired on the open market.(17) Witness after witness, indeed, expressed

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16. A.Vilikazi, Zulu Transformations, Pietermaritzburg, 1962, pp.96, 97. Support for this statement is to be found in the career of John L.Dube, son of a convert to the American Congregationalists, who was partly educated in the United States and later became headmaster of the Ohlange High School. As an editor and native leader, he was prominent in the agitation which followed the publication of the Natives Land Bill in 1913.
17. Report of the Natal Affairs Commission, 1906-07, pp.957, 958.

expressed dissatisfaction with the system and pleaded for concessions to kolwas so that they might gain a stake in the country to whose government, by and large, they held no animus.

Towards the end of the nineteenth century white/black relations in Natal were further strained by the state of affairs existing between the colony of Natal and Zululand. After the War of 1879, Zululand had been divided up into thirteen districts, each under a chief, and in 1887 it was annexed by Britain.

In other respects its status remained unchanged until 1897, when it was annexed to Natal. One of the main reasons for Natal undertaking to govern Zululand was that her sugar planters needed more land for cultivation, and the commission which eventually set up "reserves" for Zulus within what had been until then their own preserve, did not begin its sittings until 1902. The Anglo-Boer war, or at least the rumours of it, had given the Natal government the best possible reason for annexing this territory, as the South African Republic was reported to be interested in obtaining a hold over it (mainly in order to get an outlet to the sea).[18] Ultimately, however, it provided a distraction which favoured, principally, the land-hungry sugar planters of Natal. These men were intent upon buying up as much land as they could before any

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18. C.F.J.Muller, op.cit.,pp.199-202, M.C.van Zyl, the author of this section of "500 Years", also mentions that the Natalians, fearing reperoussions, wished Zululand to be annexed before the rebel chief Dinizulu was repatriated, and the annexation of Pondoland by the Cape in 1894, aroused fears that Rhodes, then Prime Minister of the Cape, might have designs on Zululand, as he had publicly expressed lack of confidence in the Natal government at about that time.

commission should be appointed to decide the question of land allocations.

Much land had already been bought by whites by the time the Commission reported in 1904. In 1903, however, the Zululand Trust was set up, and the following year those areas set apart for the Zulus were placed under it. Zulus might freely buy land in the areas alienated to them. Eventually they lost this right by the Natives Land Act of 1913.(19)

The "trusteeship" system, by which Shepstone had ensured the Natal natives the possession of a large portion of their "traditional lands", served Zululand in much the same way, despite its unpopularity with the white farmers.(20)

It was seen as a threat to the farmers' labour supply, for it was very generally supposed that natives living on their own land did little work, whereas those who were crowded into Locations scattered among the farms were obliged to support themselves by becoming labourers.

Ordinance 2 of 1885 prevented unlicensed squatting on private farms and Crown lands, but this was a provision directed not so much against "kaffir farming", as in the Free State, but at the practice of keeping too large a

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19. E.H.Brookes and C.de B.Webb, op.cit., p.186.

20. "Trusteeship" was, nevertheless, supported by the Natal Commission of 1881-2 and by the Cape Native Laws and Customs Commission of 1883 (J.R.Sullivan, op.cit., p.63.)

supply of potential labour on tap at points convenient to the farmer - all of which underlines the fact that, while in the Free State the farmers' chief need was for land, in Natal it was for labour.(21)

III. Land, Labour and Natives in the Free State:

In the Orange Free State, the Trekkers in the eighteen-thirties had found much land which appeared to be unoccupied. After an attack by the Matabele, the Trekkers gathered together their resources and, the strength having been increased by recent arrivals, defeated their attackers. The Matabele then fled northwards, leaving only a few weakened tribes in these areas, whose numbers were little added to by the „Oorlamse Volk" who had accompanied their masters on trek.

There were Hottentots settled in the south-east and more Bantu tribes in what was to become British Bechuanaland and in Basutoland to the east, but the first Free State whites, induced by the necessity of finding labourers for their farms, and without any entrenched mass of natives to make provision for, decided upon a course which would guarantee to themselves and their descendants the lion's share of their relatively small territory with land and labour enough and to spare for all.

The Bloemfontein Convention of 1854, by which the Orange River Colony became independent of Britain, laid down laws in accordance with the "northern policy" of inequality between white and non-white in all spheres.

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21. J.R.Sullivan, op.cit., p.64.

Miscegenation having in the early days created a small number of half-castes or "coloured people" among the natives, these Free State laws were specific in their definition of any person designated non-white.(22)

A further provision was made by the Volksraad of the Orange Free State in 1885. This forbade "coloured persons" to hire land which was in one of the reserves. These reserves had been set up by the government in 1866 and 1867, for although the British High Commissioner had justified the extension of the imperial authority over the land between the Orange and the Vaal in 1848 by stating that, before the arrival of British immigrants in the territory "that country must be held to have belonged to the native chiefs", and that these chiefs had, in fact, agreed to "cede" their country to the Crown immediately prior to its annexation, no provision was made for the placing of natives upon the land during the six years before the Sovereignty was abandoned by Great Britain.(23).

Perhaps the British felt that it was scarcely worth

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22. The Free State Law Book (Wetboek van die Oranje-vrijstaat,1891; pub. Bloemfontein 1892), Chapters XXXIII and XXXIV. Also, Orange Free State Law No.8 of 1893, in which "a coloured person" is defined as 'a man ... or woman ... of any native tribe ... and also all coloured persons, and all who, in accordance with law and custom, are called coloured persons, or are treated as such, of whatever race or nationality they may be.'
23. Parliamentary Papers of the Orange River Sovereignty, p.73, quoted by G.W.Eybers, Select Constitutional Documents Illustrating South African History, 1795-1910, London, 1918, in his Introduction, pp., lxii, lxiii.

their while to enforce the provision regarding the 'land belonging to the chiefs' since, as Eybers has commented 'this was not the case as regards the bulk of the territory concerned.' By the middle of the eighteen-sixties, however, the independent Orange Free State found itself intermittently at war with the most powerful native tribe on its borders, the Basuto, under their powerful chief Moshesh.

In their struggle against this menace on their eastern flank, the Free State boers sought help from certain minor tribes and, in return for such aid as these rendered, they decided to allocate to them a piece of land 'the dwelling place of the coloured people who are allies of the Orange Free State, or who desire to place themselves under the authority of the Orange Free State.' (24)

The natives in these reserves were to be placed under a Commandant appointed by the State President and his Executive Council.(25) Eybers believes that this was done so that authority over the natives would be 'removed from the control of the popular assembly',(26) though this was the desire of that body itself. The natives were allowed, as in Natal, to retain their own laws, but the harshness of the same was mitigated by the intravention of European officials set over them.(27)

In 1866, Ordinance No.3 of the Volksraad was published, stating the regulations by which Maloppo, the second son of Moshesh, who had offered to surrender cattle

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24. The Occupation Law, Ordinance No.2, 1866, Article 8; quoted by G.W.Eybers, op.cit., p.315.
25. Ibid., Article 47, quoted by G.W.Eybers, op.sit., p.319.
26. G.W.Eybers, op.cit., p.lxvi.
27. Ibid., pp.lxv, lxvi.

and become a Free State subject, was to occupy the territory granted him and his followers.(28)

Any native leaving the reserve without a pass was liable to severe punishment.(29) No white persons were to settle 'within the territory given to Maloppo to reside in'; This did not, of course, apply to licensed traders.(30) In 1867, Mopeli, a brother of Moshesh, agreed to be taken over, with his clan, as a subject of the Free State. He was given land under exactly the same conditions as those set out in the case of Maloppo.(31) Unlike the latter, however, Mopeti remained true to his promises and in recognition of his loyalty, remarks Eybers, 'received lands in the beautiful and fertile tract called Witzieshoek'.

It has been pointed out many times since that the Free State, although on the whole ungenerous in her allocation of land to natives within her borders, gave on this occasion a stretch of territory which was in every way desirable. After the annexation of the territory in the vicinity of Thaba 'Nchu by the Free State government in 1884, what is more, several farms in that region were acquired for the formation of a Baralong location.

Yet in the Free State there still remained, as

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28. Ordinance No.3 of 1866, quoted by G.W.Eybers, op.cit., P.320.

29. Ibid., pp.321, 322.

30. Ibid., Article 10, p.323. After Basutoland was annexed and declared British territory by the Convention of Aliwal North in 1868 - this Convention's ruling was recognised by the O.F.S. in 1869 - Maloppo's reserve became British territory.

31. Ibid., p.325.

nowhere else in such explicit terms in any other state in southern Africa, "an anomaly", and under this 'a native [could] neither purchase nor lease land, and landowners can only sell their land to white people'. No native moreover, could inherit landed property which was not left to him as a descendant in the direct male line.(32)

G.W.Eybers, writing in 1917, pointed out that, under the Free State system, 'the principle of segregation was affirmed'. The only white men entitled to enter the reserves were officials, a few missionaries, and the licensed traders; as a direct result of the policy pursued in the Free State, the natives there had, he claimed, not "deteriorated" as had those elsewhere who lived cheek by jowl with Europeans, but had become 'industrious, sober and contented, while they are gradually being civilized and Christianized'.

> 'As there has been no familiarity between whites and blacks, the Kaffir still respects the European and the civilization for which he stands.' (33)

It is worth noting that while these land allocations to non-whites by the Free State Volksraad are being reviewed that, in 1870, immediately prior to the Keate Award, some of the Baralong and Batlapin captains laid claim to the land between the Vaal and the Harts Rivers.

This land fell mainly within the area awarded to the Griqua chief Waterboer. His territory was then, at his

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32. S.T.Plaatje, Native Life in South Africa, London 1916, p.23 (This referred to Chapter xxxiv of the O.F.S.Law Book, Sections 1, 2, 3 and 6.

33. G.W.Eybers, op.cit., p.lxvi.

request, annexed by Britain, as was Bechuanaland in 1885. Despite the Baralong and Batlapin claims having been lost, however, many continued to live on Waterboer's land.(34)

When comparing the laws aimed at controlling the practice of squatting in the Free State with those in Natal, it should be remembered that there was a wide disparity between these two states as to the proportion of natives living in reserves compared to those living on the farms.

Zululand apart, there was an estimated 250,000 natives living in the 42 locations in Natal in 1903.(35) This included the 35,000 who were living on the 17 mission reserves. About 420,000 natives lived on the farms. This represents a ratio of 1.7 farm natives to every 1 reserve native.

In the Orange Free State, on the other hand, there were only 17,000 natives in the reserves and nearly 200,000 on the farms.(36) This represents a ratio of 11.7 farm natives to every 1 native in the reserves.

There are mitigating factors, however, in that after the opening of the Reef mines in 1886, a far higher proportion of Natal and Zululand natives were drained away than was the case in the Free State. Numbers alone do not reflect the true state of affairs, for the white farming population was less than that of Natal and less labour was needed to

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34. S.T.Plaatje, op.cit., p.9: The parents of Solomon T. Plaatje were Baralongs, and their son was born in the Boshof district, which was adjacent to Waterboer's land.

35. Report of the South African Native Affairs Commission, 1903-05, Vol.I, p.18, para.93.

36. Ibid., Vol.I, p.21, paras.114 and 115.

farm such crops as were cultivated in the Free State where, even when there was no shortage of labour, farmers found it extremely profitable to give their lands over to "kaffir farming", for by this means a good deal could be made out of land which would otherwise have been unproductive.

Such "kaffir farming", though not unknown, was not widely practised in Natal, for there was so much for the natives to do, both as the servants and as the labourers of the white farmers, that the inducement to set them to farming surplus land on a share-cropping system was not present.

The European farmers, therefore, did not complain if the number of natives available for farm work rose steeply in one or another area, and the natives, for their part, would certainly have complained if their numbers on any one farm had been limited. It was chiefly on this account that the 1855 Law against unlicensed squatting on Natal farms had become a dead letter.

This was not the case in the Free State, where Law No.4 of 1893 restricted the number of squatters' families on any one farm to five, a number which might, if special permission were obtained, be increased to not more than fifteen.(37) The purpose of this law was to ensure, as far as possible, an equitable division of the available labour among the farmers. Unfortunately, it was not invariably adhered to, and the Report of the Select Committee set up by the first Union Minister of Native

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37. Report of the South African Native Affairs Commission, 1903-05, Vol.I, p.21, para.115.

Affairs, Henry Burton, at the end of 1910, concluded that 'the Orange Free State ... has not hitherto succeeded in arriving at a satisfactory solution of the question, while in Natal the law does not seem to have been enforced.'(38)

It was not only in Natal that some laws were never enforced, however, for by the Occupation Law passed in the Free State in 1866, every farm had to be occupied 'by the individual in person to whom the same is granted.'(39)

Failure on the part of the Free State authorities to see that this law was observed led to a sharp increase in the practice of 'kaffir farming', and it was on this account that so many natives were abruptly rendered homeless when the Natives Land Act came into force in the middle of 1913.(40)

IV. Land, Labour and Natives in the Transvaal:

As will have become apparent from the foregoing discussion of land policies steps had at some time or another been taken in each state which were aimed at controlling the incidence of squatting, but for all that the law governing this issue in the Transvaal was neither the oldest of its kind nor the most effective, the fact that was known by a colloquial name (de Plakkers wet) may account for the fact that it was one of the most discussed acts passed in connection with natives in the last years of the nineteenth century.

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38. S.C. 3/10, para. 2, p.iii.
39. The Occupation Law (Ordinance No.2 of 1866), Article 21; quoted by G.W.Eybers, op.cit., p.316.
40. cf. S.T.Plaatje, op.cit., p.17. Similar remarks were made in the course of the House of Assembly debates about the traditional and long-established occupation of many Natal farm natives.

Its main provisions were almost identical with those of the Free State law passed two years previously in 1893; only five native families might reside on any one farm unless special permission had been obtained. By 1905, however, this law was virtually a dead letter, though this was owing to circumstances which were a little different from those affecting the labour tenancy situation in the Free State.(41) Reviewing the laws affecting natives in all the four provinces in 1910, however, the Commissioners found that, although there had been "considerable controversy" as to the applicability of this Transvaal measure, "known as the Squatters' Law" ", one outstanding fact had emerged:

> 'the fact is clear ..... that whatever opinions may be held, ... successive governments have failed to apply that law consistently and successfully in that province, notwithstanding local pressure exercised in favour of its enforcement.'(42)

Possibly the main reasons which prompted one government to pass this law, together with those which deterred those following to enforce it, may emerge when the early history of the Transvaal is reviewed.

Differences between the several Trek parties which had entered that region during the first twenty years when that mass migration had commenced, prevented their combining to set up a united Volksraad before 1858, but in that year, as a result of their leaders conferring together, a "Grondwet" (constitution), not unlike that of the Free

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41. Report of the South African Native Affairs Commission, Vol.I, paras. 124, 125, p.23.
42. Report of the Select Committee on Native Affairs 1910. p.iii.

State, was laid down.

Whereas in the latter non-whites were meticuously defined in terms allowing of no conceivable loophole - as circumstances in this state, as has already been explained, rendered necessary - in the Transvaal constitution they are mentioned only twice, whether directly or indirectly, in two consecutive clauses. The Transvaal recognised no equality between black and white, and furthermore set its face firmly against any trading in slaves.(43)

The year after the Grondwet had established the lines upon which the new state intended to proceed, certain Instructions were issued to Field Cornets, by which a ban was placed upon "coloured persons" moving about without passes, and upon the sale of liquor to the same. Field Cornets were also to regularise the hiring of servants and to assign land to native tribes in their areas.

The Volksraad was to have jurisdiction over such natives and 'undisturbed possession of such lands and protection [were] guaranteed to native captains.'(44) It can thus be seen that in tackling the problem of settling natives upon land the Transvaal followed through their policy of choosing to ignore their non-white subjects as far as possible and to attend to their needs at a local rather than at an executive level.

Owners of farms were entitled to take into their service four heads of families who, with their dependants, lived in their own kraals on the farm. These labourers were, however, to be paid for their services, which would

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43. G.W.Eybers, op.cit.,p.364, quoting the Grondwet of the the South African Republic, as laid down in February 1858.
44. Ibid., paras.37-51, pp.413-415.

appear to be a step in the right direction. Nevertheless, it was typical of the Transvaal government that the taking of a census to determine the number of natives in each ward should be left to the Veld Kornets.(45)

It is evident then that the South African Republic had no systematised native policy as such, nor any land settlement scheme for natives within their borders before the annexation of the territory by the British in 1877. Those of the Trekkers who had crossed the Vaal had found themselves, after all, in a land of 'subdued and scattered tribes', reduced by the hordes of the Matabele who had fled northwards after their defeat by the Trekkers at Winburg in 1837.(46)

With those tribes or remnants of tribes of natives still living on or near the borders of the Transvaal, the early Trekkers were disposed to take a strong line. Punitive expeditions were sent against the bands of marauding natives, who entered the Transvaal from the north-west, having obtained guns, it was alleged, through the agency of Dr.Livingstone, whose mission was established there. Two years after this, in 1854, the murder of twelve hunters

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45. G. W. Eybers, op. cit., quoting the Grondwet of the South African Republic of 1858, paras. 57, 58, pp. 415, 416. The "northern principle" was, in fact, implicit in the Grondwet of 1858, by Law 1 of 1876, and by the Grondwet of 1896. Even when Shepstone annexed the territory for the British in 1877, he made it known, in his initial Proclamation, that he did not intend to tamper with this.

46. The Matabele had fled north of the Limpopo after a second punitive expedition (known as the "nine day's battle") was undertaken by Potgieter and Uys in October 1837, and as a result of which they were totally defeated at the Marico River.

by the Batlou under Makapan brought Piet Potgieter, M.W. Pretorius and their commandos out against the murderers, and the tribe from which they came.

Probably on account of the harshness with which the Transvaalers had meted out retribution to other native transgressors and insurgents and because of their fear of the Zulus, the Swazi, in the eastern portion of the country, offered concessions to the whites rather than a hostile front. Relations between this native mass and the Boers were never, thereafter, as strained as those between the Zulus and the white colonists in Natal.

Beside these tribal masses, however, there were a number of breakaway groups of Swazis, Zulus, Bechuanas, Shangaans and Bapedi, who lived mainly in the northern and eastern districts of the Transvaal.(47) In these areas they were, by and large, left in peace, for no cure for malaria had yet been discovered, and the unhealthiness of the region thus discouraged European penetration.(48) A modern writer on the subject of native policy in Africa gives as a reason for the passing of the 1913 Land Act, in fact, that 'European land hunger was already wishing to restrict Native grazing areas outside the delimited

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47. Report of the South African Native Affairs Commission, Vol. 1, para. 30, p. 7.

48. The discovery that the mosquito was a carrier of malaria was made only in the last twenty years of the nineteenth century. After that, medical researchers in various parts of the world worked steadily towards, if not the cure, then at least the control, of the disease, which continued to take a heavy toll of life in most tropical regions of the world until the middle of the 'twenties.

Reserves' and that, after 1900, 'the control of malaria was making possible the penetration of Europeans into areas previously thought only suitable for Native occupation.'(49)

Nevertheless, Shepstone explained his annexation of the South African Republic in 1877 by pointing out that 'the past policy of the Republic had not only failed to conciliate the friendship and goodwill, but had forfeited the respect of the overwhelming native populations within and beyond its boundaries, which together probably exceed one and a half million.' He concluded that the implication in fact was that it was the duty of the Crown to protect the Transvaalers 'from the consequences of a pressure that has already reduced its political life to so feeble a condition.'(50)

The British did not immediately outline a native policy for the former Republic, nor were land allocations made, but when in 1881 the British government allowed the Transvaal state to be re-established (under the"suzerainty" of the Crown), the Pretoria Convention laid down that pass laws were to be less stringent, while reaffirming the provisions of the Sand River Convention against slavery. It was furthermore stated that:

> 'Natives will be allowed to acquire land, but the grant or transfer of such land will in every case be made to, and registered in the name of, the Native Location Commission ... in trust for such

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49. Edith B.Jones, 'Land Policy in South Africa' (Bantu Studies; A Journal devoted to the Scientific Study of Bantu, Hottentot, and Bushman, Vol.XIV, 1940); author's Italics.
50. G.V.Eybers, op.cit.,pp.450, 451, quoting Shepstone's official Proclamation of 12 April 1877.

natives.' (51)

By this it will be seen that Shepstone had lost no time in establishing in the Transvaal the Location system which he had already initiated in Natal. The controlling body was constituted according to Articles 21 and 22 of the Pretoria Convention, its purpose being to delimit locations and compensate previous owners. Even Sullivan, however, is sceptical of its effectiveness in the Transvaal.

> 'Many locations were delimited, but no truly progressive land policy was inaugurated; and today (1928) the evidence of this neglect is seen in the fact that a big population of Transvaal natives live on Private Land.' (52)

The British having handed back the state to the Boers, however, could not compel the implementation of any part of the Convention. The Transvaalers' innate capacity for delay in administrative procedures (of which decentralisation represented only one part) then asserted itself, and the Volksraad found it more "practicable" to appoint local Commissions to deal with native Locations. By 1899, when the Anglo-Boer War broke out (eighteen years

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51. G.W.Eybers, op.cit.,p.459, quoting Article xiii of the Pretoria Convention (writer's italics). N.B. This "trusteeship principle" was first laid down, though in different words, in the Proclamation of Annexation: 'The native tribes living within the jurisdiction and under the protection of the Government must be taught due obedience of the paramount authority, ... etc.' The "equal justice" granted to "both white and coloured", however, did not involve 'the granting of equal civil rights, such as the exercise of the right of voting by savages, or their becoming members of a Legislative body ...' (p.453).

52. J.R.Sullivan, op.cit., p.124. It was by Law 11 of 1881, which repealed most of the previous native legislation in the Transvaal, that the Natal system was set up. This law was framed by Shepstone himself.

later) these had not yet completed their task, though Lagden and his fellow-commissioners in 1903 conceded that 'they had been instrumental in bringing about the setting apart of land for several tribes.'(53)

A Superintendent of Natives succeeded the Location Commission as trustee and after the Anglo-Boer War, was replaced by the Commissioner for Native Affairs.(54)

In 1884, however, the British virtually withdrew their right to supervise native affairs in terms of the agreement reached at the London Convention, but the right to control the making of treaties between the Transvaal and other states was reserved. The prohibition against slavery was once more reaffirmed, and all previous land transfers to the British Secretary for Native Affairs in trust for natives were to remain in force. An officer to be appointed by the South African Republic was to replace the British Secretary for Native Affairs.(55)

Thus it was the Colonial Office which obliged the Transvaal in 1884 to formulate a native policy. In terms of the Convention of that year, what is more, natives were to be free to buy land under certain conditions, a commission was to be appointed to delimit native locations, natives were to have access to the courts of law, and were to be allowed to move freely about the country and even to leave it entirely 'for any legal purpose', provided that they carried passes.(56)

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53. Report of the South African Native Affairs Commission, Vol.I, para.120, p.22.
54. Report of the South African Native Affairs Commission, Vol.I, para.123, p.23.
55. G.W.Eybers, op.cit.,pp.472-474, quoting the London Convention of 1884, Articles 8 and 18.
56. Ibid., Article 19, p.474.

It remained for the Volksraad to find some means of circumventing these regulations. In 1885, therefore, it was decided that native laws and customs should be recognised as long as they were 'not repugnant to the general principles of civilisation.' Officers were to be appointed to exercise the authority formerly vested in the chiefs, and the President was henceforth to be Paramount Chief of all natives in the Republic.(57)

From the middle of the eighteen-eighties onwards, however, the provision of land for natives ceased to be among the Republic's foremost preoccupations. The local Commissions were allowed to continue their surveys begun in 1881 at their own pace, and evidently no pressure was put upon them to complete their task.

The discovery of gold on the Witwatersrand had, meanwhile begun to create problems which took up all the administration's time. Natives were needed in large numbers for work on the mines which, needless to say, offered better wages than did the farmers. In every state in southern Africa between 1886 and 1910, in fact, the "drain" upon the available labour supply by the Reef mines induced the various governments to resort to tactics and expedients not hitherto employed.(58)

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57. Report of the South African Native Affairs Commission, Vol.I, para.31, p.7.

58. Among these was the importation of "foreign" natives into Natal and parts of the Cape (though this practice became far more prevalent after 1900), and the further importation of Indians. Even the exodus of natives from the Free State to work on the Diamond Fields after 1870 had not caused such a scarcity of labour.

Soon after the end of the Anglo-Boer War, the labour situation in the Transvaal was such as to justify the appointment of a commission to investigate the true position and to find ways and means by which the labour needs of all 'farmers throughout the Transvaal' could be met.(59) It was felt by those of the Commissioners who were responsible for compiling the Majority Report at the conclusion of these proceedings that the Plakkers Wet of 1895 should be more strictly enforced. Labour requirements could then be met by farmers chiefly 'from natives domiciled in the Transvaal, provided a policy was adopted which would encourage native families to settle on unoccupied farms.'(60)

Among those who gave evidence before this Commission was General Louis Botha. He recommended that some form of taxation be imposed, and also that the Squatters' Law should be more strictly enforced, thereby providing a means by which natives might be induced to leave their farms (especially those in the Low Veld, which advances in the cure of malaria had not yet rendered safe for white occupation), in order to work for the white man.(61)

Also notable are the comments made by him upon the Location system which, it will be remembered had been introduced by Shepstone in the eighteen-seventies.

These opinions emerged when he was asked whether he did not think that, 'if there were native locations,

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59. Majority Report of the Transvaal Labour Commission, 1903, para. 23, p.xii.
60. Ibid., para.27, p.xiii.
61. Ibid. (Evidence), paras.11,205 and 11,207, p.718.

(the effect) of the enforcement of the Squatters' Law would not be, where the natives were not satisfied to live on squatters' farms, to drive them into locations.'(62)

He agreed that this might be so, and explained that this was the reason why he held firm by his belief that locations should be broken up.(63) In view of much of the native legislation which had already been passed in other colonies, and of what was to come later, Botha's reply on this occasion to questions put to him by the Chairman (Mr.A.Mackie-Niven) are interesting:

CHAIRMAN: Do you believe in the principle of making a Kaffir pay a higher tax if he cannot show that he has been working for a portion of the year.

BOTHA: I am in favour of the Kaffirs being under one law for South Africa, under one law from Cape Town to here. I think there should be some change in the manner of living of a Kaffir in so far that he should not live for nothing on Crown Lands. (64)

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62. Majority Report of the Transvaal Labour Commission, 1903 para.11,216, p.719.

63. Ibid., para. 11,217, p.719.

64. Ibid., para. 11,212, p.719. It was also stated in another section of the Report (para.127, p.23) that Crown lands in the Transvaal comprised an area of 9,500,000 morgen, upon which 181,000 natives were living - a density of 1:112 (man:acres), which is relatively low, but it is also stated that only portions of these lands were inhabited. There were also (para.124, p.23) about 438,000 natives on "white" farms - a ratio of 1:2.4 (natives on Crown lands: natives on farms).

One of the most serious threats posed by Transvaal natives - though not exclusive to them - was their practice of forming syndicates in order to buy land. Such transactions were described by the Native Affairs Commission in 1905 as purchases made 'by tribal subscription'. By 1903, nearly 300,000 morgen had been acquired in this way, and such land was usually occupied communally by tribes or portions of tribes.

The Report of this Commission does not give any separate figures, however, as to the number of natives then living upon land which they had bought in this way. It is therefore not possible to calculate the density of population resident upon it and thus prove, as might have been anticipated, that it was "over-populated".

The knowledgeable Maurice S.Evans seems to have learned something of the effects of this land-buying by native syndicates, however, and points out that, since natives could not purchase land in their own right, much of the land acquired in this way was registered 'by private arrangement' in the names of 'friendly Europeans or the missionaries.'

> 'The majority of (European-owned) farms, which are practically private locations, are in the remoter districts of the Soutpansberg, Waterberg, Lydenburg, <u>often in country unhealthy for Europeans</u>.' (65)

This and nearly all the foregoing, in fact, seems to indicate that prior to the Anglo-Boer War, no state in southern Africa had a well-defined land allocation policy for natives, no state was prepared to be generous to its

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65. M.S.Evans, <u>op.cit</u>., p.145 (Author's italics).

natives either in the area nor the quality of the land so allocated, and such slight land "encroachments" as there had been in the last two decades of the nineteenth century were continued by the natives and frequently connived at by whites who, in some cases, were sympathetic towards the natives and in others were merely self-interested.

CHAPTER II

NATIVE LAND POLICY IN SOUTH AFRICA FROM 1902 to 1913.

(1) Towards Segregation; or, The Growth of an Idea.

At the end of the Anglo-Boer War, the Cape and Natal, being already British colonies, suffered no change of status as did the two former republics. Militant incursions on to Cape soil there had been, and these in addition to the rebellions of 1900 and 1901 and a minor insurrection among the Dutch farmers in the Barkly East district in 1899, but even this had not led to any restlessness among the Bantu in the north-eastern areas of the Cape adjacent to that in which the whites had defied the government.

Natal had seen some fighting, but there once again the natives had remained quiet and, except for a few isolated accusations brought by Free-Staters that the British had used a number of native troops in the course of Kitchener's campaign against those Boers who refused to give themselves up after the country had been taken, there was scarcely any complaint against the natives.(1) For the most part, they had seemed content to carry on with their own routine activities while the two white races were at war.

That the natives had remained quiet during the

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(1) cf. G.H.le May, British Supremacy in South Africa, Oxford, 1965, p.101.

struggle was not, on the whole, regarded as evidence of virtue on their part, and there was no suggestion of "rewarding" them in any way when the war was over, but once all these states had been brought under the British Crown, it was felt that a commission ought to be appointed in order to 'gather accurate information on certain affairs relating to the Natives and Native administration'. It was, in fact, hoped that such a body would be able 'to offer recommendations to the several governments concerned, with the object of arriving at a common understanding on questions of Native policy.'(2)

Though in general sparing of praise for existing conditions, the Commission found that the Cape had given its natives adequate land to live upon, had managed to control the squatting problem, and was to be congratulated upon its Location Act (Act No.30 of 1899), which it described as 'the most successful legislation to this end ... up to the present.'(3) In the cautious (and at times equivocal) language of such reports, the Commissioners indicated that they approved of the system created by the Glen Grey Act and also pointed out that the proportion of

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2. Report of the South African Native Affairs Commission Vol.I, para.2, pp. 1, 2. Although they do not come within the terms of reference of this study, Rhodesia and the native protectorates were also included.
3. Ibid., para.169, p.31. By means of this law, the occupation of white-owned land by natives not employed by the owner was discouraged, for such occupation, constituted a private location and for this a licence was required; cf. also ch.VI , n.15.

native-held land in the Cape was the highest of all the four colonies at that time.(4)

Although it approved of individual tenure, the Commission warned that the numbers of native landholders in the Cape and in Natal were increasing rapidly, one reason for this being that 'the capacity of the part of the natives to purchase, by collective process if necessary, is today in excess of what it was', Native wages, after all, were 'greater than they used to be.'(5)

It was suggested that allocations of land to natives 'should in future be limited to certain areas to be defined by legislative enactment', and that, should the buyers of such land indicate that it was to be turned over to tribal occupation the transaction should not be ratified in that event.(6) In conclusion the Commissioners stated that, with regard to the occupation of land by natives in general, 'the time had now arrived' when such lands should be 'defined, delimitated, and reserved' for them by the proper authorities.

They were also of the opinion that 'this should be done with a view to finality in the provision of land for the Native population, and that thereafter no more land should be reserved for Native occupation.'(7)

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4. Report of the South African Native Affairs Commission Vol.I, para.206, p.39.
5. Ibid., paras.191, 192, p.35.
6. Ibid., para. 193, p.35.
7. Ibid., para. 207, p.39.

A feature of this inquiry was the relatively small number of Afrikaners called to give evidence, even in the Free State and Transvaal. Since this was a British commission, and since also it was appointed soon after the War, it was evidently felt that both differences of language and the Boers' "conquered status" at this time would make questioning difficult and would not produce answers which would be representative of the real attitude of most Afrikaners at this time. Nevertheless, it is notable that the Commission gave a hearing to a large number of native leaders.

One of the few Afrikaners who was summoned to give evidence was J.W.Sauer, a former minister of Native Affairs under Scanlen in the eighteen-eighties. His opinions make interesting reading, in that they indicate something of the outlook of the man who, ten years later, was to sponsor the Natives Land Bill during his second term at this ministry, under Botha.

He told the Commission, for instance, that he, personally, 'would not like to be surrounded by a number of natives who live by their wits', but that if a native was actually engaged in farming in that region, 'and was a respectable man', he would not object. He then continued:

> 'I happen to be interested in stock-farming in the Eastern Province, and have suffered much because of idle natives about; they are not owners of land, but squatters.
>
> ....'Many

'Many farmers allow numbers of natives to reside on their farms for a small rent, who in many instances live by their wits or off their neighbours.' (8)

At this point, a member of the Commission spoke of the pressure upon the existing land by natives in the Cape, and proceeded to put to Sauer what must now appear an historically important question:

'Are you in favour of giving more land to the natives?'

Sauer's reply is disappointing on the whole, for he avoided the main issue:

'In this Colony, we have no more land to give them, and I would not give any people land to which they have no right and which belongs to the state.
'But I would recognise the rights that people have, as we do in this country, where natives occupy land which by right they are entitled to occupy, we must recognise this right'.(9)

Asked about the alternative to letting natives develop into a separate people, and within their own limits, Sauer replied:

'I have no objection to his developing as a separate people. It may be best that he should do so, but you must recognise that he has his rights, or otherwise, in my opinion, there will be serious trouble in South Africa.
'You cannot always sit on a safety-valve.' (10)

During the post-war era, however, the main preoccupation of each of the four colonies, was the process of "healing and settling", with all its multitude of concommitants, and no startling changes in native policy

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8. Report of the South African Native Affairs Commission (Evidence) Vol.IV, No.45,215, p.931. He was referring mainly to the Albany district, where "kaffir farming" was prevalent.
9. Ibid., No.45,218, p.931.
10. Ibid., No.45,272, p.937.

therefore came about. The Cape already had a well-established policy which was not giving cause for complaint to either English-speaking colonists or Afrikaners. Due principally to the efforts of the missionaries, the Cape natives, were, in the main, in advance of the natives anywhere else in Southern Africa.(11)

A distinguished visitor to the country immediately after the Anglo-Boer War once remarked that, though the missionary was an excellent teacher, he was generally a poor politician.(12) In the old Cape, however, it suited the authorities to leave the education of the natives and all other aboriginal races entirely in his hands, and so perhaps he cannot be blamed for instilling into his charges the belief that all men, being equal in the sight of God, had a right to a voice in the country's affairs too.

By the end of the Anglo-Boer War there were already several native newspapers in the Cape, most of which had had some missionary backing at the start. Almost without exception too, the "educated natives" were former "mission boys" and although, as will be seen, most of the "white" churches (and this included even those with a nominally "liberal" attitude on the native question and, as often as not, a strong missionary arm) preferred to ignore the

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11. It was from the Cape natives that the most articulate protests against the Land Act of 1913 were to come.
12. J.Ramsay MacDonald, "What I saw in South Africa", London, 1902.

probable hardships in store for the natives after the passing of the Land Act, their one-time missionary teachers were the natives' most articulate supporters.(13)

Natal native policy from the 'eighties until the passing of the Land Act in 1913 has been described as 'embalmed Shepstonianism plus acquisitiveness'; in short, 'the popular voice in Natal opposed Shepstone's policy when it was just and necessary, and supported it when it was obsolescent.'(14) By natural processes, moreover, the tribal system was slowly breaking down.(15) There was virtually no land still available for purchase by either race; much of the land formerly owned by natives in Zululand had been alienated to whites, and there was much overcrowding in the locations.

All these factors contributed to the decline of Shepstonianism, for its very maintenance presupposed availability of land to both rates, both in order that it continue to operate successfully as a system, and also maintain an equitable distance between the two racial groups. For all this, the people of Natal believed, as one prominent politician, F.R.Moor, told the Lagden Commission, that their natives were 'the best mannered, the best behaved, and the

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13. This was the case even in Natal, where the education provided by most of the missionaries had not been such as to nurture African intellectuals.
14. E.H.Brookes and C.de B.Webb, op.cit. p.57.
15. The recruitment of natives to work on the Reef mines had contributed to this process.

most law-abiding (native) people we have got in South Africa.'(16) This they considered a tribute to their native policy, of which Merriman once wrote that it was 'designed to keep the natives in a state of barbarism.'(17)

The Natal Native Trust had by now become a territorial framework within which the Shepstonian system could be pursued, with minor modifications, for an indefinite period. It will be remembered, however, that this system had been designed, in the first instance, as the beginning of an evolutionary process, both social and political, but by this time the Natalians, having gladly accepted the first "stages", were loath to proceed to the later ones.

Although the Native Affairs Commission was dubious about the value of the Trust system, and did not recommend that it be continued, it implied that Shepstonianism should nevertheless be carried to its "logical" conclusion:

> 'Any land so held and acquired should be converted into individual holdings as soon as a desire for change is manifested by those who can establish that they have proprietary rights in those lands.' (18)

In 1906, however, began the upheaval now known as the Bambata Rebellion, for which the Shepstoniam system, which had given the chiefs an illusion of power, was, in part, blamed.

The Natal Native Affairs Commission which sat immediately after this disturbance, noted that the natives

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16. South African Native Affairs Commission, Vol.III No.21,029, p.233.
17. Merriman Papers: Merriman to Goldwin Smith, 12 Jan.,1908.
18. South African Native Affairs Commission, Vol.I para.208, p.39.

seemed""poor and discontented".[19] Neither of these factors testified to the effectiveness of "paternalism", and the Commission was virtually brought to the conclusion that Natal was without a native policy.[20]

On the other hand, though the Commission was not, by its terms of reference, obliged to make recommendations about the further allocation of land to natives in either Zululand or Natal, it nevertheless felt obliged to point out that its findings had led it to believe that 'the struggle for land was simply the struggle for life', and that 'a lack of administrative forethought' was responsible for the absence of 'full and economic occupation' both of the Reserves and Locations in Natal.

It seems, however, that the commissioners saw the land question more from the point of view of the Europeans than from that of the natives, and that their remarks on the decline of the condition of the natives were intended principally as a warning to the whites as to the effects to be feared therefrom:

> 'The vital necessity of reserving more of Zululand for the overflow from Natal, as well as the natural increase in the population, is one of the most pressing aspects of the question, and must receive immediate attention.' (21)

Despite the warnings of the Commission, nothing was done in the few years which remained before the coming of Union in 1910, and the uneasiness of the people of Natal on observing the first Ministry of Native Affairs in the

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19. Natal Affairs Commission Report, 1906-7. para.10, p.3.
20. Ibid., para.12, p.3.
21. Ibid., para.10, pp.2,3.

hands of the Cape liberal, Henry Burton, can to some extent be gauged from editorial comment later that year. This particular leader-writer seemed to feel it his duty to warn Burton of what the Natalians expected of him:

> 'A rule of perfect justice, gentle and guiding in its general trend, but stern and quick in punishment when the occasion demands severity, must be the rule among men who will form the ruling powers in the first decade of the Union.'

The next passage in this article is so typical of an attitude common in Natal as to be infused with unconscious humour;

> 'The only sensible policy to be adopted is that of the wise but discerning master of a large school who encourages every laudable attempt at mental advancement, but who summarily checks any development of the savage instincts of primeval human nature.' (22)

Further evidence of paternalism is to be found in John Shepstone's remarks in his survey of the Native Question in March 1906:

> 'A parent cannot allow his children to run riot and commit all kinds of mischief, then to turn round and punish them for his or her own neglect. To manage the Native he must be carefully guarded and watched as any child by an anxious and judicious parent.' (23)

So much closer to "northern" attitudes than to those held by the liberal element at the Cape were the views of the Natalians at that time, that yet another

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22. Times of Natal, 2 September 1910. Confidence in Burton increased the following year, however, when he made a tour of Natal (see Times of Natal, 25 August 1911); all this probably contributed to the reluctant but nevertheless good-humoured resignation with which Natalians received his announcement regarding the Native Trust in 1912.

23. John W.Shepstone, The Native Question of Today, Pietermaritzburg, 1906.

Shepstone, Arthur, son of Sir Theophilus and nephew of John, quoted above, gave voice to sentiments which appear strikingly similar to those of General Hertzog, though Hertzog's opinions on this subject were not made public until a little later.(24)

Arthur Shepstone believed that the natives should be restored, 'as a people', to 'their original position as independent tribes, under the British government, as a paramount and suzerain power.' Thus far, perhaps, his words bear the stamp of traditional Shepstonism, but then he goes further:

> ' They should be allotted reserves and locations for permanent occupation, where they will have security of tenure ... where they can manage their own affairs, both tribal and domestic, where they will be free from the white man's politics, where they will make or mar their own destiny, where they can live in peace and contentment for generations, where no Europeans will be permitted to obtain or occupy land, where they will be supervised by Commissioners appointed by the British Government and where they will be responsible to it alone.' (25)

Had it depended upon the Shepstone family alone, in fact, Natal might have seen a form of segregation not unlike that described above, for John Shepstone had been Secretary of Native Affairs in Natal in the eighteen-seventies and such was his confidence in his own opinion, backed, admittedly, by a wealth of experience, that he invariably

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24. Arthur Jesse Shepstone, 1852-1912, was, at the time of his death, a Justice of the Peace and Chief Native Commissioner for Natal.
25. Times of Natal, 1 November 1910. Editor's Note: We take it that he means the Governor-General in Council. Also, of / statement by Hertzog, ch. IV, p. 91.

found an audience, even if it was not one which agreed unanimously with him.

This was also the case, it seems, at a reception held at the Cape in January 1910, at which John Shepstone was present, along with Philip and Olive Schreiner and C.F.Tainton, an official of the Cape Native Affairs Department.(26) In the course of a discussion among some of the guests, Shepstone startled the company by his denunciation of traditional Cape policy because the whites had 'given away the purity of their race.' His typically Shepstonian solution was racial segregation, and the very words he chose have the ring of those used by Hertzog two years later when he spoke of territorial separation:

> 'Your first task is to draw the racial line. It is to be drawn at the half-breed.' (27)

That such evidences of miscegation as existed in the Cape should ever have come to trouble the people of Natal is, perhaps explained by certain passages in the 1906 Commission report.

This referred to the "debauchment" of native girls in Natal by white men, especially policemen, in the outlying districts. The Commissioners, in fact, regretted that their findings 'teemed with references to this unpalatable subject.'(28) There was in Natal a Morality Act,

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26. The date given for this reception (31 January 1911), is evidently a misprint, as the pamphlet in which it is described is a reprint from the African Monthly edition of January 1910.
27. J.M.Buckland, A Forward Native Policy, Grahamstown, 1910.
28. Natal Native Affairs Commission, 1906-07, para.69 p.25.

which forbade relationships between native men and white women, but not the reverse, and the number of half-caste children had lately increased.

> 'Here are substantial grounds for discontent and resentment, and, as proofs of solicitude for their welfare are wanted for their satisfaction, suitable measures should be adopted for penalising these acts by whomsoever committed.' (29)

Many of the people of Natal, fearful lest the "British" character of the colony should be submerged, and that their own peculiarly provincial attitudes towards native policy, and indeed on the policy to be pursued with regard to all non-whites in Natal - including their growing Indian community - would not be respected by a central government, had entered the Union with certain reservations. They were apt to refer to their province as "the Cinderella of the Union", and were quick to protest if it were not given its fair share of cabinet seats or government funds. They did not welcome Botha's breaking up of the four provincial agricultural departments, which was followed by the dismissal of certain of the chief officers and the transfer of others to Pretoria.(30) They were prepared to concede that there might be some merit in Burton's Squatters' Bill (subsequently dropped) which was published at the beginning of 1912, but saw this proposed legislation as a possible addition, and not an infringement upon

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29. Natal Native Affairs Commission, 1906-07, para.69, p.25.
30. Natal Witness, 17 January 1912.

such legislation as they already had in connection with land and natives in Natal.

It was with marked hostility, therefore, that Natalians greeted the announcement in the Government Gazette Extraordinary at the end of January 1912, that it was the intention of the Minister of Native Affairs (Henry Burton) to introduce legislation which would repeal Act No.29 of 1910 and Act No.1 of 1909, Parts I and IV - that is, the laws which had guaranteed the continuation of the Natal and Zululand Trusts under the Union.(31)

Their main objection was that the conduct of native affairs in Natal would be transferred to "a political office". It was also feared that some of the concomitants of Cape liberalism might be allowed to undermine the "paternalism" of Natal.

> 'Again, there is the danger that the temptation [on the part of the government ?]to acquire additional support [from the Natal natives?]might cause the granting of a native franchise, and the "blanket vote" of the Cape might be adopted throughout the whole Union.' (32)

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31. Natal Witness, 31 January, 1912.
32. Natal Witness, 5 February, 1912. This referred to the practice of certain unscrupulous Cape politicians of bribing the natives (who formed a sizeable proportion of the electorate in certain "eastern" constituencies) with blankets. Though his name is not mentioned, this is possibly a jibe at J.W.Sauer, who is said to have had a part in such an election in 1898. This is one of several unexplained "incidents" in Sauer's career for which no satisfactory explanation has thus far been vouchsafed. (See Cape Times, 25 July, 1913, p.8.)

When introducing this legislation in the House on March 7, Burton pointed out that the entire operation was, in fact, "a formality", which was 'due to the necessity for making provision for the control of native lands in Natal since Union.' It was expensive to maintain a separate department in Natal with four Native Commissioners, and a point had now been reached, Burton informed his listeners, when 'the Government had decided that it would not continue these four Native Commissioners.'(33)

The Natal contingent in parliament was not a strong one, and their protests were unavailing. The bill became law and the Natal and Zululand Trusts were absorbed by the Union Ministry of Native Affairs. For the natives themselves the status quo was maintained, but the power of the government to legislate for natives throughout the Union was appreciably extended. One more step had, in fact been taken in the direction of prescribing "one law for all".

This had been the wish expressed by General Botha in the course of his evidence before the Transvaal Labour Commission of 1903, and although the further implications and effects of this statement (if indeed it can be said to have had any direct effects, as such, and not simply to have been a reflection upon the thinking of that period in general) will be discussed a little later, as will be the part played by Burton in this gradual "streamlining" of

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33. House of Assembly Debates, 7 March 1912; pp.943,944, cf. the tersely expressed opinion of Sir Walter Stanford, to be found in his Diary of 1912 (Stanford Papers), in an entry dated 6 February: 'I think it [the abolition of the Natal Native Trust] is right.'

native legislation which preceded the introduction of the Natives Land Act of 1913.

For the moment, however, it might be enough simply to point out that, in all probability, it was during the years between the end of the Anglo-Boer War and the coming of Union, that the germ of an idea may have been present in the mind of J.W.Sauer, the Land Act's eventual sponsor, if we are to judge by his reply to Theo Sohreiner, who proposed in the course of the 1905 session that proclamations promulgated in the (Cape) Native Territories should be published for criticism.(34)

J.W.Sauer, replying, indicated that he had studied the Annexation Act of the Transkeian Territories, 'and as the law now stands we can legislate for Pondoland and the whole of the Transkei.'(35) (In the division that followed, he voted against the motion).

Once Burton had steered the bill bringing the powers formerly invested in the Trusts successfully through parliament, the Union government could legislate for Natal and Zululand as well as for the rest of South Africa. This was, in fact, a great step forward, although no special significance was attached to it at the time. Since the end of the Anglo-Boer War, however, (to go no further back), there had been a strong feeling in Natal that some form of segregation should be maintained, as long as it was not of such a nature that it would interfere with the farmer's labour supply, so that when the Land Bill was mooted, there was no opposition from this province.

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34. Cape Hansard, 6 April 1905, p.202.
35. Ibid., pp.204, 205.

A Natal politician and writer of this time who held strong views on the subject was Manchester-born Maurice S.Evans, who had visited the Southern States of America and returned convinced that South Africa could learn from the mistakes of the rulers there. Both in the States and in the Union, he felt, it was the duty of the whites to give the black man 'not an individual opportunity but a racial opportunity.'

> 'It means a separation of the races to an extent not yet attempted, to give each race its opportunity, and to prevent the evils of race contact and race demoralisation.'(36)

When Evans went to the United States in 1912 he already had some preconceived ideas on the subject of racial separation, for he urged this as a solution to South Africa's problem two years before in his book, "Black and White in South East Africa."

In this earlier study he had indeed pressed for the adoption of 'a theory for which its advocates claim much, even to the final solution of the native question.'

> 'I refer to the segregation of black and white, each in its own area or areas to work out its own salvation with as little interference or admixture with the other as possible.' (37)

The dangers of "interference and admixture" were, however, less great in Natal than in the Cape, or, more

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36. Maurice S.Evans, Studies in the Southern States from a South African Point of View, Durban, 1913, pp.10, 11. (Although this pamphlet appeared only in the middle of 1913, it was serialised in the Natal papers during April).

37. Maurice S.Evans, Black and White in South East Africa, London, 1911, pp.275, 276. In the Stanford Papers Schedule F(mm), there exists a cutting from an unidentified Natal newspaper of 1915 in which Evans is reported to have expressed concern at the poor quality of the land (admitted by Beaumont himself to be 'malarial, sandy and badly watered') allocated by the Land Commission to the natives of Zululand. His actual words were: 'As an advocate for (sic) territorial separation, I want more detailed information both for myself and for the Natal Native Affairs Society before abandoning this attempt.'

particularly, in the two northern colonies, for there the problem of the poor whites or "poor Dutch" was more prevalent, and the effects which could be anticipated from the intermingling of such degraded whites and the non-whites presented a major problem during that period.

De Kiewiet has said that the Poor White problem was "obscurely present" even in the eighteenth century, when the first trekboers moved beyond the perimeter of civilization as it then was, around the settlement in Table Bay.

The poor white question was especially bad after the Anglo-Boer War. Many Boer families in the Republics were impoverished by 1902, but in Natal there were few devastated farms and, in consequence, fewer landless whites than elsewhere.

The Poor White problem had first confronted J.W. Sauer as early as 1881, when he had accompanied General Gordon on a tour of the Transkei.(38) They came upon a group of Boer shanty-dwellers settled unlawfully in Emigrant Tembuland, and only the arguments of Gordon (with whom Sauer was to have serious differences in another connection shortly after this), dissuaded him from calling up the Cape Mounted Rifles to have them evicted.(39)

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38. This was the only journey he made through the Transkei, the most populous native area in his charge, during his first term (under Scanlen) as Minister of Native Affairs.
39. J.W.MacQuarrie, Stanford's Reminiscences, Vol.I, Cape Town, 1958, p.180. cf. In the Stanford Papers, Schedule F (gg)3, there is a Memorandum on a Visit to the Native Territories by H.Burton, then Minister of Native Affairs, in 1909, in which he suggests the removal of a 'low ignorant, uneducated type' of white from the Mount Fletcher area, though 'even this could not be attempted in the case of them that have married native women.'

Tracing the development of Sauer's ideas on this problem, one comes across a report of a debate in the House in 1894 during which Sauer supported another member who had advocated a scheme for providing employment for poor whites on irrigation works. He also suggested that the state should indenture the children of such families up to a certain age.(40)

Some of Sauer's speeches on the Glen Grey Bill later that month also indicate that he was deeply troubled about 'the evils of white people living side by side [with natives]':

> 'I do not think a greater evil could befall the whites of this country than that they should go in and acquire small plots and live amongst the natives.
> 'It is not intended that a man should occupy more than one plot ... look at the class of whites you will get there - a white man who will find the society of white men uncongenial to him.'

Sauer wondered what would become of such a man, or of his children. He thought it unlikely that he would raise the native to his level, but that there was a strong possibility that he would 'sink to the level of the native'. This would, he warned, 'inflict irreparable loss on the white people of the country'. He felt that it was the duty - and might conceivably, be also the salvation - of the whites to show 'by their just laws and civilization that [they] were the superior race.(41)

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40. Cape Hansard, 24 July 1894, p.346. cf. Henry Burton, Minister of Railways, formerly Minister of Native Affairs, addressing the Commercial Conference in Cape Town, on 2 January 1913, is reported as saying: 'If they wished to maintain the supremacy of the white race it would be, not by keeping the black man down, but by qualifying themselves to fill a higher station in life. The white man's danger ... was his own ineptitude, and it was for him to equip himself and so strengthen his position in South Africa. Meanwhile, it was their duty to adopt a just policy that would lead to a successful government of the native races.'

41. Cape Hansard, 30 July 1894, pp.382, 383.

Having observed the failure of a large number of his own people to do this, especially during the difficult post-war years, Sauer set about doing what he could to alleviate the condition of at least some of the poorer Afrikaners soon after he entered Botha's first Union cabinet. As Minister of Railways, he was in a position to offer them employment as unskilled labourers.(42)

In seeking a solution to the Poor White problem by placing as many as possible in work, Sauer found himself up against a combination of circumstances which has not, perhaps, been stated more succinctly than by the historian W.M.Macmillan, then a relatively new arrival in the country. Macmillan had investigated the problem in Grahamstown, where he was teaching at the time.

> 'The solid basis of the native menace is the fact that the native provides a class of workmen who, while satisfying their own needs relatively easily, reduce the standard of life, and tend to degrade whites down to and below their own level.' (43)

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42. Sauer did not himself initiate this system. See Select Committee Report on European Labour Conditions, May 1913, Appendix E, p.xxvff.

43. W.M.Macmillan, Social Conditions in a Non-Industrial South African Town, Grahamstown, 1915. cf. Transvaal Leader, 21 January 1913, reporting General Hertzog in Pretoria. He referred, inter alia, to conditions in the US (Southern States), and to the fact that as long as the European feared the native as an economic rival, he would be unlikely to do justice to him.

Had this not been the case, Sauer would like to have seen whites substituted for native workers on the mines also, but he was compelled to admit that this was virtually impossible because of the high rates of pay demanded by Europeans. The following passage from his speech in parliament on this question on 17 February 1913 (ten days before his dramatic 'statement of policy') indicates that Sauer had himself observed the condition of these degraded whites shortly before, and also that he had at least dipped into the literature then current on the Negro problem in the Southern States of America from which Maurice Evans, it will be remembered, believed that the Union could learn much:(44)

> 'Just before I came down to Cape Town, I saw some white men of the bywoner class at Pretoria - some of them were advanced in years - working with pick and spade, and I sympathised with them. (an Hon. Member: Why?)
> 'Because they are not accustomed to do that sort of work and I felt very much inclined to take off my hat and shake them by the hand.'

Sauer doubted whether they could have found white men, "years ago", to do work of the kind they were often to be found doing then, and their number was increasing. With reports of conditions in the Deep South obviously on his mind, he feared for his own country where, if the situation

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44. This was a contemporary phenomenon, for by 1905 the American Negroes had been emancipated for forty years, and though their living standards were generally low, there were at that time several prominent and highly articulate Negro intellectuals and educators such as Booker Washington and W.E.Burghardt du Bois. Books written by Negro "ex-slaves" and, in at least two instances, "ex-colored (sic) men" flooded the market.

were not arrested, poor whites, like the "mean whites" or "po' white trash" of the States below the Mason-Dixon line, might end by living cheek by jowl with blacks.

> 'I believe you will see the change which has happened in the Southern States come about here. There is one thing that is necessary to do in this country and that is that the white child should get education, and education of the right sort.' (45)

The retrogression of a large number of the whites was, however, only one aspect of the troubled situation in the Union in its first years. Parallel with this alarming decline in the living standards of many whites was the observed upgrading of the social conditions of a high proportion of the natives. In 1903, Sauer had been asked by Lagden and his commissioners whether he looked forward to an improvement in the status of the native, or to the likely increase in the natives' hold upon social and political affairs. His reply indicates both his grasp of the developing situation, and also a certain unease.

> 'I think that that will be the case, and, saying that, I am expressing an opinion.
> 'I think the native race is a clever race, and, for good or evil, I believe that the native race in South Africa will be a stronger factor than he is today.
> You are not going to stop that by withholding his rights and restricting his privileges.'

...../Sauer

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45. House of Assembly Debates, 17 February 1913, p.320 At the conclusion of this debate, it was resolved to set up a committee to inquire into the extension of the field of white labour. Sauer was appointed to this committee, which began its sittings on 19 March 1913 (First Reading of the Land Bill, 25 April) and concluded its proceedings on 20 May (the Land Bill became law on 16 June 1913).

Sauer went on to recommend to the Commission that they should employ "methods of justice" when dealing with the natives.(46) By 1913, however, he may well have come to believe that more drastic methods were needed to prevent that section of the whites which was sinking from becoming submerged by the black masses on the labour market, and more especially since these masses were being influenced by a small section of their race which was rapidly rising in the scales.

Although the South African Bantu could not match the cultural and literary flowering of the American Negroes at this time, their achievements, considering their special circumstances and ~~achievements~~, were remarkable. Despite all the obstacles which nature, and their white rulers, had placed in their way, a handful of native leaders, educated either within the Union or abroad, had gained influence over their own people.(47)

The only half-concealed fear and antagonism which these few outstanding men occasioned in certain whites was further aggravated by the observed resilience of the Bantu, by their virtual "unkillability". This natural (but by no means universal) hardiness on the part of an aboriginal race, was pointed out by a British-born anthropologist, Dr.Robert Broom, in 1910.

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46. Report of the South African Native Affairs Commission, 1903-05, Vol.IV, No.45,271, p.936.
47. These included J.T.Jabavu, John Knox Bokwe, Dr.W.Rubusana, the Soga family, Solomon T.Plaatje, and John L.Dube. Several of these men had been connected with the native press.

'Almost all the coloured races of man go down before the onslaught of the white man's diseases and alcoholic drinks.
'The South Sea Islander, the Australian, the Bushman are all passing away; but the Bantu thrive, and today are multiplying twice as fast as the whites.' (48)

Broom was convinced that before the end of the present century, white civilization would be replaced by black, for there was no longer any need for the natives to rise in rebellion or to go to war against the whites as had been the case in the past.(49) They had only 'to breed and study'. He concluded:

'Since the Zulu War of 1879, there has been no serious native war. There has been, however, a far more serious peace'. (50)

In the Cape, in which the natives who wished to do so had had more opportunity to study than elsewhere, and in which there had been a 'far more serious peace' since 1879, the overall increase in numbers of the native population had not been as noticeable to the white farmers as the recent increase in the number of squatters. So pressing had this problem become by 1907 that the native land-holding situation in the Cape Colony was deemed serious enough to justify the appointment of a Departmental Commission which would look into the occupation of land in unreserved areas.

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48. Regarding the fate of the South Sea Islanders, cf. Alan Moorehead, The Fatal Impact, London, 1968.

49. Broom's pamphlet was published ten years after the passing of the Land Act, but it is evident from a digest of his lectures delivered in Johannesburg in 1910 which was given by Solomon T. Plaatje in his paper Tsala Ea Becoana of 8 October of that year, that he had even then warned of the probable condition of the Union in a 100 year's time, and of black domination unless segregation were introduced.

50. Dr. Robert Broom, M.D., F.R.S., F.Z.S., The Native Races of South Africa (reprinted from Natural History, Vol. XXIII, No. 3, 1923, pp. 283-294), p. 289.

Though the scope of the commissioners was limited, and they were not required to make recommendations about territorial segregation, they implied in their Report that their findings had led them to believe that the ultimate solution to the entire problem lay in that direction, for even then natives in the Cape were forming syndicates to buy land.(51) In conclusion it was stated:

> 'A proper local government control of schemes of native urban settlements will tend to limit attempts at the acquirement of ownership by individuals whose stage of progress is insufficiently advanced to warrant their ambition, and will lead to an improvement of the standard of living of those able to acquire property;
> 'And the power of the government to limit the appropriation of land to purposes of Native urban settlements will, it is believed, promote the segregation of the white and coloured people in urban communities and the consequent welfare of both.' (52)

These regulations were intended to apply primarily to natives wishing to buy land in "urban settlements" (i.e. town locations), yet the evident coolness with which the commissioners viewed the possibility of under-developed individuals acquiring land

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51. Report of a Departmental Commission on Occupation of Land by Natives in Unreserved Areas (G.46-19) No.24, p.14.

52. G.46-19, No.70, p.30. The Commission consisted of C.Lansdown (Chairman), C.W.Chabaud, and C.W.Halse. Merriman referred to this Commission's Report (See Cape Hansard, 9 July 1908, pp.177, 178) and to the dangers of squatting, but said that he did not care to discuss the question at too much length because of the interests involved, though he was convinced that 'the native was coming into our territory urged on by the greedy European', who practised "kaffir farming". He called for the appointment of a commission to formulate a policy with regard to this issue, but nothing appears to have been done. J.W.Sauer expressed no opinions on this occasion.

near white settlements indicates that, in many cases which they had observed, the traditional Cape policy of "development" had not yet had the desired effect. On the other hand, this view was contradicted by another commission, also under the chairmanship of Lansdown, which was appointed to investigate the position with regard to land tenure and other matters affecting the natives in the Cape immediately after Union.(53)

This commissioner's report stated, in fact that the "generous policy" of the Cape was responsible for the progress of the natives in that Colony.(54)

Moreover, in contract to the previous investigating body, the later commission struck an optimistic note:

> 'Generally the native people are rising in the scale of civilization; they are advancing intellectually; and by their loyalty, their obedience to the law, their large share in the industrial life of the country, and their direct and indirect contributions to the public revenue, they are responding worthily to the policy of this Colony in the administration of Native Affairs.' (55)

Alone among the four colonies immediately before Union, the Cape could claim that it had systematically carried out a policy which, if not ideal in every way, conceded that her black subjects had a right to acquire education, to exercise the franchise if certain conditions were satisfied, and a right to develop along the lines they

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53. The other members were Col.Walter Stanford and J.C.Molteno.

54. Reports (Interim and Final) of the Native Affairs Commission, 1910 (G.26 - 1910), No.144, p.44.

55. Ibid., No.152, p.46, cf. Sauer on land policy, South African Native Affairs Commission, 1903-05, Vol.IV, No.45,218, p.931.

chose within the confines of their own territories.

In Natal, such "development" was not overtly encouraged, and it would appear that the Natalians preferred a native to remain a primitive - being cheerful, biddable and, on the whole, undemanding - which made "paternalism", as much the basis of their traditional attitude as Shepstonism itself, so much easier to practise and the administration of their natives far simpler.

Of the two "northern" colonies, it could have been said that they differed very little in their views on the native question, that they did not encourage the development of their natives and ignored such progress as was made in spite of themselves, that they were intent upon restricting the natives to the inadequate reserves which had been allocated to them, and upon allowing them to live upon white-owned land only when and where their labour was needed.

Though the Transvaal had had from 1886 onwards a large and growing "Uitlander" population, these newcomers, being concerned with mining or with commercial enterprises in the new mining towns, had, like the Boers, seen the natives only in terms of their labour potential, and so pressing were their needs for labour that they hardly ever questioned the policy of the Transvaal government on the subject of native land allocations or indeed on any aspect of native administration.(55)

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56. There was, however, a small dissenting group regarding which see notn. 28 at the conclusion of the following section.

CHAPTER III

NATIVE LAND POLICY IN SOUTH AFRICA from 1902 to 1913.

(11) Towards Segregation; or, The Clearing of the Ground.

The union of the four colonies in 1910 could not have been achieved without certain compromises having been reached. The Cape, for instance, after entering the Union suffered a steady diminution of its traditional native policy, though perhaps few realised the extent to which "backveld" doctrines would supplant what remained of their old "liberalism". Such a compromise necessarily had its disadvantages.

There were no liberal groups in the other provinces (the Natal Independents were neither an effective nor an organised force), the "old Cape liberals" had by now grown older and less articulate, and of those who remained, only J.W.Sauer was still an effective force in Union politics.(1) Merriman had been passed over for the premiership, which had saddened Sauer, his long-time friend and political associate, but this did not

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1. Rose Innes was a Transvaal judge and W.P.Schreiner was in the Senate. F.S.Malan, although he had opposed the political "colour bar" in the Draft Union Constitution (see L.M.Thompson, op.cit., p.218) and believed that the non-whites should retain the franchise, had supported Botha for the Premiership and although included in the first Union cabinet was not especially close to Sauer or Burton. During the period 1902 to 1909, he had championed two of Sauer's pet causes, the rehabilitation of the poor whites and - in his capacity as Minister of Education - compulsory schooling of all white children in the Cape.

deter Sauer from accepting - with Merriman's full approval - a place in the first Union cabinet under Botha, as Minister of Railways. This was a non-controversial post and one for which his long experience well fitted him.

Sauer was then in his sixtieth year, and apart from an occasional attack of bronchial asthma, in vigorous health. He could reasonably have hoped to continue his career in public life for another ten, or possibly fifteen years. Himself a living representative of "the Cape compromise" between liberalism and reaction (or "the northern policy"), he had decided to exercise discretion in respect of the liberalism he had professed in an earlier day. In any case, less had been heard from him in this vein since the eighteen-nineties, and after Union he appears to have kept silent about his former ideals.

For Sauer, and for those among the Cape men who thought like him, however, Botha's appointment of Burton, a Cape man, and one who professed "liberalism", must have seemed a good sign.

Burton, in 1910, was forty-four years old and a successful advocate at the Cape. Neither the man himself, however, nor his precise views on the vexed subject of native policy, was well known to the country at large. Though he was known not to favour the conservative views of the northerners in native affairs, he was too young to have been among those whose voices were

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raised in defence of native rights in the eighteen-eighties.(2)

When the first Union cabinet was announced, the northern press gave scant space to this new, "safe" minister, and the Cape press was lukewarm but, on the whole, approving. Though some pointed out that Burton had little experience in native affairs, it was conceded that a Cape man in that office was better than any other.(3) Several months were to elapse before his actions evoked criticism from any section of the community.

Burton and Sauer had reached an amicable arrangement with Merriman, after the Premiership had been offered to Botha, by which they would serve in the first Union cabinet (in which they had both been offered posts), though retaining those attitudes which would, in an earlier day, have been called "liberal".(4) How closely Burton and Sauer co-operated during the period from 1910 to 1913 has been impossible to ascertain and it will become apparent during the discussion of the Land Bill in parliament that

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2. Tsala Ea Becoana, 16 September 1911, contains a speech by Burton in which he defines, for the benefit of his constituents, the meaning of the term "liberalism".
3. See, inter alia, Daily Dispatch, 1 June 1910; South African News, 6 June 1910; The Friend, 1 June 1910. See also Merriman Papers, J.Rose-Innes to J.X.Merriman, 31.5.10: 'The Bumbler [Sauer] I think has achieved a great deal - he has kept the Native Affairs portfolio for a Cape man.'
4. Dictionary of South African Biography, Vol.I (Cape Town, 1968) ed.W.J.de Kock, p.139. It should be remembered that Sauer had been more liberal in an earlier day, but that by the time he encountered Burton his opinions had modified, and he was thus able to match the latter's moderate and discreet liberalism with his own.

Sauer, though he may have apprised Burton of his intentions, had obviously not confided the details of his proposed bill to Merriman.

Burton, on the other hand, was there to meet Sauer when he returned from abroad on 30 October 1912, and discussions between them were said to have been held before Sauer proceeded north to Pretoria. Though Burton's bills while Minister of Native Affairs may seem to constitute a deliberate program of stream-lining in preparation for Sauer's Bill, there is no direct evidence that this was the case.(5)

Burton, once installed as Minister of Native Affairs in 1910, lost no time in setting in train a series of investigations which would enable him to review and, if the circumstances warranted it, to revise the situation with regard to native land-holding.

A Select Committee, of which he was chairman, was appointed in 1910 to examine the land question with particular reference to the squatting problem. On the basis of their findings, the members decided that the time had arrived when certain lands should be "defined, delimitated, and reserved" for natives. The number of these living on any one white-owned farm should be limited,

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5. P.V.Engelenburg, General Louis Botha, Pretoria, 1929, pp.254, 255. Graaff, the Cape minister without portfolio, is said to have been 'a close personal friend of General Botha' (see South African Who's Who, 1913). He was overseas at the same time as Sauer during the 1912 parliamentary recess, and he, Sauer and Burton were thought to constitute a parliamentary faction on their own (See Tembuland News, 8 November, 1912, and Cape Times, 30 October 1912, p.9, col.1).

and the sale of land, by white to black, or vice versa, should be prohibited outside those areas specifically designated for each.(6)

The bill which embodied the committee's conclusions was not gazetted until the end of 1911.(7) Considered in the light of what was to come later, it was a mild one, and the reasons for its withdrawal are hard to discover. Had it been carried, however, it would have affected the labour supply of the Free State farmers, and thus it is possible that it was destroyed by protests from several branches of the Orangia Unie, which still survived in a modified form.(8)

Solomon T.Plaatje, however, attributes withdrawal to his own persuasive powers and those of J.L.Dube,

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6. Report of the Select Committee on Native Affairs, S.C.3/1910, p.iii.
7. Union Government Gazette Extraordinary, 6 December, 1911; Government Notice No.2008, pp. xxix-xxxiii (Native Settlement and Squatters Registration Bill). In the Stanford Papers, the former chief Native Commissioner of the Transkei, by then a Senator, in an entry dated 24 January 1912, stated that he and Merriman agreed to the bill, but continues: 'It is bound to be hard on the Native population of the Northern Transvaal and Natal. In the Transvaal these people had had the land of which they were in occupation, and in some instances for generations, sold over their heads.' Public comment on this bill came in the new year.
8. P.Van Biljon, Grensbakens Tussen Blank en Swart in Zuid-Afrika (Cape Town, 1948), p.438, states: 'In sommige kringe het die Wetsonderwerp n storm van protes uitgelok omdat gevestigde belange aangetas sou word.' He does not, however, specify which "circles". S.T.Plaatje, in Tsala ea Becoano, 28 January 1911, says, quite correctly, that this bill was to have been introduced by Fischer (Lands), and that he and Schreiner had interviewed him on this question the previous month. In the issue of 18 February he speaks of "whitemen up in arms", led by a local lawyer.

both of whom took part in a deputation to Burton. There was no widespread public reaction to the bill at the time, but one Johannesburg paper states that it was simply "laughed out of court as admittedly impossible".

> 'It had all the appearance of having been drafted in a hurry with the sole object of promoting a more or less even distribution of native labour among the farmers.' (9)

The Free State, however, was to play a part in the political career of Henry Burton which was almost wholly unfortunate, for it was there that he was to suffer unexpected reverses, delays and frustrations. Possibly the reason for the entire absence of an affinity between the Cape minister and the Free State farmers was that Burton, imbued as he was with the southern colony's policy of "development", could find no common ground with the whites of this northern province who were opposed to such progress on the part of the natives. For their own part, they had done nothing in the way of improving or increasing the land already allotted to natives since the end of the Anglo-Boer War.

In any case, since the end of the War in 1902, by which time even the remotest areas of what was soon to become the Union of South Africa had been settled, and there was no longer any unoccupied land to which either the whites or the Bantu could still trek.

All that remained were certain areas of the

..../Bechuanaland

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9. The Star, 10 May 1913.

Bechuanaland Protectorate, which were largely waterless, but a former Lieutenant Governor of the Orange River Colony, Sir Hamilton Goold-Adams, had publicly suggested that Bechuanaland 'could be made habitable to Natives by a moderate expenditure upon boring and dam-making.'(10) Though many discussed his views, both at the time when they were made public and during the Land Bill's passing, no attempt was ever made to find out whether this proposition was practicable. It is nevertheless a credit to the perspicacity of Sir Hamilton that he suggested the "development" of a new country (and one inhospitable to whites) rather than the reapportionment of land in the Free State itself where, as he well knew, the farmers would be loath to give up their land.

By the time Burton had been seven months in office, the Free Staters had apparently overcome the reservations with which they had greeted his appointment.(11) At this point, however, his actions began to give them cause for alarm, for they were not prepared to brook any interference with their traditional policy.

At the beginning of 1911, another bill which, like the squatters' bill referred to above, would never be read in the House, appeared in the Gazette. Had it become law, it would have been designated 'The Orange Free State Coloured Persons' Fixed Property Act of 1911.'(12)

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10. Transvaal Leader, 29 April 1913.
11. The Friend, 1 June 1910.
12. Union Government Gazette, 13 January 1911; Government Notice No.93, p.xxvi.

It was designed to apply only to a small portion of the Free State, to the ward of Moroka in the district of Thaba 'Nchu, and its first three clauses, though they clashed with old Free State laws of the 'eighties, referred to the sale of land between "coloured persons" only and did not, therefore, seriously affect the status quo.

The fourth clause, however, threatened to abrogate the traditional Free State prohibition upon the sale of land by whites to natives. S.T.Plaatje claimed that it was dropped under pressure from Free State members and the Dutch Reformed Church clergy, and that on its account also, Burton was removed from Native Affairs when a reshuffle came fourteen months later.(13)

As a result of a cabinet crisis in June 1912, Burton went to Railways, Sauer was transferred to Agriculture, and Hertzog was placed at the head of Native Affairs. The session then being over and parliament in recess, Sauer left for Europe, and Hertzog commenced his fateful five months in office.

For a little over two years before that, however, nothing much had been heard of "Hertzogism", and in consequence there was no strong reaction in the press of the day - even in the Cape or in the eastern areas - to the appointment. It had been preceded by a good deal of preliminary negotiations among the members of the cabinet themselves, for though Sauer admitted that he was partly responsible for the crisis and expressed himself willing to abide by the decision of his colleagues on his future in the ministry,

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13. Solomon T.Plaatje, op.cit., pp.23, 24. This was the reshuffle in June 1912, following upon the dispute between Sauer (Railways) and Hull (Finance), and will be discussed in the following chapter.

Botha's own position was not strong enough to allow him to dispense with Sauer.(14) His erstwhile Minister of Railways at that time, it has been said, 'carried big guns with the Afrikaners in the Cape.'(15)

When the new cabinet was announced, many newspaper editors pounced gleefully upon the fact that Botha had accepted the resignation of Hull, the Minister of Finance, whose quarrel with the head of the Railways had caused the crisis and reshuffle. He had, however, retained Sauer - but as Minister of Agriculture only, which was considered a less prestigious office. Many assumed that a titanic struggle had taken place between the two of them, and that this had led to Sauer's being (to quote only a few among many writing in the same strain) "disrated", "outgeneralled and, if not actually disgraced [to his having] received real injury to his reputation as an old parliamentary hand."(16)

In fact, F.S.Malan, who describes the meeting at which the crisis was discussed, not only intimates that Sauer was prepared to stand down, but that Botha stated that a reshuffle was, in any case, necessary - beginning with Sauer. Smuts supported the Premier in this, and Hertzog was for increasing the number of ministers to ten. Malan himself wanted the cabinet to be reduced to eight.

Malan also states that Smuts had told him

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14. F.S.Malan Papers, Notebook, May 1910 to September 1914, pp. 124, 125.

15. Arthur Barlow, Almost in Confidence, Cape Town/Johannesburg, 1952, p.139.

16. The Friend, 27 June 1912; The Journal, 29 June, 1912.

that he (Smuts) had been approached by Sauer who wished to become a member of the Imperial Holders' Committee and that if this were arranged he would resign from the cabinet.(17)

Though Hertzog was willing to give up the portfolio of Justice, Sauer was loath to lose the Railways Department. After a two-hour-long wrangle, Botha threatened to resign. The following Wednesday (28 June) however, Malan met Burton and Sauer, and was informed by the latter that he had decided, after all, to give up his Railways and go to Agriculture. Malan gathered that he had agreed to do this provided that he retained his seat in the cabinet and that, at the same time, the number of members be reduced to eight.(18) He was subsequently told by Botha that if Sauer had refused another portfolio he (Botha) would have resigned.(19)

At this stage, Botha and Sauer were each in a position to destroy one another politically. If Sauer had resigned in anger, he would probably have taken Graaff and Burton (and possibly Malan) with him, making it

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17. F.S.Malan Papers, Notebook, May 1910 to September 1914, p.125, ' hy lid sou worden van de Imperiale Houers Komitie ...'. It has not been possible to trace this company.

18. Ibid., pp.127, 128.

19. Ibid., p.130. Sir Walter Stanford, in his Diary for 1912 (Stanford Papers), in an entry dated 11 October, states: 'He [Alfred Hennessy, a leading Unionist], judged after a talk he had with General Botha not long since that he is disposed to get Mr.Sauer out of the Ministry.'

virtually impossible for Botha to form another government, for the Prime Minister's prestige was then on the wane in the country at large, and references were not lacking to his administrative incapacity. Botha for his part (his alleged resignation "threat" notwithstanding) was determined to stay in power for as long as he could. He was moreover convinced that political power should remain the prerogative of his race.

> 'The corner-stone of his policy was the retention of political power - if possible for ever - by the whites, both as a matter of self-preservation and for the sake of the natives themselves.
> 'His second principle was that it does not pay to treat the natives badly, any more than it will enable them to interfere in the white man's concerns.' (20)

If Hertzog's public statements while at the ministry of Native Affairs gave many cause for alarm, so did those of Botha during this period, and even Stanford recorded that Imvo (edited by J.Tengo Jabavu) had stated that it did not like 'what General Botha has lately been saying about Native Affairs.'(21)

The Imvo was referring to Botha's tour of the Free State and the Transvaal during August and September, 1912. Although the premier's progress has been largely overlooked because its effects were overshadowed by that of Hertzog on tour through the Transvaal a month or more later, his statements deserve consideration in the present study, ranging as they did from his warning at Parys that 'if white people lost their land and became servants and

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20. F.V.Engelenburg, op.cit., p.273.
21. Stanford Papers, Diary for 1912, in an entry dated 27 September.

slaves the position would become most acute', (followed by a reminder of the overwhelming numbers of the natives), to the belief expressed at Bank in the Losberg district that "kaffir farmers" i.e.whites who permitted natives to farm their lands, should be sent to Coventry, 'and (that) at least where farming was concerned there should be segregation.' He made his fullest statement at Heidelberg where, for the first time he publicly promised a new law to control this problem.

> 'I fully agree that Kaffir farming must be stopped, and the Government is determined to stop it. Segregation appears to be the best solution of the many sides of the native question.' (22)

In the last analysis of the factors which contributed to the formulation of the Natives Land Act, due weight should be given to the public pronouncements of General Botha at this time.

In 1903, he had told the Transvaal Labour Commission: 'I am in favour of the Kaffirs being under one law for South Africa, under one law from Cape Town to here.'(23) To judge from his statements in the last quarter of 1912, he had not changed his attitude on this issue in the intervening nine years, and felt that the time was ripe for legislation of this kind. The circumstances which brought him to delegate the task of sponsoring it to Sauer were partly forced upon him willy-nilly, and partly dictated by his own shrewd common sense.

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22. The Star, 30 August, 2 and 21 September, 1913.
23. Transvaal Labour Commission, 1903, Evidence, para.11,212, p.719.

In addition to the question of whether Burton's successive bills in connection with native landholding, squatting, and the Natal and Zululand Trusts were the fruit of an arrangement to co-operate in matters affecting native policy between himself and Sauer, it is now necessary to consider whether there was during 1912 any "co-operation" between Botha and Sauer, whether Botha was dominated by Sauer, or whether Sauer was under compulsion from Botha.

By withdrawing Sauer's Railway Extension Bill in June 1912, Botha is said to have lowered his minister's prestige. In the crisis which followed, however, Botha nevertheless let Hull go and retained Sauer, but placed him at the ministry of Agriculture, so that Sauer was popularly considered to have been "demoted".

Botha's own prestige suffered at this time also, yet slowly but surely in the months that followed, and especially with Smuts behind him during the subsequent crisis in December, he regained much of the power he had once wielded in the cabinet itself.(24) Thus it is likely that the Natives Land Bill was drafted with the encouragement if not at the behest of the Prime Minister.(25) Botha, after all, had as strong a motive as either Hertzog

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24. F.S.Crafford, Jan Smuts, a biography, (New York, 1943), p.90. See also Tembuland News, 3 January, 1913.
25. The Star, 26 November 1912. At a local S.A.P.meeting after opening a creamery at Standerton, Botha announced that "a squatters' bill" would be among the legislation introduced during the next session.

or Sauer for wishing to see segregation introduced, for he thought that it would contribute towards the solution of the perennial Transvaal labour problem, both on the farms and on the mines.(26)

Though the last man to voice an opinion on the policy which ought to be pursued with regard to land for natives was a Transvaal member, Patrick Duncan (Fordsburg), he is mentioned here rather than in the early part of this chapter because his pamphlet, "Suggestions for a New Native Policy" appeared only late in 1912, after he had read the speeches made by both Botha and Hertzog during the recess.

English-born Patrick Duncan, who had once been Milner's protegé, had a strong interest in native land settlement, and was sure that many men in public life were seeking a new solution to this problem. He seems, however, to have been convinced that if such a solution did exist, it was to be found, not in generous new land allocations, but in teaching the native 'to use the land, so as to get a better living from it than he gets today'. He also believed that the native should be 'given a reasonable security in the occupation of it', that the 'points of contact' between black and white

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26. This problem was linked, in his mind, with the existence of the British native territories within or upon the Borders of South Africa. See Report of the Transvaal Labour Commission, 1903; Evidence, Nos.11,199 to 11,207, p.718. Despite the findings of this commission nothing much had been done to solve the labour problem of the farmers.

should be reduced, and that communal farming should no longer be permitted outside the existing reserves. On the other hand, Duncan believed that the native 'should be allowed to share in the influence of education', and to rise to "higher occupations", as soon as he was able to do so.(27)

When the Land Bill was brought into parliament, land and natives were not uppermost in the minds of most Transvaal members, so that, with the exception of such men as Botha himself and, of course, Duncan, this province produced the least speakers on the proposed legislation.(28) Yet not only in government circles alone, but among certain sections of the public also, "the new theory in Native Affairs, segregation", had been widely discussed the previous year.(29)

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27. Patrick Duncan, Suggestions for a Native Policy, Johannesburg, 1912, p.10. Stanford called this pamphlet "admirable" (See Stanford Papers, Diary of 1912, in an entry dated 28 October). Smuts found it "depressing reading", as he had little faith 'in the native's capacity for permanent civilization' (See Duncan Papers, A 123/25 Smuts to Duncan, 22.10.12). Duncan also referred to the Poor White Problem and the Negro Problem in the Southern States of America.

28. Table of Debates in the House of Assembly (Appendix I). n. Although its influence was negligible, it is notable that there existed in the Transvaal before Union a small Native Affairs Society, whose stated object was to encourage 'the development of the indigenous native races', and to promote 'an advance in civilization, in social order, and in industrial efficiency, without necessarily implying an identical system for white and native communities' (See Constitution and Rules, The Native Affairs Society of the Transvaal, Johannesburg, 1908).

29. cf. Stanford Papers, Diary of 1912, in an entry dated 23 October, Stanford mentions that he had agreed with Miss Violet Markham, the British authoress, that 'it is merely a system to introduce into the Union the Free State system of land policy.'

Without mentioning that he knew of Botha's tour, Sauer in London indicated that he was "unhappy" about Hertzog's having charge of Native Affairs in his absence.(30) At home too, Senator Stanford noted that Hertzog in that office 'gives cause for anxiety.'(31) This was long before Hertzog had given any clear indication of how he intended to proceed.

Although it has been found necessary to rely on scattered newspaper reports to trace signs and portents of the natives land legislation which was to come during the 1913 session, one more of these can be cited to show that practically all members of the cabinet had some inkling by the beginning of 1913 that it was coming though whether this information had been given to them officially or by Sauer in his personal capacity it is not at present possible to say.

In January, 1913, Henry Burton was asked to deputise for Sauer at a Commercial Conference dinner at the Mount Nelson hotel in Cape Town, and at least one commentator believed that, by his speech on that occasion, he 'indirectly ... replied to the Hertzog (two-stream) doctrine', as expounded at De Wildt only a few weeks before.

For instance, he stated that 'while he anticipated that the various races of South Africa would preserve their identity the same way as the Irish, Scotch or Welsh

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30. Merriman Papers, No.139, R.Solomon to J.X.Merriman, 30.8.12.

31. Stanford Papers, Diary for 1912, in an entry dated 26 June.

do in the United Kingdom, yet if he thought people from abroad could not be welcomed as citizens of the Union, he himself would leave the country.' His next words, especially since they were uttered at that particular time, may be construed as meaningful.

> 'Mr.Burton also referred to the Native question and expressed regret that there should be any thought of settling it to the satisfaction of one particular portion of the Union and not to the satisfaction of the whole.' (32)

Ten years before this, of course, Botha had stated in evidence before the Transvaal Labour Commission of 1903 that he was 'in favour of the Kaffirs being under one law for South Africa, under one law from Cape Town to here.'(33) Whether he saw land allocations as forming any part of natives' rights as such it has not been possible to ascertain, and Engelenburg in his biography of the Union's first Premier, though he provides a section entitled "Territorial Segregation" is vague and unspecific and gives no reference for his facts.

> 'Some of Botha's opponents [Hertzog?] went about assuring people that they carried a cut and dried solution in their pockets. He [Botha] openly deprecated the tendency to dwell on matters of detail, while the intention existed to settle a vital political issue by a Napoleonic gesture [the Natives Land Act?] .'

Engelenburg does not appear to believe that

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32. Tembuland News, 10 January 1913 (Cape Town letter January 4th). See also unabridged account in Cape Times, 3 January 1913, pp.7, 8: Burton continued saying that there was nothing that could be more disastrous, particularly in the early years of Union, than for the white race to be at each other's throats over their native policy', and discussed the many advantages of pursuing 'a policy agreed upon by general consent.'

33. Transvaal Labour Commission, 1903, Evidence, para. 11,212, p.719.

Botha had any intention of putting segregation into practice before pressure was brought to bear upon him by certain members during the early part of the 1913 session.

> 'He [General Botha] shied at an attempt to remove existing anomalies by steps that seemed likely to undermine permanently the whole of our institutions. 'He was prepared, however, at the instance of Mr.Piet Grobler ... and other members of parliament, to introduce a bill prohibiting both whites and natives from purchasing ground promiscuously.' (34)

There is no direct evidence in the records left by those who were present that Grobler, who was not in the cabinet at this time, had a particularly strong influence upon Botha, nor is it likely that any 'other members of parliament' (i.e.outside the cabinet) could have swayed his opinions during the months preceding the introduction of the Land Bill, especially since Botha had held opinions on much the same lines for some considerable time.

There remains, nevertheless, the possibility of an understanding between Sauer and Burton, and also the question of whether any pressure which may have been brought to bear upon Sauer by Botha.

In the ensuing section our main purpose will be to determine whether the Natives Land Bill brought before the House at the end of April 1913, was "Sauer's bill" or, as many have suggested, "Hertzog's bill", to which he had referred in his speech at De Wildt and at other times and in other places during his five-month tenure as head of Native Affairs.

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34. F.V.Engelenburg, op.cit., p.275. Grobler subsequently became Minister of Native Affairs under Hertzog in the 'twenties, and assisted him in sponsoring his "Native Bills".

CHAPTER IV.

THE FIRST THREE UNION MINISTERS OF NATIVE AFFAIRS (May, 1910 - July, 1913)

Between May 1910 and July 1913, there were three ministers of Native Affairs. All were lawyers by training, but there, for the most part, the resemblance ceased. Henry Burton held this office for two years and one month (the longest term of the three) and Hertzog for five and a half months during the latter half of 1912 when parliament was in recess. Sauer's term lasted seven months, and from the point of view of native policy was by far the most important.

Burton and Hertzog were both born in 1866, and each was thus Sauer's junior by sixteen years. Both had served in colonial cabinets - Burton under J.X.Merriman in the Cape, and Hertzog under Fischer in the Orange River Colony. Hertzog had been a judge in the Free State before the War. Burton, a practising advocate, was merely "well known" both professionally and in public life, in the Peninsula itself.

At the time when Botha decided to take them both into his first Union government, Burton was a relative unknown in the country at large, while Hertzog's name was already a by-word, for "Hertzogism" was synonymous with extreme Afrikaner nationalism, a force to be reckoned with in Union politics in the latter half of 1910. It was very generally believed that Botha himself had lost his own election in a Pretoria constituency on its account.

Yet once the 1910 election fever had subsided, little more was heard of such extremism, and by 1912

..../Hertzog

Hertzog was considered to have mellowed a good deal.(1) Thus, when Botha offered him the Department of Native Affairs in the reshuffle following upon the Hull-Sauer imbroglio of June that year, and he accepted, there was no strong reaction in the press.

If by 1912, the name of Hertzog was no longer synonymous with "Hertzogism", nor was the name of Sauer any longer synonymous with Cape liberalism. In 1910, after all, Hertzog was forty-four and Sauer sixty. Sauer, at this point in time, would have been justified in the belief that he had done most of what he had set out to do. In the new parliament, he knew, an overtly liberal policy would make no headway, and it would find few sympathisers either in the country itself or in the Imperial Government. For the moment, the liberal spirit must needs lie quiescent; the only practical course to follow was one of "wait and see". He was now a wealthy man, and an established figure in public life.

Though doubtless they had known one another by repute, there is no evidence - direct or indirect - that Sauer and Hertzog had ever met before the National Convention nor that they learned to know one another well until they found themselves together in Botha's cabinet in 1910, Sauer at Railways and Hertzog at Justice. At no time did they become close friends, and for all that they

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1. Tembuland News, 5 July 1912. This paper was published weekly in Umtata, and though it carried little except local news and topics of interest to farmers, it also featured, from 1911 onwards, an anonymous "letter from the Cape" by a gallery correspondent.

were in the same government, did not work together to promote any single piece of legislation between 1910 and the end of the 1912 session, except for such concerted efforts by the S.A.P.(South African Party) as were required of them both in the ordinary course of business.

There was no clash between them, which might be explained by the fact that during that period no controversial bills came before the Assembly. Even Burton's proposed bill to regularise the sale of land between natives and natives in the Free State at the beginning of 1911 was dropped before it came up for discussion in the House.

Those few years between the middle of 1910 and the middle of 1912 were relatively uneventful years in the long career of Hertzog, yet in them he was passing through what one writer has called "the second stage" of Hertzogism. In the first he had fought for "equal rights" for both language groups, in the second he enunciated his "two-stream policy", and only much later, when he had secured 'two flags, two anthems, two official languages, and the sovereign independence of dominion status [did] the third and last phase of Hertzogism [began].' In this last stage, he turned to the native question in all its aspects, and to the broad lines of general administration which demanded his attention as Prime Minister.(2)

Though his pronouncements upon the virtues of a "two-stream" policy came at the very end of the third

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2. A.E.G.Trollip, 'The First Phase of Hertzogism' (Unpublished M.A.thesis, UW, 1947), p.73.

year of his second phase, it should not be imagined that Hertzog's comparatively inactive parliamentary life between 1910 and the latter part of 1912 reflected a slowing-down of his extra-parliamentary activities, especially those on behalf of the Afrikaners. His popularity among the older generation of Afrikaners, especially in the northern provinces, was immense, and to the "Young Turks" he had acquired a kind of mystique. He was much in demand at political rallies in the "backveld", and this despite his halting delivery and his penchant for long-winded, legalistic phrasing.(3)

The writer quoted above, who has distinguished three "phases" of Hertzogism, has compared his activities during the two earlier periods with those of other "prominent Afrikaner leaders" in the Cape and the Transvaal.

It was these men, 'who, in their public speeches, were advocating those principles which we have defined as Hertzogism, and at the beginning of 1910, when the term Hertzogism was added to the political vocabulary of South Africa, Sauer and F.S.Malan in the Cape, Steyn in the Orange Free State, and Beyers and Wolmarans in the Transvaal, were all regarded as political leaders of the Hertzogites, in addition to General Hertzog himself.'(4)

Though some time had still to elapse before

...../Hertzog's

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3. L.E.Neame, op.cit.,p.245.
4. A.E.G.Trollip, op.cit.,p.171. of. J.Rose-Innes Autobiography, Cape Town, 1949, p.56.

Hertzog's historic progress through the northern provinces at the end of 1912, during which he delivered the contentious speeches which were to lead to his fall from office, his earlier views on the native question are indicated by the fact that he frequently made mention of the advantages of "segregation" in the speeches he delivered just after entering Botha's first cabinet. This he did, however, in so circumspect a manner as not to raise comment at the time.

Tatz has suggested that these convictions on his part can be traced to his "Orange River Colony" background, for it was there that the most near-complete system of segregation existed before the Land Act of 1913 extended this segregation to a wider sphere. Tatz also quotes from letters written by Hertzog in 1903 to prove that he had held these views for some time.(5)

Unfortunately, Hertzog never committed himself to a detailed written exposition of his scheme, so that against the day when his papers are made available to researchers, we can but piece together what is known of his policy, scattered and incomplete though these reports may be, and from sources which are in some instances both dubious and partisan.

When the native editor, Solomon T.Plaatje, and his deputation called on the Minister of Native Affairs at the beginning of 1912, on behalf of the native land-

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5. C.M.Tatz, Shadow and Substance in South Africa, A Study of Land and Franchise Policies Affecting Africans, Pietermaritzburg, 1962, p.14.

holders of Thaba N'chu, Hertzog received them civilly and gave them an outline of a scheme for segregation which he planned to introduce.

> 'He drew a ring round the Free State map of Moroka, with slices of the adjoining districts, and stated that his commission would definitely be instructed that this should form the Free State black areas, where natives will freely buy land, live and develop along their own lines, and have clerks in government offices, where they could be raised under government control without any interference from government susceptibilities.' (6)

Hertzog's next pronouncement was made within a matter of days of this highly ambiguous statement to the native petitioners, for on 7 December 1912 a long dissertation on his segregation proposals followed his well-known words on "foreign adventurers", a "two-stream policy", and the necessity for placing "South Africa first." (7)

Having expressed himself much put out by reports of natives buying up land, especially in parts of the Transvaal, where they had not lived before, Hertzog declared that 'the present situation would lead to the downfall of the native.'(8)

> 'Therefore, if we wish to do something it must be done by a line of demarcation drawn between black and white. In some places, white will have to give place to black, and in other places black will have to give place to white. This is really what I mean when I speak of segregation.'

...../Hertzog

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6. Tsala ea Batho, 10 May 1913.
7. The full text of this speech is to be found in The Star, 7 December 1912, but this latter portion is not given in D.W.Krüger's Parties and Policies (Cape Town, 1960).
8. De Wildt, where he made this speech, is a small railway siding close to Brits, which is to the west of Pretoria.

Hertzog was cheered when he told his audience that 'I and the Parliament' had realised that a bill to bring this about should be introduced during the next session.

On the other hand, he made it clear that 'it would very naturally be impossible to bring about this change at once through the whole of South Africa, and the change must be gradual.' (9)

The portion of Hertzog's speech which challenged the usefulness of the imperial connection precipitated the second cabinet crisis of 1912, for another minister, Col. Leuchars of Natal, resigned in protest.

While first Botha, and then Hertzog, had spent the parliamentary recess touring the "backveld" and addressing political rallies, J.W.Sauer, the eventual sponsor of an act presaging a "new native policy", which was the refrain of most of their speeches, was abroad.

Sauer had not shown up well during the dispute with Finance minister Hull, who had accused him in June 1912 of running his Railways as a "watertight compartment", and not consulting the cabinet as a whole about its expenditure. During the reshuffle that followed Botha had elected to let Hull go and retain Sauer, but had removed him from Railways to Agriculture, a portfolio which carried less "status". More important than this, he moved Hertzog to Native Affairs.

It is evident that Sauer kept himself informed of the course of events in the Union while abroad and watched Hertzog's progress closely.

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9. The Star, 7 December 1912, pp.9, 11.

Unlike the majority of parliamentarians, Sauer had never believed that Hertzog's changed conduct indicated a change of heart, for even before the latter's speech-making sortie in November and December, he was nagged by doubts of Hertzog's suitability for the post. At the end of August, for instance, when Richard Solomon, the High Commissioner in London, wrote to Merriman, he told him that he had seen Sauer on his way through the British capital and mentioned that the minister on vacation had not looked well. He wrote:

> 'I don't think that he is happy about Hertzog having charge of Native Affairs.' (10)

Sauer returned from abroad on 20 October and early in December 1912 came the storm occasioned by Hertzog's De Wildt speech, followed rapidly by the resignation of Leuchars, the resignation of Botha, his recall and the second cabinet crisis of 1912. F.S.Malan has prefaced his remarks on this crisis with the observation that, at this time , die naam van Hertzog was spreekwoordelik geworden by die algemene verkiezing (van 1910 die daarop gevolge.'(11) He also describes the cabinet meeting of 11 December 1912 as ‚heel onaangenaam', because Botha swore that his resignation would not spell the end of the policy of „toenadering" for the races.

Neither Hertzog nor Leuchars was present at

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10. Merriman Papers No.139, R.Solomon to J.X.Merriman, 30.8.12.

11. F.S.Malan Papers, Notebook, May 1910 to September 1914, p.134 (14 December 1912).

this meeting, and Sauer and Burton combined to declare themselves in favour of non-racial politics, such as had been prejudiced by the conduct of Hertzog, not only by his speech but by his entire attitude. Smuts too showed his anger at De Wildt, because it made a mockery of 'konsiliatie'.(12)

By 22 December, however, Malan was able to record his own accession to Mines and Education, while Sauer had taken up Justice and Native Affairs, and Burton was once again at Railways. He goes on to report two facts which do not accord with the rumours then current in political circles at the Cape, nor with one another. The first 'moelikheid' was, he admitted, almost 'van te kinderagtig 'n aard om vermeld te worden': this was the unwillingness of Sauer to take on the portfolio of Justice. This was of less consequence, however, than that Botha had consulted him on the question of whether or not he should give Sauer Native Affairs. He told the Prime Minister that Sauer, in this office, would be assured of the support of the Cape native voters.

This is followed by a statement that Hertzog at that time had drafted a law in connection with native administration, which included the bringing into practice of a policy of segregation ('afscheiding'). Botha felt - and Malan implies that he agreed - that this was an eventuality which should be prepared for 'en as hy Hertzog daarmee sal voortgaan, zal dit hom in botsing bringen met Sauer.'(13)

..../Engelenburg

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12. F.S.Malan Papers, Notebook, May 1910 to September 1914, pp.140, 141.

13. Ibid., pp.151, 152.

Engelenburg gives much weight to the part played by Burton and Sauer in Hertzog's ejection from the cabinet.(14) Editorial reaction varied from the approving comment by a Cape daily that Botha was 'to be congratulated on having resisted the pressure ... from the north to dispense with Mr.Sauer', to a Johannesburg journal's assertion that "the astute Cape minister" had 'managed to make use of General Botha's necessities in such a way as to secure a signal and overwhelming victory for himself'. (15)

Much has been written to suggest that Smuts was the real power behind Botha - both at this time and later - but Sir Keith Hancock has disproved much of this by pointing out the frequency of the phrase 'Ek wil' in Botha's communications with Smuts.(16) Botha, for as long as he remained prime minister, was the dispenser of place and power who had a hold over Sauer who, at that stage - and despite occasional rumours to the contrary - could not have hoped to replace him. Botha, for his part,

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14. F.V.Engelenburg, op.cit., pp.254, 255, cf.Eastern Province Herald, 30 June 1913, quoting Burton at Burgersdorp: 'Dealing with the Botha-Hertzog controversy, Mr.Burton stated that the impression that General Hertzog was excluded from the Cabinet merely on account of his speech at De Wildt was wrong. One had to go much further back for these reasons.' These reasons are not specified in the report.

15. Cape Times, 21 December 1912; De Volkstem, 20 Desember 1912; cf., a Johannesburg English-language newspaper, The Transvaal Leader, 21 December 1912, thought that Sauer "for all his faults", was an able administrator, and 'likely to be more cautious and level-headed than Hertzog at Native Affairs.'

16. Sir Keith Hancock, Smuts 1, The Sanguine Years, 1870-1919 Cambridge, 1962, pp.361, 362. See also F.S.Crafford op.cit., p.90, and Tembuland News, 3 January 1913.

chose to retain Sauer because he knew that he could make use of his vast parliamentary experience.

On the other hand, we have the word of Stanford that he had "had a talk" with Sauer on 27 December 1912.

> 'He told me that it was his own doing - taking Native Affairs. He regarded Hertzog as [erratic?] and apt at times to be carried away by ideas not always practicable.' (17)

When the names of the new cabinet were announced, however, the main objection to Botha's choice of ministers rested not upon the fact that he had appointed a former Cape liberal to Native Affairs, or even that of the four Cape ministers each bore some tincture of liberalism, but that it was lacking in "balance" between the provinces and was "a Cape Cabinet."(18)

Of the four Cape ministers, Sauer was by far the strongest.(19) Though Hertzog for the moment was out, his power in the country was undiminished, and his bill for segregated native lands - if indeed it had ever been

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17. Stanford Papers, Diary of 1912, in an entry dated 27 December. cf. F.S.Malan (quoted above) in his Notebook, May 1910 to September 1914, for 22 December 1912, p.52, reports: 'Botha raadpleegde my omtrent het gewen van naturellen aan Sauer.' He appears to have advised Botha to appoint him; cf. also, the Transvaal Leader, 21 Dec., 1912, among others, thought that Sauer had threatened Botha with the resignation of the Cape men if he were not appointed.

18. Cape Times 21 December 1912; The Friend 21 December 1912.

19. The new cabinet of December 1912 otherwise consisted of Gen.Botha (Transvaal), Gen.Smuts (Transvaal), Fischer (Free State), Sir Thomas Watt (Natal), Burton (Cape), Graaff (Cape), and Malan (Cape).

put into draft form - was still in his pocket.

It must have been manifest to Sauer, hurriedly settling into his new post, that Hertzog was likely to be the strongest force with which he would have to contend during the coming session, for even during the short period between his ejection and the opening of parliament Hertzog's name was scarcely ever out of the headlines. Though he appeared in the House only during the second week of the 1913 session, he seemed to all who observed him to be perhaps a trifle bitter, but by no means downcast.

In addition to his fears about Hertzog, Sauer had to contend with a hostile press in the northern provinces, in which the advent of a Cape liberal at Native Affairs was not welcomed in some sections. Some even expressed fears regarding the future:

> '[Sauer's] views and methods are so well known as fully to justify these apprehensions.
> 'It was a general regret, we believe, among people of all shades of political opinion in the Transvaal and Free State that General Hertzog should go before he had time to lay the foundation in Parliament of a reasonable and national policy.....
> 'Perhaps Sauer accepted on condition that he would carry out the policy. Otherwise there are troublous days ahead.' (20)

The conflicting opinions concerning the real authorship of the land legislation will be discussed later. For the present purpose, something should now

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20. The Friend, 21 December 1912;
cf. Transvaal Leader 21 December 1912.

Sauer in 1882, while Minister of Native Affairs in Scanlen's cabinet.

be said about the pilot of the measure, J.W.Sauer, a member of nearly forty years' standing, who had sat in five cabinets and had once, in 1890, been offered the Cape Colony Premiership himself.(21)

"Jim"Sauer, an Afrikaner born and bred but an elegant Cape "Anglikaner" by adoption, is in many ways a contradictory figure. Born in Burgersdorp of farming stock in 1850,(22) he had trained as a lawyer but, while still in his twenties, had entered the Cape parliament as an Easterner and a Spriggite.

Almost from the beginning of his long career, he had been known for his interest in the welfare of the natives, and several writers, both white and non-white, who have studied the Land Act period have agreed that his appointment to Native Affairs at the end of 1912 was 'regarded as a triumph for liberalism'.(23)

..../James

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21. In: Scanlen's cabinet as Minister of Native Affairs, 1881-1884.
Rhodes' cabinet as Colonial Secretary, 1890-1893.
Schreiner's cabinet as Commissioner of Public Works, 1898-1900;
Merriman's cabinet as Commissioner of Public Works, 1908-1910;
Botha's cabinet as Minister of Railways, May 1910 to June 1912;
as Minister of Agriculture, June 1912-December 1912;
as Minister of Native Affairs, December 1912-July 1913;
(For offer of premiership, see B.Williams, Cecil Rhodes, London,1926, p.185; and P.Laurence, Life of John Xavier Merriman, London, 1930, pp.125, 126).

22. H.Sauer. Ex Africa, London, 1937, p.1ff.

23. S.McD.Lekhela, An Historical Survey of Native Land Settlement in South Africa from 1902 to the Passing of the Natives Land and Trust Act of 1936 (Unpublished M.A. thesis University of South Africa, 1955) p.87). See also P.Lewsen, Selections from the Correspondence of J.X. Merriman, 1870-1890, Cape Town, 1960, p.95.

James Rose Innes, a friend and political colleague, though he approved of Sauer's stand on native affairs, suggested that this might well have been a stumbling block in his career.

> 'By birth a Dutch-speaking Afrikaner, his intellectual qualities, his militant spirit, his debating power, marked him out as parliamentary leader of the Afrikaner Nationalist Party .... The prize was within his grasp had he stooped to take it. But that would have involved the sacrifice of his views on the Native question, and he put it aside.'

When Sauer entered parliament in 1874, the early liberals (not all of them politicians) were no longer being heard from, since the issues which had aroused them in an earlier day had ceased to be contentious. In the Old Cape House itself there was still a small liberal faction led by Saul Solomon, but at least two years were to elapse before Sauer's leanings towards this group were noticed.

Of the two most notable of the "old Cape liberals" with whom Sauer was subsequently to be associated, the first to enter parliament was Merriman, who fought his first election, as a "conservative", in Aliwal North, where he found himself pitted against Sauer, then "a rising country lawyer".(24) The next to add his support to the liberal faction after the passage of time and circumstances had drawn Merriman and Sauer together, was the successful young advocate James Rose Innes, the only one of the three to make the native question his election platform, who entered parliament in 1884.(25)

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24. R.F.T.Gruber, John X.Merriman; The Making of a South African Statesman, (1869-1878),(unpublished M.A. thesis, Rhodes Univ.,1961), p.84.

25. P.Laurence, op.cit.,p.108. See also J.Rose-Innes, op.cit., p.51.

Since Sauer's sponsorship of the Land Act in 1913 was to cast doubts on much of what he had said in favour of a liberal native policy between 1884 and 1892, it is only fair to point out that Merriman too has been accused of equivocation on this issue, for all that he was the only "liberal" ever to become Prime Minister of the Cape.(26) It was only Rose-Innes, protesting against the 1936 Voters' Registration Bill in his old age, who seems to have remained a liberal to the last, and entirely free of self-interest.(27) As Sauer's own constituency, Aliwal North, which he represented for so long, included a large contingent of natives in the Herschel district near the Basutoland border, allegations of opportunism were bound to have been brought against him from the first. Laurence, Merriman's biographer, succeeds only in casting a rather poor reflection upon Sauer's alleged liberalism by suggesting that he, 'by his views on native policy, had succeeded in acquiring their confidence without estranging the Boers.' (28)

In any case, it was the dangers inherent in the situation whereby Aliwal, a north-eastern Cape

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26. P.Laurence, op.cit., p.65. His biographer's remarks on his views on this question have the ring of an apologia.

27. This too has been debated. In Victoria East, the constituency which sent Rose Innes to parliament in 1884, the proportion of native voters on the rolls in 1897, after two acts had been passed to reduce their number, stood at 28% (writer's own figures). Also Rose Innes left the Cape at the end of 1901, feeling that "the sands of (his) political life were running out", and accepted a judgship in the Transvaal (See J.Rose Innes, op.cit.,p.198).

28. P.Laurence, op.cit., p.48.

constituency was placed in such close proximity to the native territory of Basutoland beyond, which drove Sauer out of the Spriggite camp and into the arms of the liberals as early as 1882.

For a year or more prior to that, Sauer had been a frequent visitor to Clarensville, Saul Solomon's Sea Point home, a fact which had not escaped the political cartoonists of the time.(29) No political alliance as such was formed between Sauer and the Solomonites, however, until March, 1880, when disagreement with Sprigg over the policy then being pursued in Basutoland led to Sauer's final rupture with the "eastern" party.

Sprigg believed that the Basutos should be disarmed. Sauer was certain that this would lead to war, in the event of which many of his constituents, the Aliwal burghers, would refuse to fight. Fear of bringing invading bands over the border into the Colony had, in all probability, induced some of them to approach their young member and urge him to oppose any moves which might result in this. In 1880 then, Sauer wrote to Solomon offering to become one of an opposition party with him.(30)

By now Sauer was gaining ground as a young politician of promise, yet outside of parliament he was not well known, and when, in May 1881, Scanlen included the thirty-one-year old Sauer in his new cabinet as Minister of Native Affairs, the Cape press greeted the

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29. The Lantern, 22 February 1879.
30. W.E.G.Solomon, Saul Solomon, Cape Town, 1948, pp.265, 266.

appointment with lukewarm enthusiasm.(31)

Still he was not known as a "negrophilist", as was Saul Solomon, yet it was his progress through Basutoland during his first term at Native Affairs, his brush with General Gordon, his meetings with the chiefs, and his eventual handing back of the territory to the British, that his detractors were to make capital of. By the time all these negotiations had been completed, observers were convinced that Sauer was not the man to "deal with" the natives of whose affairs he had been given charge. His "liberal" image was established.

The trouble in Basutoland took up so much of Sauer's time that he had little left for anything else pertaining to his department, and indeed virtually none to spare for the native territories on the eastern frontier, though he has not been taken to task on this account by either of the writers who have so far produced conprehensive studies of the history of native policy in South Africa, or in the Transkei.(32)

Though the Native Laws and Customs Commission reported in 1883, which was during his term of office, this was a commission which had been appointed by Sprigg's ministry just before it went out of office. When its Report came up for discussion in the House, the Scanlen Ministry "paid some attention to it", and "seemed to

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31. Cape Argus, 7 May 1881; Zuid Afrikaan, 10 May 1881.

32. Edgar H.Brookes, A History of Native Policy in South Africa, Cape Town, 1924, p.108, mentions that Sauer set a precedent for leaving 'men who knew something about their subject a free hand in policy' in the Transkei.

contemplate the establishment of some form of local government in the Territories ...., but it did nothing.(33)

The Scanlen government went out of office rather abruptly in May 1884 on the phylloxera issue, but the real cause at stake was the controversy which had arisen over the disannexation of the Native Territories. When this question was discussed in the Cape parliament, Sauer had little to say.

For the next six years after that, Sauer remained on the Opposition benches. In 1890 he entered Rhodes' first ministry, but after nearly three years, resigned over the Logan contract scandal. The period between 1884 and 1894 was, however, one of the most important in his career. In it, he fulfilled his early promise as a liberal and drew closer to Merriman and Rose Innes. In it also, as time went on, it became apparent that his liberalism was a distinctly limited ideal. A gradual change of tone becomes evident in the speeches he made against the Voters' Registration Bill in 1887, for instance, and those he made on, and which were largely in favour of, the Glen Grey Bill in 1894.

Just as the 1853 Constitution had contained no mention of colour, so the 1887 bill was devoid of any such reference, but its "seventeenth clause" was so worded that anyone practising communal land tenure and cultivation (the traditional system followed by the bulk of the native

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33. R.B.Niven, "The Transkeian Territories of the Cape of Good Hope" (unpubl. thesis, M.A.,U.C.T.,1930), p.41. (In a section on the effect of Scanlen's administration on the Transkei, he does not once mention the name of Sauer).

farmers) because ineligible for the franchise.

Sauer spoke at length during the second reading debate on the measure and pointed out, inter alia, that of all the constituencies referred to by the prime minister (Sprigg) in his opening speech, only one returned a member who was a Government supporter.

When one remembers the large body of native voters in Herschel, however, his strong opposition to the vital "Seventeenth Clause" becomes comprehensible, for on this occasion he was at pains to assure his hearers that the bill, as it stood, could not apply to his constituents:

> 'In Herschel, every native occupier has a house or hut with a piece of land which he cultivates and to which he alone is entitled.
> 'This is the only term required under the Constitutional Ordinance of 1853 but under the seventeenth clause of this Bill, it would seem that this is technically tribal or communal tenure, and the occupier will be disqualified. In this way, about 90 to 95 per cent of the natives will be disqualified. It is a misnomer to call such a Bill a Registration Bill; it is a Disenfranchisement Bill ... and is it necessary to bring in this Bill, not so much to purify the register, as to purify the House?' (34)

Another portion of his speech on this occasion is worth quoting, if only because it so resembles a similar passage in the autobiography of his friend the Rev.D.P. Faure that it seems to indicate that their liberalism was of a similar nature. It is useful to learn this, for on other points Faure is more explicit about his views than Sauer ever was in any of his public utterances:

> 'There is [said Sauer] no member of the House on either

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34. Cape Hansard, 15 June 1887, p.73. (It has been impossible to obtain the Voters' Rolls for the years immediately before and after the passing of this Act in order to calculate how many of his native electors Sauer lost).

> side who wishes to enfranchise a mass of barbarians .... I maintain this principle - that all men, whether white or black, no matter what colour or nationality they are, should be placed on the register if they are able to answer the requirements of the law.' (35)

> 'No one [wrote Faure] wishes to enfranchise the barbarian, nor does the barbarian himself claim the right to the franchise, but there are in the country many brown and black men, Malays and Kafirs, who are barbarians, and are capable to make use of the franchise more intelligently than the white men are.'(36)

The natives, Sauer went on, occupied "a small and extreme corner" of the country, and he saw no reason to fear that their representatives would ever be in a position to outvote the others. If the natives had any grievances, it was better that they should 'seek redress constitutionally, lest they endeavour to obtain it by other means' - a sentiment he was to repeat from time to time, in other words, over the next twenty-five years. Nevertheless, for the moment, his arguments failed to produce the desired effect, and the Registration Bill duly became law.(37)

During the session of 1889, Sauer spoke at some length against the proposed Pass Bill, which he called "class legislation" of a type generally discouraged in the older states of Europe. He contended also that the Bill itself was unworkable because it went too far.(38) This time, the Bill was rejected.

When, in 1890, Rhodes, who was no liberal, became Premier, the pill was sweetened for the native voters by the inclusion in his cabinet of Merriman, Innes

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35. Cape Hansard, 15 June 1887, p.73.
36. D.P.Faure, My Life and Times, Cape Town, 1907, p.193.
37. Cape Hansard, 15 June 1887, p.74.
38. Cape Hansard, 31 May 1889, pp.54, 55.

and Sauer. For almost a year after these three took office, the liberal tide appeared to be running as strongly as before, and in 1891 Sauer delivered a masterly speech against the Strop Bill. He came into the House armed with facts and figures, for he had made it his business to ascertain the details of similar legislation in existence in the other states of southern Africa at that time. By so doing, he had been brought to the conclusion that in the Cape alone the liberal - and humane - tradition prevailed. At one point he told the House:

> 'I have seen, in the Transvaal, as many as twenty men flogged in a morning, and the officials told me that once a man had been flogged, he grew hard and callous.' (39)

The following year saw a change, however, for Hofmeyr, with whose support Rhodes and his "Ministry-of-all-the-Talents" held the delicate balance of power in the Cape parliament at that time, having "stumped the country" to get support for a measure to revise voters' qualifications, proposed a Bill which was in due course to become law as the Franchise and Ballot Act of 1892. By this, the property qualification was raised and a nominal literacy test introduced.

The records do not disclose any contribution by Sauer to the debates on this Bill. That he was present throughout is proved by a number of brief and rather

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39. Cape Hansard, 24 June 1891, p.129. This bill was was defeated.

pointless interjections, but on the substance of the proposed measure he had nothing to say.(40) The Franchise and Ballot Act of 1892 may be said to have marked the beginning of the ebb-tide of Cape liberalism - that is, if we are to assume that the "negrophilism" of Merriman and Sauer was as unimpeachable as that of Rose Innes, and that their private convictions regarding the rights of the natives were as firm as their public utterances had tended to suggest.

Edward Roux, whose chief concern was the struggle of the black South African for his social and political rights, believed that the decline of liberalism began with "the pact between negrophilism and imperialism" - the political alliance between Merriman, Rose Innes, and Sauer, on the one hand, and Rhodes.(41) It is also possible to argue, however, that this conjunction of seemingly incompatible groups in the Cape parliament in 1890, which had in the first instance been brought about by the need to find a solution to an economic problem (the railways expenditure issue) which did not touch upon the convictions of the liberals as such, continued to

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40. Innes spoke once, at some length, and Merriman several times, at moderate length and with a measure of the casuistry which has made him the political enigma he remains to this day. (See Cape Hansard, 15 July 1892, pp.194, 195.), When the Bill was discussed at cabinet level, a split was only narrowly averted when Rose Innes, under "persistent pressure" from Merriman and Sauer, was persuaded to agree to the very "moderate changes" which it would bring about. (See P.Laurence, op. cit., p.134).

41. E.Roux, Time Longer Than Rope; History of the Struggle of the Black Man for Freedom in South Africa, Madison 1964, p.64.

function harmoniously enough for a few years because none of the three "negrophilists" disliked Rhodes personally.(42)

The fact that Sauer and Rhodes had a mutual respect for each other, although each knew of the other's views on the vital subject of native affairs may indicate simply that, as responsible public men, they had learned to confine their differences to the floor of the House. It could also be explained - that is, if we accept the slurs cast upon Sauer by his bitterest critics - that his "liberalism" went no deeper than was compatible with his own interests, the implication being that he had little to "discard" when the Land Act was mooted, because what he professed had in any case been rather superficial.

Rhodes had entered Scanlen's cabinet, which included both Merriman and Sauer, shortly before its fall in 1884. After the new government under Upington took office, he began to concentrate his efforts upon his commercial interests and took little part in the proceedings in the Cape House for more than five years. Soon after Diamonds Amalgamation had been completed in 1885, however, he received a letter from Sauer, whom he had met through his younger brother Hans, urging him to give more time and attention "to other things than mining."

'I mean of course the politics of the Colony and

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42. Rose Innes, though he admits that his first encounter with Rhodes some years before had been "professionally hostile", was delighted to accept in 1890, at the age of thirty-five, a place in the cabinet of one whom he describes as 'a rare phenomenon, a man of great wealth prepared to expend it in the furtherance of a political ideal'. (See J.Rose Innes, op.cit., p.87). Merriman and Rhodes had been personal friends since their days on the diamond diggings in the eighteen-seventies.

the states adjoining - in fact the whole of South Africa.' (43)

The liberal faction found itself ranged against Rhodes over the Registration Bill in 1887, for he believed that very few natives were entitled to the vote.(44) Nevertheless, though their willingness in 1890 to enter his cabinet need not be taken as proof of their willingness to abandon utterly their principles - those ideals for which they had fought in the 'eighties - it did at any rate presage a gradual diminution of the liberal spirit. Sauer especially, having determined to come to a compromise with both Rhodes and the Bond, felt himself free to - or possibly obliged to - support, first the Franchise and Ballot Bill, and later (even when he had left the cabinet), the Glen Grey Bill. The first of these was sponsored by Hofmeyr, the Bond leader, and the second by Rhodes.(45)

Rhodes "Bill for Africa", to which reference has already been made in the first section of Ch.I, was a piece of legislation which offered natives security of tenure upon the land which they occupied at the price of forfeiting their rights to the franchise. Sauer spoke several times and made it clear that he supported the

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43. B.Williams, Cecil Rhodes, London, 1921, p.183.

44. Cape Hansard, 23 June 1887, pp.104, 105.

45. C.A.Thompson, The Cape Parliamentary Career of James Rose Innes (Unpublished M.A.thesis, U.C.T.,1965), p.38 n. When the three liberals left Rhodes' cabinet in 1893, Rose Innes admitted that it had been "a wrench". Sauer wrote to Rhodes: 'Only a word. The coming and going of ministers must be. I shall ever look back on my association with you as one of the honours and pleasures of my life.'

measure as a whole.

Nevertheless, several passages taken from his speeches read oddly today, and in fact in the course of his very first speech for the Bill he told the House that 'there are matters of far more importance to the natives than getting their votes'. He then proceeded to outline what he considered, at that time, a fair and just solution to the native problem:

> 'If you give the natives a good land settlement, and deal satisfactorily with the liquor question, you will do something of far greater importance to the welfare of the Colony than the question of the Kafir having a vote.'

For all this, he went on to say that if they were to treat the native in this respect "as a grown-up man" they should deal with him in a similar manner with regard to his vote - 'and not attempt by a sidewind, as in the present Bill, to deprive him of it .'(46)

The apparent contradiction between these two statements did not arouse comment at the time, and Sauer went on to raise certain mild objections to Section 26, which proposed to raise the franchise qualifications once more. When the Bill was put to the vote, Sauer, Merriman and Rose Innes gave it their support. It became law and was grafted upon the existing system.

At the very end of 1895 came the Jameson Raid, followed immediately by Sauer's break with Rhodes. In 1899 there followed the Anglo-Boer War, and the part played

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46. Cape Hansard, 30 July 1894; p.380. Together with Merriman and Sauer, he opposed the tax upon natives who did not leave the Reserves to work. This section was passed, but became in effect a dead letter. (See E.A.Walker, A History of Southern Africa, Oxford, 1957, p.432)

by Sauer in the Barkly East Rebellion and his subsequent visit to Britain to intercede for the Republics in 1901 will be discussed later.

Because of the disenfranchisement of the Barkly East rebels, Sauer lost his Aliwal seat in the first election after the Anglo-Boer War. Another seat was immediately found for him at George, and from 1908 to 1910 he was Commissioner of Crown Lands and Public Works (which included the railways administration) in Merriman's ministry.(47)

In 1909, at the National Convention in Durban, where the constitution of the future Union of South Africa - a name which Sauer had suggested - was hammered out, liberalism, by now a stunted phoenix, rose briefly from its ashes; it is almost certainly Sauer whom Walker has in mind (Sauer among others, it is true, but Sauer - and possibly Merriman as well - more than any other) when he writes of the "legend" which has "recently found currency" concerning the proceedings at the Convention.

Many "white folk", he declares, 'who would fain see the last of the old Cape civilization franchise"

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47. Between 1903 and 1910, the native question was not a dominant issue, and Sauer added little to what he had already said. During these years too, he left most of the speeches on the Poor White problem to F.S.Malan. He spoke in favour of the Destitute Children Relief Bill of 1895 (a law which compelled the apprenticeship of such children to a useful trade), and was active in the years after the War in helping to promote the various bills which eventually led to free compulsory education in the Cape.

have been brought to believe 'that the British authorities virtually dictated the South Africa Bill and that the Cape delegates to the Convention did not really care much about that franchise.'

> 'The British Liberal Ministers brought no pressure to ensure that the dominant European should treat the vast non-European majority better than most of them had done hitherto, though they might have been forgiven had they done so, seeing that the very sessions of the Convention were punctuated by demands for Bantu lands by men from all colonies .... '

The British ministers merely gave the delegates to understand that they "hoped for a civilized franchise", but this, the historian Walker is sure, does not indicate "Cape indifference".(48) Sauer was one of those who proved this, for he made a stand for the rights of the natives and, even when his views did not prevail, repeated his hope that, after Union, 'there would be a progressive extension of the rights of non-Europeans.'(49)

This was evidently as far as he was prepared to go. He still believed that the natives should have "a safety valve", and that he, Sauer, in keeping with his public image, both as a shrewd politician and as an old Cape liberal, should urge their rights to it, but he was not prepared to press the matter, nor would he, like W.P. Schreiner, sacrifice his own career in their interests.

There is no record of his having opposed the clause which precluded the election of non-whites to

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48. E.A.Walker, A History of Southern Africa, London, 1957, p.533.

49. L.M.Thompson, The Unification of South Africa, Oxford, 1960, p.392.

parliament, nor did he support the action of W.P.Schreiner, who accompanied the native and coloured delegates to London to meet representatives of the Imperial Government, because he did not bothinke that this mission could accomplish anything. Indeed, he believed that it would do more harm than good, as he told the Convention:

> 'I feel that the growing feeling in favour of liberality of treatment will be arrested because of the attempt first, to obtain what is now impossible, namely equal rights, and secondly because of the attempt to obtain interference from outside on a matter on which the people of South Africa are united ....'.

Even in the unlikely event of Schreiner's succeeding, Sauer was certain that this would not be to the advantage of the natives, for 'a strong reaction would set in against the continuance of a liberal native policy in South Africa.'(50)

From the above it will be evident that there was a hard core of realism beneath Sauer's seemingly unrealistic hopes of "a progressive extension of the rights of non-Europeans" and a "growing feeling in favour of the liberality of treatment" of these people. If Sauer can be said to have had a more than ordinary "understanding" of the natives, he had made a no less shrewd assessment of the temper of the whites immediately before Union.

Though no longer as articulate a liberal - the circumstances during the previous fifteen years had perhaps not called for him to be so - Sauer by 1909 had given no reason for others to believe that he had

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50. L.M.Thompson, Op. cit. Unification of South Africa, Oxford 1960, pp.403, 404.

abandoned his liberal ideals, and he could still be counted upon to contest certain kinds of legislation when the occasion arose.

Entering Botha's first Union cabinet in 1910, he took over Railways administration for the entire Union, and busied himself with the development of the system for two years before he was transferred to Agriculture.

When, five months later, the circumstances of the time placed him once again, after thirty-eight years, at Native Affairs, he was probably the man best equipped by experience, temperament, knowledge of and interest in the native question to sponsor such a measure of the Natives Land Bill, and it should become clear in the course of the following discussion why his personal convictions as much as the circumstances of the time induced him to promote this major piece of legislation.

Chapter V.

A STATEMENT OF POLICY (28 February) AND THE INTRODUCTION OF THE NATIVES LAND BILL (5 May, 1913)

The effects of the December 1912 cabinet crisis were not felt until the new year. It then became apparent that though Hertzog was out of the government, he had no intention of lying low, or of relinquishing his efforts to secure increased power for himself or get a segregation bill passed. At an open-air meeting in Pretoria on 28 December 1912, organised by the Hertzog Demonstration Committee, the newly ousted cabinet minister publicly joined forces with General De Wet. During January 1913 Hertzog spoke at several well-attended meetings in the Transvaal and Free State, in the former finding one of his staunchest lieutenants in the young Tielman Roos.

Not content in the course of his speeches to expound only his new native policy, Hertzog, speaking once more at Smithfield on 11 January, for instance, brought a number of personal accusations against Botha. The Premier let it be known that he considered this a "declaration of war" between Hertzog and himself. Representatives of both Botha and Hertzog had tried, from the end of December 1912 onwards, to bring about a reconciliation between the two men, but Botha insisted that theirs had not been a personal quarrel, and the negotiations came to nothing.

When parliament reopened on 24 January 1913

...../Hertzog

The Champion Recruiter (The Star, 7 June 1913).

THE BACKVELD DEPUTATION : "All hail, mighty recruiter! "

Mr. Sauer's Natives Land Bill restricts the number of natives who may be in occupation of any land outside native areas in the Transvaal "to such as are in the bona fide, though not necessarily continuous service of the owner or lessee of such land for at least four months of every year" and empowers the owner or lessee to expel those natives who refuse to work on his terms. Backveld farmers see in the Minister of Native Affairs the saviour for whom they have been waiting these many years. Yet strangely enough the minister neither seems to share the enthusiasm of the Government's up-country supporters nor to show any outward sign that his new role is congenial to him.

Hertzog was not present. No further statements were issued at the beginning of the session, and although Hertzog appeared soon afterwards, he did not speak until 17 February. Nevertheless, tensions which had been engendered by the Botha-Hertzog dispute were still in the air, though it was felt that matters should be allowed to rest until the caucus meeting of the South African Party.

This meeting, when it eventually took place on 27 January, resolved itself into a duel between Botha and Hertzog, and despite all the hopes of Hertzog's personal adherents, it was Botha, whose power was thought to be on the wane, who defeated the former Free State minister. Once they had seen which way the wind was blowing, these men,(1) together with the majority of the Transvaal and Natal members, and even the Free Staters, who had been considered, almost to a man, "Hertzog men", 'oddly enough.....showed themselves very far from being disposed to follow Hertzog to any violent lengths.'(2)

By the end of this meeting, Hertzog's pitch had been queered.(3) He had made certain disclosures to

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1. Cape Argus, April 1913, lists Fremantle (Uitenhage; a former professor of Philosophy), van Niekerk (Boshof), Willcocks (Fauresmith), Grobler (Edenburg), and Serfontein (Kroonstad).
2. Cape Times, 28 January 1913, col.8, p.7. Though the caucus meeting was not open to the press, the reporter remarked that this had made little difference, for 'General Hertzog's impassioned harangue.....might have been heard at intervals by anyone who understood Dutch, half way down Parliament Street.'
3. Stanford Papers, Diary of 1913, under entries dated 24, 28 and 29 January, it is stated that, while 'the general impression is that Botha will hold his own against the Hertzog faction,' Hertzog 'did not seem to be getting the support he expected within the caucus.'

the Pretoria magazine, De Week, earlier in the year,(4) and these and other criticisms were now answered by Botha in a manifesto to De Volksblad on 5 February. He stated his case clearly, but by this time the issue had ceased to be a controversial one.

Meanwhile, the behaviour of Sauer in the early weeks of January and even after the beginning of the session evoked comment by both friends and critics, and in many sections of the press, as it seemed that he was trying to curry favour with the backveld by delivering speeches, like for instance that at the Watsonian dinner(5) at the Mount Nelson hotel in Cape Town. Sauer, whose gift for "reconciling the irreconcilable" has already been remarked upon, began by explaining away Hertzog's charges against the government at De Wildt, but went on to make it clear that - with certain reservations - he supported these very charges.(6)

The raised eyebrows which this speech had caused had only just been lowered when, soon after the opening of the parliamentary session, he questioned the

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4. Transvaal Leader, 14 January 1913, refers to De Week as a journal 'which may be considered the official Hertzog organ.'
5. The Watsonian Club was composed of men educated at the George Watson College, Edinburgh.
6. Cape Times, 18 January, 1913.

policy of the government regarding contributions to the Imperial Navy,(7) and was loudly applauded by surprised northern members,(8) who thought that Botha had not taken as firm a stand as they considered desirable on this issue.(9) It seemed to many that Sauer was making a play for the support of backveld members.(10)

While speeches like this were bringing Sauer more and more into the public eye, however, Hertzog, defeated in the councils of his own party, though bitter, was not chastened. From the second week in February onwards, he was often to be observed in the lobby, his white face taut, and with an air of nervous intensity, in conversation with knots of his personal followers.

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7. House of Assembly Debates, 6 March 1913 [illegible], pp.673-676.
8. Tembuland News, 14 March 1913. See also Stanford Papers, Diary of 1913, under an entry dated 6 March, states that Sauer 'made a speech which was practically an attack on the Prime Minister.'
9. The Star, 1 October 1912, p.11, reports that Botha, speaking at Blaauwbank, deprecated the actions of Sir Thomas Smartt, who had tried to make naval contributions "a political issue"; he had 'appealed to him [Smartt] to drop that kind of thing because it was not in the interests of the empire.'
10. There were some who suggested that the introduction of the Natives Land Bill was yet one more tactical move in this direction on the part of Sauer, but as none of these suggestions came from prominent persons or papers, and as they do not accord with other evidence on Sauer's motivations (to be produced), it is not proposed to discuss them in the context of this study.

Though the evidence we have on this point is circumstantial, it can be suggested that Sauer observed him thus, knew that he had in all probability, drafted a segregation law of his own, and feared that, in his present mood, Hertzog might be 'bent on making mischief'(11) - in other words, that he might bring in his own bill, by which the Cape native franchise might be threatened. In that case, Sauer had a strong motive - irrespective of any views he may have held on the segregation issue,- for trying to anticipate Hertzog.

Even before the temporary eclipse of Hertzog after the caucus meeting, Col.Mentz (Zoutpansberg, Transvaal) had put a vital question to the new minister of Native Affairs. Mentz, a member of the first Native Affairs Committee elected in 1910,(12) was the man responsible for putting the first recorded question to any Union minister of Native Affairs on the subject of natives and land.

On 21 May 1912 he had asked Henry Burton: Asked of Hertzog

'(1) Whether he still intended to introduce during the present session the Bill to "regulate the residence of natives on land in certain portions of the Union and to prohibit the unauthorised settlement of natives on any land."'(13)

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11. Tembuland News, 7 February 1913.

12. Other members of the committee were Sir L.S.Jameson, Dr.Watkins, Col.Crewe, Sir Bissett Berry, J.X.Merriman, Col.Mentz, P.G.W.Grobler, H.S.Theron, Phillips, Bosman, van Heerden, Schreiner, Burton (Minister of Native Affairs and Chairman), Madeley and Reynolds. (See S.C.3 - '10). Mentz was to become minister of Lands under Smuts in 1920.

13. This referred to the Squatters' Bill published by Burton on 6 December 1911 and then dropped.

If this were not the case, Mentz wanted to know whether Burton intended to 'make a commencement with the removing to their locations of natives who are, contrary to law, squatting in the Transvaal'. Some of these, he declared, had received notice to quit as far back as 1910. He also asked about the responsibility of Field Cornets who, by the powers granted them, were obliged to enforce these regulations.

Burton stated in reply that the failure of the government to do this was owing to 'the large amount of financial and other business before the House'. The proper authorities would be instructed to see to the carrying out of the laws as they already existed. An attempt had been made the previous year to consult with the Field Cornets and District Commissioners in the regions concerned, and the suggestions they had offered would now be "dealt with", all 'action meanwhile having been suspended in view of the proposed legislation' - by which one presumes that he means his abandoned Squatters' Bill.(14)

On 28 January 1913, only four days after the session commenced, it was once again this Transvaal member who asked Sauer whether he intended introducing legislature in the near future which would prohibit the unlawful squatting of natives on private farms and the purchase by natives of ground in areas inhabitated by Europeans.

Sauer replied briefly and circumspectly, referring to the different laws prevailing in the four

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14. House of Assembly Debates, 21 May 1913, p.2815.

provinces, to the inconsistency with which these laws were applied, and the policy of the Free State which precluded natives from buying land there at all.

He then turned to the recommendations of the South African Native Affairs Commission of 1903-1905.(15) These were, inter alia, that the purchase of land by natives should in future be limited to certain areas to be "defined by legislative enactment". It was also suggested that the purchase of land which might lead to tribal, communal, or collective possession and occupation by natives" should not be permitted.

> 'The matter [Sauer concluded] is one of the utmost importance to every section of the community, and the questions involved are of such a complex nature that I am not able to say that legislation will be passed during the present session of Parliament.
> 'At the same time, the desirability of dealing with this important matter, with due regard to all interests concerned, will continue to engage the serious attention of the Government.' (16)

If Sauer had hoped that the settlement of the native land problem could be delayed on account of pressure of work - both his own, since he held two portfolios, and that before the House - he soon realised that this was not to be, for within the next fortnight he was assailed by a series of similar petitions and questions by members of parliament, all

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15. These recommendations had also been reiterated by the 1910 Committee, of which Col.Mentz had formed part. See S.C.3 - '10, p.iv, para 5, quoting the Native Affairs Commission of 1903-05, paras.181, 193 and 207.

16. House of Assembly Debates, 28 January 1913, pp.17, 18.

submitted by northern members and supporters of the South African Party.

On 31 January, I.J.Meyer (Harrismith) presented thirteen petitions from various groups within his constituency, all asking for the introduction of legislation 'whereby it will be made illegal for Europeans to farm in so-called company with natives or let ground to natives.' (17)

On 3 February Sauer asked the House to give its assent to the appointment of a Select Committee on Native Affairs, 'with power to take evidence and call for papers'. This body was to consist of Sir Bisset Berry, P.G.W.Grobler, Sir Lionel Phillips, Col.H.Mentz, Dr.Watkins, Theo.Schreiner, H.S.Theron, Col.Crewe, Clayton, Madeley, Henwood, and P.G.Marais. This was, as usual, a group of members representing as broad a cross-section of the South African community as possible - possibly even broader than that appointed in 1910, - since it represented both language groups, all three political parties in parliament, and Natal.(18)

During the brief, cordial discussion which followed the completion of this routine procedure, C.A. van Niekerk (Boshof) remarked that, despite the annual appointment of such a committee, they were no nearer to a solution of the "burning question" of the native problem, and Geldenhuys (Vrededorp, Transvaal), interpolated

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17. House of Assembly Debates, 31 January 1913, p.74.
18. Ibid., 3 February 1913, p. 85.

interpolated yet one more request for a law against squatting and "kaffir-farming".(19)

On 4 February, G.W.J.du Toit (Middelburg, Transvaal), asked the minister of Native Affairs whether he knew that there was great dissatisfaction in the Transvaal on account of the incidence of squatting and the congregating of natives in places other than those appointed for them by the government. In view of this, he asked Sauer 'whether he would forthwith give instructions that the provisions of the Squatters Law No.29 of 1895 in the Transvaal, which was still in operation, shall be enforced'. The minister of Finance (Smuts) replied to this question: the legal difficulties were numerous and though since May 1909 reports of squatting had been received, Commissioners had not yet supplied reports; no new squatting would, however, be allowed.(20) Though all petitions and questions thus far presented had come from the Free State or the Transvaal, such a law was a generally felt need and would have an easy passage.

After the member for Middelburg had put his question, there was a three-week lull during which no more such questions were put, a lull which ended with Sauer's statement of policy on 28 February. J.G.Keyter, prominent as the member for Ficksburg in the Free State,

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19. House of Assembly Debates, 3 February 1913, p.89.
20. Ibid., 4 February 1913, pp.110.

tabled a motion calling for a general pass and squatters' law, to be heard on 18 February. When that day came, however, the Minister of Native Affairs rose and moved that it be deferred until 28 February, with preference over the orders of the day; the motion was not opposed.(21)

Keyter is in many ways a strange, enigmatic figure, violent in speech perhaps, feared by the natives,(22) and highly regarded by his fellow Free State members, yet a man who, despite his education in England, retained to the end of his life a backveld mentality such as even Hertzog himself could not match. A former magistrate, he had been involved in politics for some time.(23)

Though it does not entirely accord with the official records, it is worth quoting at this point the account given by S.T.Plaatje, arch-critic of the Land Act, of the circumstances which had induced Sauer to introduce it. This version of the scene in parliament when Keyter's motion came up for discussion is entitled "Origin of the Trouble":

> 'On February 28, 1913, Mr.J.G.Keyter (A "Free" State member) moved: That the Government be requested to submit to the House during the present session a general Pass and Squatters Bill to prohibit coloured people (1) from wandering about without a proper pass; (2) from squatting on farms; and (3) from sowing on the share system.

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21. House of Assembly Debates, 18 February 1913, p.357.
22. Imvo Zabantsundu, 20 August 1914, described him as the "arch-tormentor of the Natives".
23. South African Who's Who, 1913.

'Mr.T.P.Brain, another "Free" Stater, seconded the motion.
'Mr.P.G.W.Grobler, a Transvaaler, moved (as an amendment) to add at the end of the motion: "and further to take effective measures to restrict the purchase and lease of land by Natives."
'Mr.Sohreiner strongly protested against both the motion and the amendment.
'The Minister for Native Affairs spoke somewhat against Mr.Keyter's motion, but promised to comply with Mr.Grobler's amendment, which compromise he redeemed by introducing a Natives' Land Bill.' (24)

To judge from his reactions to Sauer's statement on 28 February, Keyter had not been apprised of its contents beforehand. Though he had no close associates in the cabinet - Fischer being the only Free State representative on that body at the beginning of 1913 - Keyter wielded nevertheless considerable power in his own province, and was even dubbed "Dictator Keyter" by an influential parliamentary correspondent (W.Dewdney Drew) of the time.(25)

It was also inferred that he held all the Free State members - except Fichardt (Ladybrand), Serfontein (Kroonstad), and Steytler (Rouxville), who were personal adherents of Hertzog and with him had supported the Unionists and Labourites in their no confidence motion on April 29 - in the palm of his

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24. S.T.Plaatje, op.cit., pp.31, 32. N.B. The "curse" which Plaatje sees hanging over the heads of all concerned in the promulgation of the Natives Land Bill did not, however, fall upon Keyter, the proposer of the original motion, for he lived until 1930, dying at the age of seventy-three.

25. W.Dewdney Drew, of The Star, who was a vociferous opponent of the Bill on his own account. The Star, a Unionist paper, gave this proposed legislation only lukewarm approval.

hand, and instructed them on what line they were to follow in the House.(26)

Rumours were current in the middle of March that Keyter's power had waxed so great by reason of Hertzog's decline that he was being mentioned in some circles as a possible future premier.(27) It was also suggested that, should Botha fall, his place might be taken by Smuts or Burton, but some were doubtful about their suitability.

> ' "Smuts is too clever", and Mr.Burton is not sufficiently well known and is too young looking. The alternative to Sauer, I was told, is Keyter.'

The reporter expressed surprise as Mr.Keyter was not regarded as even in the first political rank.

> ' "Well", was the reply, "He believes he is and he is expecting to become Prime Minister - and more extraordinary things have happened." ' (28)

Keyter spoke only once, and at moderate length, during the second reading debates on the Bill. The Free State members formed indeed a silent group behind the Government benches. He declared, on rising, that he had not intended to say a single word, but Sir Thomas Smartt's speech, wherein he had alluded to the Orange Free State laws which prevented the sale of land to natives, had so irked him that he felt bound to reply.

> 'What I am going to say will not be from information picked up in drawing-rooms, or from newspapers and books, but will be from the real practical experience of a lifetime. For 37 years I have lived on

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26. House of Assembly Debates, 29 April 1913, pp.2026-2028.
27. Our only source of information on this point is the anonymous "gallery correspondent" to the Tembuland News. He does not identify his informant.
28. Tembuland News, 21 March 1913.

> the boundaries of a large native tribe and for many years I have come in daily contact with the natives as an official and on the Bench; also in practice, and for 21 years I had the opportunity of dealing with them politically, and I wish to openly denounce (sic), and most emphatically so, that the people or the Government of the Orange Free State have treated the coloured people unjustly, or in any way oppressively.
> 'On the contrary the O.F.S. has always treated the coloured people with the greatest consideration and the utmost justice. The O.F.S. have made what the hon.member for Victoria West [Merriman] calls stringent laws. They [the Free Staters] told the coloured people plainly that the O.F.S. was a white man's country, and that they intended to keep it so. (Hear, hear). They told the coloured people that they were not to be allowed to buy or hire land, and that they were not going to tolerate an equality of whites and blacks.
> 'And we are not going to tolerate that in the future. If an attempt is made to force that on us, we will resist it at any cost to the last, if we do tolerate it we will very soon find that we are a bastard nation. Let any hon. member take a seat on the top of a Cape Town tram-car on Saturday night, and travel through Plein Street, and then he will be able to judge for himself what is taking place behind the scenes in this beautiful Cape Peninsula and where it is leading to.' (29)

Drew at least believed that the Free Staters had "sacrificed" Hertzog in order to stave off an election. They kept quiet during the debates "so as not to delay the Bill by their loquacity."(30)

He also believed that the Free State members wanted to be able to take home a land and squatters' bill to their constituents as a peace offering; they had threatened Botha with a walk-out if the Bill was dropped before the end of the session. This, Drew told his

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29. House of Assembly Debates, 19 May 1913, p.2540.

30. [illegible] table representing how votes were cast during the committee stage, (Annexure I, p.), only one Free State member (C.L.Botha, Bloemfontein) voted on any one clause (the third). It has not been possible to establish whether they omitted to do so on Keyter's instructions or for some other reason.

readers, Sauer would have done if he dared. The only white public agitator against the Bill seems, in fact, to have been of the "betrayal" school, for he thought that 'it does violence to some of Sauer's life-long convictions and most sacred feelings.'(31)

So far as our evidence goes, there is no reason to believe that Keyter ever modified his ultra-reactionary views on the native question, for when he was summoned to appear before the Beaumont Commission he complained that the term "native" instead of "kleurling" (coloured) was used throughout the Land Act. This, of course, ran contrary to the traditional Free State practice.

For this reason, he believed that the Free State, where there had long been a law forbidding the sale of land to all non-whites, should have been exempted from the operations of the Act.(32) If this were not done forthwith, he was convinced, 'we would be overrun by the Cape boy buying our land.'(32)

At the beginning of the 1913 session, J.G.Keyter was merely a provincial politician whose influence outside the Free State was severely limited, but whose influence within it had recently been on the increase, a fact which contributed towards inducing him to "give the lead" to his followers and petition Sauer for a

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31. The Star, 12 June 1913. Cf. Hawcuson of Natal, in House of Assembly, during Land Bill debates. See ch. VI, p.152.

32. Report of the Natives Land Commission, Vol II, App. IXo, p.51.

bill to end squatting. He was unprepared for the outcome, as were most other members, for on 28 February 1913, the minister of Native Affairs rose to begin a stumbling announcement of a new order in the conduct of the welfare of the Union's Bantu subjects.

On February 28 Keyter once again pressed for the introduction of a General Pass and Squatters Bill which would 'prohibit coloured people from wandering about without a proper pass, squatting on farms, and sowing on the share system'. Sauer replied that he hoped that the matters raised would not be discussed that day as there would be an opportunity for discussing them later.

In the course of a somewhat disjointed discourse he referred to the pass laws in all four provinces until interrupted by the Speaker, Sir James Molteno. A strange dialogue then ensued.

'Speaker ... : I cannot make out the drift of the Hon.member's remarks. (Hear, hear). I thought he rose to suggest a course of business.

'Sauer ... : I did, Mr.Speaker. I hope that the statement will lead to a withdrawal of these notices of motion.

'Speaker ... : A minister may not anticipate a debate.

'Sauer ... : I meant to convey that to you.

'Speaker ... : The minister is going into the whole question of Pass Laws. (Hear, hear.) If I allow a minister to depart from the ordinary procedure I must allow any member of the House to do so. (Cheers.)

'Sauer ... : I thought for the reasons I gave I would be allowed to speak. If you think it best not to continue ---

'Graaff (minister without Portfolio) Continue with the consent of the House. (Hear, hear.)

'Speaker ... : Is there any objection to the Minister continuing?

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An objection was raised by Colonel Crewe (East London). The Speaker then announced that he was obliged to call for notices of motion. Keyter's was seconded by T.P.Brain (Frankfort). There could now no longer be any objection to the House proceeding in the normal way with a discussion. P.G.W.Grobler (Rustenburg) further moved as an amendment that the words be added at the end of the motion: '... and further take effective measures restricting the purchase and lease of land by natives.' W.W.J.J.Bezuidenhout (Heidelberg) seconded this amendment.

Sauer rose again and, despite a halting start, delivered what now reads like a well-prepared summary of the plan he proposed to carry out. In the first few sentences he made it clear that in enunciating such a policy he was only acting in the spirit of the times, and in response to the pressures which had of late been brought to bear upon him; feeling on this issue had become "acute", and the subject had of late been much discussed.

> 'I hope I shall continue to favour a fair and liberal native policy, which does not necessarily imply that I consider that there should be social equality between the races (Cheers).
> 'That is a very different thing, and I have always, in speaking to the natives, advised them, in their own interests, that the further they are socially from the Europeans the better - (Cheers) - and it was also for the Europeans (Cheers).'

Feb 26 1913

In the matter of social separation the old Cape Colony had been far ahead of all the other provinces which now formed the Union. He knew that in the northern provinces the natives were acquiring land at great rate,

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where syndicates organised by the chiefs were collecting money, and that even on the highveld farms were passing into native hands; he did not want this to continue, and stated that he wanted to ensure that no native purchased land from a European and no European purchased land from a native.

At this early stage, however, nothing further would be done until a commission had reported; in the meantime, the decision as to who could purchase land, and where, would rest with the Governor-General.(33)

The effect of Sauer's speech on the rank and file of the members was considerable. More dramatic still was its effect upon Hertzog, who had for several months past been preaching segregation throughout the northern provinces. 'While Mr.Sauer was speaking,' one account tells us, 'General Hertzog sat with tight, drawn mouth, heavy brows and restless hands. As the Minister resumed his seat he sprang forward, striving in vain to conceal his pent-up passion and excitement.' Great as was his chagrin, he was compelled to applaud Sauer's policy. There were, as he made plain, a few points on which he disagreed with it, but these were of little importance.

Hertzog was answered not by Sauer but by Burton, who gave one of the best performances of his career and caused Hertzog considerable discomfort. He pointed out

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33. House of Assembly Debates, 28 February 1913, pp.561-566. At this point, Keyter rose and offered to withdraw his motion, but though this is recorded (p.568), it is not stated whether or not this was done. The Cape Times reporter said that 'it was not quite clear whether he did so. In any case, General Hertzog seemed to be making frantic signals to persist, and, after a few ridiculous observations ... General Hertzog spoke.'

that he too had designed a squatters' law which would have been not unlike that which Hertzog would have brought in and which Sauer would bring in. Hertzog's segregation proposals, he pointed out, had always been vague and unspecific.(34)

After a number of speeches, mainly in favour of the Bill and including one by Botha who gave his minister the strongest possible support, the debate ended in the same haphazard manner as it had begun. H.S.Theron (Hoopstad) moved that it be suspended until March 19. Sauer, remembering a remark made a little earlier by Sir Thomas Smartt, rose once again.

'Sauer ... : The Hon.member (for Fort Beaufort) asked whether I contemplated ——

'Mr.Speaker : The debate is adjourned. (35)

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On March 19, Keyter rose and moved, as an unopposed motion, that an adjourned debate on a motion for the introduction of a General Pass and Squatters' Bill be deferred until Wednesday, April 2.(36) On April 2, however, no such motion appeared on the agenda, and it was not until April 25 that the Natives Land Bill was read in the House, for the first time. The second reading

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34. House of Assembly Debates, 28 February 1913; pp.571-572 and Cape Times, 1 March 1913.
35. Ibid., 28 February 1913, p.584.
36. Ibid., 19 March 1913, p.995.

was set down for May 5, the following Monday.(37) Owing to some delay which was never explained, however, it was not discussed in the House until May 9. It was not gazetted in advance. Thus the final bill came as a surprise to those -- and there were many of them -- who had either not read, or had paid little attention to reports of the discussion on February 28.(38)

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Sauer's statement on February 28 had not moved the white press to any strong comment. Indeed, his speech had not been widely reported. In the Bantu press however, a strong reaction to the 'new policy' was immediately discernible. J.L.Dube, editor of Ilanga Lase Natal, for instance, had long been known as a trouble-maker, for he had published seditious articles during the Bambata Rebellion in 1906.(39) In 1913 he was chairman of the South African Natives National Congress. On March 21 he published a leading article under the heading "Wrong Policy", in which he left no doubt in his readers' minds as to what they could expect in the near future. The purpose of the bill soon to be introduced, he declared,

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37. House of Assembly Debates, 25 April 1913, p.1862.
38. By three writers who have produced studies of South African native policy since the beginning of this century - notably Brookes, Lekhela and Tatz - Sauer's statement on 28 February has been passed over. Sir Walter Stanford (see Stanford Papers, Diary of 1913, in an entry dated 28 February) mentions Sauer's "setting down" of Hertzog, while a few days later (1 March), he states that 'the policy of the govt. as indicated yesterday by Mr.Sauer seems to meet with general approval' and that Hertzog had been "severely castigated" by Burton.
39. E.Roux, op.cit., p.100.

was 'to keep the niggers down', and simply meant, 'Get out, Fotesake (sic). Go back to your locations, or else go back to work for your white masters' - and, it was implied, on their terms. Dube was also the first of many to remark on the anomaly of Sauer, the one-time Cape liberal, being the promoter of such a policy.(40)

On the other hand, Tengo Jabavu, the once powerful editor of the Cape's oldest Bantu newspaper, the Imvo, did not take fright at Sauer's words.(41) Since the founding of his Journal in 1884 he had supported the liberal group in the Cape Parliament. Of these men, Rose Innes was now a Transvaal judge and Merriman was an old man and no longer a cabinet minister. Yet Sauer, one of the oldest "friends of the natives", was at the helm of Native Affairs, and despite what he had already learned of his new policy, Jabavu was determined to continue his support of the Minister. It is possible that Jabavu, reading the newspaper reports of the debate on February 28 was confused by the turn of events, for some of his statements on them read oddly, but it is evident from what followed that, having once decided to uphold the policy of Sauer, he stood firm by his decision in the succeeding months.

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40. Ilanga Lase Natal, 21 March 1913. Although Solomon Plaatje later wrote a book about the Land Act, the files of his newspaper from December 1912 to April 1913 are unfortunately missing, so that it is impossible to say whether he commented upon Sauer's statement on 28 February at the time.

41. Imvo Zabantsundu, 11 March 1913. For his son's explanation of his behaviour, see D.D.T.Jabavu, op.cit., p.48.

Jabavu was to stand alone in the ensuing months in his continued support of the one-time "friend of the natives", but if his introduction of the Land Bill cost Sauer the love and respect of the majority of the natives, its effect upon most whites was entirely different. Prime Minister Botha had been known, since the previous September, to be strongly in favour of a land settlement which would also put an end to squatting. Hertzog, in the first few weeks of January and again during the period between Sauer's impromptu policy statement (28 February) and the beginning of the second reading debates on the Bill (9 May) was doing his utmost to arouse the northerners, initially with pleas for immediate segregation and later in an effort to topple Botha's government. All the petitioners and questioners who had demanded laws against squatting and land legislation for natives were northerners.

All the above were direct causes, which virtually compelled the Government to introduce this drastic legislation at that time. It is also probable that there were other factors whose cumulative effect may have led Sauer, over the years, to consider the advantages of a new order such as was ultimately heralded by the Land Act. Like a good many other well-educated Afrikaners during the two decades before 1913, Sauer was no doubt deeply alarmed by the plight of so many of his own race, who at that time seemed destined to sink down to and even

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below the level of the natives.(42)

Its effects were immediate effects, unlike the effect of "an education of the right sort", which only time would show. Segregation, moreover, was currently the most-discussed solution to the racial problem in the Southern States of America, which was similar to, though not identical with that in the Union in 1913.

Though specific evidence of the influence of the American Negro problem upon Sauer's thinking is slight, it is significant that, in the course of his introductory speech during the second reading of the Bill on May 9, he twice referred to the problem in the United States. On the second of these occasions, he quoted a certain Mr.Henry W.Grady of Atlanta who had summed up the situation there as follows:-

> 'The problem of the South is to carry within her body politic two separate races, equal in civil and political rights, and nearly equal in number.
> 'She must carry these races in peace, for discord means ruin. She must carry them separately, for assimilation means debasement. She must carry them in equal justice, for in this she is pledged in honour and in gratitude.
> 'She must carry them even unto the end, for in human probability, she will never be quit of either.' (43)

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42. "E.S.", The Native Problem, Segregation, and the Political Status of the Native (Grocott and Sherry pamphlet, Grahamstown, 1912). (Although expressing an extreme view, this is quoted to illustrate the uneasiness of many better-educated Afrikaners at the time, and because it describes a period before and not after the passing of the Land Act, like that of W.M.Macmillan): 'There you have a Native population living under appalling conditions in the most congested localities, openly consorting with low whites and obtaining unlimited liquor supplies.'

43. House of Assembly Debates, 9 May 1913, p.2280. Grady was a Southern newspaper editor who wrote and delivered a good many speeches on "the Southern problem", especially in the 'eighties, and was quite well known. He advocated segregation, as the only salvation of either race, but an ideal segregation with equal opportunity for both black and white.

By what he had observed and read over the fifteen to twenty years preceding the introduction of the Land Bill it is possible that, all other "pressures" and direct "influences" aside, Sauer himself may well have formed the conviction that segregation - that is, territorial separation of the races - was the most vital condition required for the preservation of the culture, racial purity, and economic development of both black and white.

When, in December 1912, Sauer found himself precipitated into the ministry of Native Affairs once again after twenty-nine years, it needed little of the pressure that was brought to bear upon him in the next nine weeks to induce him to frame the colossal plan for segregation which still bears his name. (44)

On the other hand, since Sauer was less articulate than Hertzog and disinclined to commit his private views to paper as did, for instance, Patrick Duncan (see his "Suggestions for a Native Policy", quoted in Ch. III), it is difficult to discover whether he approved of segregation in principle before the beginning of 1913.

The only direct evidence we have - and even this is not conclusive - is a single letter in his own hand, which he wrote to Merriman at the end of 1912 while still at the ministry of Agriculture. It is a strange document

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44. Stanford Papers, Diary of 1912, in an entry dated 27 December, appears the following: 'Had a talk with Mr.Sauer. He told me that it was his own doing - taking Native Affairs. He regarded Hertzog as [illegible] and apt to be carried away by ideas not always practicable.'

in which he deals with fruit inspection, explains his reasons for taking the portfolio of agriculture, and discusses the distress of natives in the Transkei and the policy of giving authority to their chiefs. In conclusion, he breaks off the thread of his discourse rather abruptly, without overtly committing himself either way, tries to give his old friend some inkling of his changing views on the subject of land policy with regard to natives:

> 'And now my dear old friend let me say - I had hoped it was not necessary that I should leave the ministry if any act or policy is adopted which is contrary to the views I have long held and suppressed.
> 'Dower (45) tells me that nothing that has been done by Hertzog as Minister of Natives so far can be taken exception to. As for segregation - it is blather.' (46)

This may indicate that Sauer considered total segregation unworkable, that he did not agree with what he had heard of Hertzog's scheme, or that what he had heard of alternative schemes (such as, for instance, that of Duncan) had not convinced him that any of them could be translated into practical terms. A month later, however, he could have been seen drafting a scheme of his own.

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45. Edward Dower, Under Secretary for Native Affairs.
46. Merriman Papers, J.W.Sauer to J.X.Merriman, 25.11.12 (N.B. The last word is almost illegible and may thus have been wrongly identified.)

SAUER'S LETTER TO MERRIMAN, 25th November 1912.

the matter of providing food for
the Natives in the Transkei was
pressing my attention. And there-
after Rusten [illegible] to see Hoy & ascertain
if the Railway Dept with its lighters &c
could land mealies at Port St John
and Port Grosvenor. The Natives
could within a considerable area
from these points carry off mealie food.
Rusten is leaving the day after
tomorrow for Grahamstown where he will
look after
the

had reason to the position of a Chief, but
allowed to retain his position in that
respect which he had had for 25 years.
Since [illegible] my dear old Friend let me
say — these hopes it was [illegible],
that I shall leave the ministry if any
act or policy is adopted which is
contrary to the views I have long held
& expressed. [illegible] tells me that nothing
that has been done by [illegible] the Ministry
of Natives so far can be taken exception to.
As far as [illegible] — it is [illegible].

With kindest regards
Yours ever
J W Sauer

Once Hertzog had recovered from the initial shock of hearing that Sauer had "stolen" his segregation bill, he rallied sufficiently to register a protest on a few relatively minor points. As described in the previous section, he was firmly dealt with by Burton and, except for a series of angry interjections, he did not speak again that day.

Botha, in his speech in favour of the "new policy" (and partly in reply to Hertzog's speech) deserves to be more fully discussed. He began by pointing out the necessity for co-operation, irrespective of party differences, of members in order to get such legislation passed.

> 'Before Union, it was not possible to do anything, because we could not get every Parliament of the different Provinces to take the same measures. Now, however, we have one Government and one Parliament, and we have the opportunity of doing something, and something should be done.(Cheers)'
> 'But we must be cautious. We are dealing with a great people, and we should not lose sight of the fact that we are, so to speak, the trustees of the natives, that we have the control of the natives.' (47)

Botha's main purpose in rising to speak on this issue (for he declared that he would have thought that after Sauer's explanation it would not have been necessary to enter into any debate), was to oppose the amendment suggested by Hertzog.(48) The motion of the Member for Ficksburg (Keyter) should, Hertzog believed, be

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47. House of Assembly Debates, 28 February 1913, p.578.
48. Ibid., p.577.

amended to read:

> 'That this House is of the opinion that a Bill should be introduced during the present session of Parliament, providing for the effective restriction of the purchase and leasing of land by natives within certain areas within the Union, and further, regulating the squatting of natives on farms.' (49)

Any kind of "social rapprochement" between white and non-white, Botha was convinced, 'could only lead to the greater misery.'

> 'But unless we go slowly and carefully there is a danger that we may take steps which would be unreasonable, unjust and unfair on one section. For that reason, I regret the amendment proposed by the hon.member for Smithfield [Hertzog] because the amendment would have bad results if it were accepted.
> 'It will lead to an over-hasty measure of a most impracticable kind and this House will have to demarcate exactly and immediately those parts where the natives will have to live, and I ask you: is this House able to do so? (cries of "No")'.

Solomon T.Plaatje quotes this speech by Botha on 28 February in order to prove that the natives were not only victims of a cruel law, once the Bill was passed, but that at a very early stage in the proceedings they were the victims of a broken promise - and a promise made, what is more, by the Prime Minister himself. The grievance which he outlines seems at first sight to be fully justified:

> 'These were General Botha's views [see above] when the Land Act was first mooted, but in defiance of his solemn warning, the Bill, when gazetted, provided that the eviction of native tenants should

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49. House of Assembly Debates, 28 February 1913, p.570.

precede the Commission's inquiry.' (50)

To return to the statement by Botha on 28 February, however, it is evident that, despite the similarity between his choice of words and those allegedly used by Hertzog to the native delegation which visited him early in December 1912, that Botha was discussing railways and not black-white land allocations, as Hertzog had then been doing:(51)

> 'It is all very nice to talk and take a map and draw lines on it ....
> 'On the map you may be able to beacon off parts, and say "This is for the Natives", but then, when you put your scheme into effect, you may find that the ground of many individuals has been taken away without any inquiries or any investigations having been made. (Laughter, and Hear, Hear).'

Botha assured the House that he well knew that no province of the Union would agree to this, and if they introduced a law in this way they would be deceiving the country - and the Natives.' If a Commission were first appointed, this would prevent "a sort of revolution", and they would end by getting a measure 'which would be acceptable to the white man as well as to the Native.' (52)

Strangely enough, Plaatje, in his diatribe against the premier did not go on to quote the conclusion of his speech, which is so typical of Botha's own views on the twin subjects of natives and land that it deserves mention

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50. House of Assembly Debates, 28 February 1913, p.579.cf. S.T.Plaatje, op.cit.,p.208. Another grievance - and possibly a legitimate one - on the part of the natives, was that they were not given sufficient notice of the Bill. It appeared for the first time in a Union Gazette Extraordinary on 5 May 1913, ten days after the first reading in the House of Assembly.

51. cf. Ch. VIII on "Native, i.e. African Reactions", Plaatje records this interview in Tsala ea Batho, which he edited, and may have noticed the similarity himself.

52. House of Assembly Debates, 28 February 1913, pp.579,580.

here if only because it compares so closely with what he had told the 1903 Transvaal Labour Commission. He rejected Hertzog's amendment once again, on the grounds that it was only 'half a measure'.

> 'If we wish to solve the whole question we should see to it that we have all the Natives in South Africa under us. (Cheers) ... If we wish to deal properly with this great problem, then I hold that the House should agree to instruct the Government to approach the Imperial Government with a view to allowing all the Protectorates to fall under the Union.'

Botha was certain that, were this done, it would "naturally facilitate the position", because "self government" could then be granted to natives in large areas like these, just as was already being done in the Transkei. He then referred baldly and without qualification, to the existence of the non-white vote in the Cape, and concluded:

> 'The leasing and selling of lands to natives must cease, and there must be an end made to the squatting evil. On the other hand, distinct places must be set apart where the natives can live together.' (53)

Almost exactly two months later, however, Hertzog sat in silence while Sauer's Bill was read for the first time in the House. Unable to contain himself until it came up for discussion, he let loose an anti-Botha tirade in the course of the no-confidence debate four days later.

At the end of this debate, what is more, mentioned in section (b) of this chapter, Hertzog and his personal supporters, voted with the Unionists and the Labourites

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53. House of Assembly Debates, 28 February 1913, p.581.

against the South African Party government's continuing in power; their motion was, however, defeated. Nevertheless, by so doing, Hertzog made it clear that he considered the rift between Botha and himself, and between the party and himself and his group, unbridgeable.

In the long speech he delivered that afternoon, Hertzog was at pains to make it clear to his listeners that, try as he might, he had not been able to induce Botha to admit that the difference between them was one of principle. Botha, he implied, was the victim of his own policy, conciliation, which had induced him to drop anyone who opposed it.

> 'I am kept out because King Sauer is kept in, because the Prime Minister is afraid to kick him out.' (54)

In due course, Botha rose and defended himself and his party in an admirable manner, though the anecdote which he told in conclusion supported his declaration that, though he was sorry that Hertzog had broken with him, and with his party, he was glad that the break had come from Hertzog's side and not from theirs.

He then told the House:

> 'When I formed the Union Government, some members of the party were opposed to the inclusion of the hon. member [Hertzog] in the Cabinet. I then stood by him, although my best friends had warned me: "Take care, he will bite you."
> 'I replied then that they did not know him, and that he was better than that. I suffered enmity from(sic) my best friends, but loyally stood by him, and this is what I have got in return for it.' (55)

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54. House of Assembly Debates, 29 April 1913, p.1978.
55. Ibid., p.2000.

CHAPTER VI.

THE NATIVES' LAND BILL IN PARLIAMENT

Part I:

The Second Reading Debates (9 May to 19 May).

The Bill which Sauer introduced to the House on May 9 consisted of seventeen clauses divided into six chapters, each with a descriptive heading specifying its contents.

First came a section dealing with the placing of a total ban on the further sale of land to natives by persons other than natives and furthermore stipulating that this ban was to come into force immediately on the Bill's becoming law. With the exception of the Free State this was the first time that such legislation had ever been passed in any of the four states comprising the Union, although in Natal and the Cape land-buying by natives, though not actually prohibited, had been negligible for years. Provision was also made in this chapter for the appointment of a commission to investigate the question of native land-holding and ultimately to set aside further areas for their exclusive use. The second chapter merely consolidated the ban laid down in the first by extending it from the sale of land between natives and non-natives to the sale or hire of land to natives in non-native areas.

The third chapter, which consisted of only two clauses dealt with the procedure by which, in exceptional instances, the government might authorise the acquisition of land in native areas 'for church, school, or trading purposes

...../or

or for public purposes'. The fourth chapter was concerned with the means by which the government intended to expropriate land which should be put at the disposal of natives thereafter. The fifth chapter specified that any such land, once acquired, would not be given to natives intending to farm on the communal system.

In the course of the final chapter, headed 'GENERAL AND MISCELLANEOUS', Clauses 13 and 14 referred - though the term was nowhere employed - to the squatters living in large numbers on white-owned farms and giving, in return, their labour for part of the year, or a share of the crops they harvested. Provisions restricting the number of squatters on each farm were already in force in most parts of the Union, though these had not invariably been adhered to. Sauer's Bill, however, virtually outlawed the practice of "kaffir farming."(1)

Sauer claimed that this Bill would become "the natives' charter", a promise which, for reasons to be discussed later, was belied in the event.

While believing that the Bill would go some way towards ameliorating the total multi-racial situation in the Union at that time, Sauer appears to have had scant hope that it would solve any major issue, for even in the United States, to which he referred several times during his introductory speech, the problems created by black and white living together in one state were considered insoluble, for

(1) Union Government Gazette Extraordinary, 5 May 1913.

all that in the Deep South the whites were in the majority. No law hammered out in a legislative assembly could do much.

> 'It was rather the invisible laws which would govern this matter - social, moral, and economic laws, and all we could do was to aid or retard them.
>
> 'But he was sure of this, that the civilised race - the European race - must recognise that it may be difficult if not impossible to maintain its dominant position if these invisible laws were not obeyed.' (2)

Even allowing for the tacit agreement of all on the importance of these overriding "invisible laws", Sauer cannot have anticipated strong opposition from any quarter to the visible law he proposed to introduce when he rose that day to address a packed house. He gave the assurance that, as this measure might affect Crown lands and other prerogatives, it had been referred to the Governor-General (Lord Gladstone) and that the King's representative had given his consent, 'in so far as His Majesty's interests are concerned, that this House may do therein as it may think fit.'(3)

The Unionist Party, then the official opposition in Parliament did not constitute a serious threat to the Bill. It does not appear to have made the native question an essential part of its election platform, and the party manifesto (issued prior to 1910) is so vague and unspecific on both land and natives as to allow of almost any interpretation.(4)

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2. House of Assembly Debates, 9 May 1913; p.2280.
3. House of Assembly Debates, 9 May 1913, pp.2269, 2270.
4. Ian Colvin, The Life of Jameson, Vol.II, London, 1922 p.302 (The only standard biography of Sir Leander Starr Jameson, leader of the Unionist Party until his resignation in favour of Sir Thomas Smartt in 1912, contains no mention of any views he may have held on the subject of land policy.)

Listed under "General Aims" of the party, for instance, is a section subtitled: "To Improve the Social Conditions of the People." This reads, in part:

> 'By a native policy, admitting of the treatment of questions relating to natives, in accordance with the degree of civilization attained by them, and with the difference and local conditions under which they live and work.' (5)

Nowhere in this document is there any reference to native land allocations, nor to segregation, nor of a policy of placing natives in areas contiguous with those occupied by whites. The Unionists merely stated that if elected, they would encourage "closer settlement" of the land 'coupled with state acquisition ... where necessary.' That they were referring exclusively to white settlement, however, is borne out by the fact that they also promised to pursue "an active policy" aimed at the attraction and assistance of suitable immigrants.(6)

Though there was also a Labour Party in the first Union Parliament, this was a mere handful of men representing, for the most part, industrial and mining constituencies on the Witwatersrand, and for all their party's officially proclaimed intention to 'fight racialism wherever it shows its head', they had no wish to see white interests sacrificed to black. The party line on this issue had already been made clear:

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5. Constitution and Rules, The Unionist Party of South Africa, East London, 1910, p.12.

6. Constitution and Rules, p.13. See also The Star, from 13 September 1912 to the end of that year, for B.K. Long's series "The Creedof Unionism" and The Star 17 January, 1913, for Sir Lionel Phillips on "Segregation" before the Unionist Congress.

SA Labour Party Manifesto

'The manifesto opposed racial discrimination against white people, but it advocated severe discrimination against non-whites. There should be no extension of the Native parliamentary franchise. "Kaffirs" should have "separate" representation in an "Advisory Council". They should be prohibited from owning or occupying land in "areas occupied by whites", but should be provided with "suitable reserves" where they could receive "proper" educational facilities and "agricultural training".' (7)

Natal reaction

The only other group in parliament which can be said to have had no ties with the government was that loose faction sometimes called the Natal Independents. These included A.Fawcus (Umlazi), a friend of John X.Merriman, who was prone to statements which could be accounted "liberal", and Col.G. Leuchars (Umvoti) notable, in that it was he whose resignation had sparked off the Cabinet crisis of 1912, and who was himself a former minister of Native Affairs in Natal.(8)

The Natal representatives constituted a separate section, of mild and often inconsistent opposition, which was distinct from that of any other party or faction in parliament. While Leuchars "welcomed" the Bill, for instance, several others, including Henderson (Durban, Berea), Meyler (Weenen), and Sir David Hunter (Durban, Central), advocated delay until a commission had reported.

Sauer has been accused of "steam-rollering" this legislation through parliament though, as will have been

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7. L.M.Thompson, op cit., quoting the Manifesto of the South African Labour Party, n.d.[1910], p.462.

8. House of Assembly Debates, 16 May 1913; p.2520. Henderson (Durban, Berea) expressed regret that, as yet, no native affairs expert and no Natal member had spoken, and pointed out at least two of the latter - Leuchars and W.F.Clayton (Zululand), the son-in-law of another ex-minister were actually experts in native affairs.

observed, such tactics were scarcely needed in the parliament of that day. On the other hand, several writers, and also a number of parliamentary correspondents who observed him at this time have noted that he appeared to be under considerable strain. C.M.Tatz indeed seems sure that the contrast between what he was proposing and what he had fought for in the past weighed heavily upon him.

> 'His opening speeches in both the House and the Senate suggested that his position was that of a man compelled to do something rather than that of an administrator inviting Parliament to embark upon a scheme backed by his own passionate intensity.
>
> 'At times his answers to questions savour of despair, his speeches of automatic recitation rather than fervent enthusiasm.
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> 'The circumstances of the time may well have demanded it of him; a government struggling for unity in its teething stage, racked by conflicts of the Botha-Hertzog type, finding it necessary to counteract Hertzog's popular segregation clamours and beset with great pressure from Free State members demanding land legislation.' (9)

Sauer's speeches on the first and on all succeeding days read rather well, and it is difficult merely on the evidence of the printed work to read into them the note of despair which Tatz has remarked upon. Both the Cape Town papers reported that he had spoken well and, on the whole, forcefully. Towards the end of his introductory speech he had betrayed 'a certain degree of emotion which showed some sense of the vastness of the South African problem', but there had been 'little effort after the grand manner'

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9. C.M.Tatz, op. cit., pp.18, 19.

which, it was felt, the occasion called for.[10]

Sauer began by discussing the native problem in general and the relations existing between black and white, 'which was a question so complex and difficult that one often despaired.' He admitted that his Bill dealt with only one phase of that large question, and he hoped that the object aimed at would be attained, and that 'the bulk of the people affected by it will consider it reasonable.'

Phase did Sauer contemplate further legislation

To call the Bill "only a phase", for which might be read instalment, suggests that Sauer may have had in mind a sequence of acts concerning the native question of which the Land Act was only the first. He was to make another remark later to substantiate this belief, but as he was never specific upon this point there is no certainty that this was the case.

Though he did not labour the point, Sauer seems to have made a point of ridding his hearers' minds of any suspicions of some new, reactionary trend in his own thinking. He emphasised his own moderation and denied that he had been swayed by public opinion.

> 'Recently there had been a good deal of discussion on the question of segregation. Personally he had never been able quite to understand what that meant. If it meant that there must be a complete separation between Europeans and natives, so that they would not come into daily contact with each other, then
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10. Cape Times, 10 May 1913; Stanford Papers, Diary of 1913 in an entry dated 9 May; 'Sauer spoke well, it is said by those who heard him.' (Stanford added: 'To my mind, the bill is not ideal. Civilized natives should not be debarred from acquiring land.')

it was an impossible proposal. The provisions proposed under the Bill were far less drastic than what some people meant by segregation, and, he hoped, more feasible.'

He emphasised the need for separate areas, and went on to emphasise the restrictions upon native land-holding in the four provinces.

His next statement, concerning land-holding in each of the four provinces, has made some writers skeptical about his loyalty to his earlier principles. His final words have even been taken to mean that he wished to see the abolition of the Cape compromise.

In view of Sauer's reported statement before the National Convention of 1909, however, it is equally possible that it was the extension and not the abolition that he looked forward to. His actual words were:

> 'When he first drafted this Bill, provision was made to include the whole of the Union, but he thought that in dealing with a question of this kind it would be wise to have a uniform legislation over the whole of the Union. But his difficulty was this. Under the provisions of the South Africa Act, anything touching the franchise rights of the native could only be altered by a two-thirds majority. He saw the difficulties and he decided for the present to leave that out of the Bill, though not without regret.'

Sauer then went on to suggest that the squatting problem should be dealt with 'on liberal lines'. The squatters were on the land illegally but they had been there, in many cases in the Transvaal and Natal, for two or three generations. Referring to the recommendations of the 1903 Commission he observed that among its members had been 'what some people called sometimes pro-native men - none the worse, perhaps, for that.' Chiefly, however,

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he used the report of this Commission to illustrate how the necessity for restrictions had increased over the years.(11)

Crewe insists areas delineated before Bill carried

Sauer may well have anticipated that, all relevant difficulties having been dealt with in his introductory speech, the House would proceed immediately with the next stage of the Bill. If this were so, such hopes were dashed by Col.C.P.Crewe (East London), a leading Unionist, who rose and urged the necessity of appointing a commission to investigate and delineate white and native areas before the main provisions of the Bill were carried.(12)

Debate allows uneasy but not entirely opposed to air views

The debate on Crewe's amendment took up a great deal of time and gave those who, like him, were a little uneasy but not entirely opposed to the Bill, the opportunity for airing their views. Of the speakers who took part in the debate, it is notable that none of them broke ranks or took up a stand which was not to be reconciled with the official line of the party to which they belonged.

Unionist B.K.Long, for instance, 'thought that it was true to say' that if such a Bill became law, it would

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11. House of Assembly Debates, 9 May 1913, pp.2269-2280. When speaking of the clause which exempted the Cape from the operation of the Bill, Sauer mentioned that he had consulted "an eminent lawyer" on the question of the native franchise. (House of Assembly Debates, 9 May 1913, p.2273). Later Sauer stated (9 May, p.2278) that he had been 'in communication with some of the most experienced and prominent native administrators' in the Union; all had approved of the Bill. Evidently this did not include Stanford, who had reservations. P.G.W.Grobler (Potchefstroom, 9 May, p.2290) revealed that Sauer had consulted him (and presumably the Select Committee of which he was a member) when drafting the Bill. During the committee stage (4 June, pp.3121, 3122) Sauer once again referred to prominent men whom he had consulted, including the Chief Magistrate of the Transkei.

12. House of Assembly Debates, 9 May 1913, pp.2281-2285.

mean the abandonment of the traditional Cape policy of equal rights for all civilised people south of the Zambezi, but[13] that 'whereas the Cape's political policy had been a striking success, its social policy had been in many cases, a lamentable and disastrous failure.'[14] He concluded that the Bill was "a good one", from the point of view of both white and black, and entirely 'in harmony with Cape traditions.'[15]

Creswell (Labour, Jeppe), though he had something to say about the "locking up" of so much of the land in the possession of relatively few white landowners to whom this proposed law would grant at least a modicum of native labourers, thus denying land and work to the Poor Whites,[16] did not speak against the Bill as a whole. Moreover, since the Labour Party had 'had the temerity' to go away from the formula so dear to the other parties, one of which advocated a "firm and just" native policy in contradiction to the others "just and firm", he was glad to be in a position to point out that the Labourites had 'always advocated the separation of the races.'[17]

The Natal members were slow to come forward with their views on the Bill, though Fawcus did voice a sentiment

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13. House of Assembly Debates, 16 May 1913, p.2482.
14. House of Assembly Debates, 16 May 1913, p.2485.
15. House of Assembly Debates, 16 May 1913, p.2486.
16. House of Assembly Debates, 9 May 1913, p.2297.
17. House of Assembly Debates, 9 May 1913, p.2294.

which was to become a kind of refrain in many sections of the native press and repeated by various speakers at protest meetings, and notably by W.P.Schreiner in the Senate. It was, he declared, 'surely the very irony of fate' that "the present Minister of Native Affairs" should be the one "to pilot a bill through the House,' and he went on to express sympathy for the natives who were about to be dispossessed.(18)

Clayton (Zululand) asked, at one stage, that Natal, like the Cape, be exempted from the operation of the proposed law, because it had the highest proportion of native land, which he stated to be 25%.(19) Natal also had, of course, the largest number of natives of any of the provinces, and this elicited the second comment on the silence of most of its members during the debates. Having said this, Meyler (Weenen) went on to recommend that all having charge of matters affecting the natives should study the works of Maurice S.Evans.(20) He also likened those who supported the Natives Land Bill to King Canute in the act of bidding the waves retreat.(21)

Even a cursory survey of the opinions expressed by northern members on the merits of the Bill reveals that, while not disputing the necessity of such a measure, they would not have baulked at one far more severe, and that they believed

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18. House of Assembly Debates, 15 May 1913; p.2472.

19. In view of the differences between Natal and the Cape, this statement is a little misleading. According to calculations made from tables given by L.M.Thompson, op cit., Ann.A., pp.486, 490, the Cape was placing approximately 17% of her population (i.e.the natives) on 17% of her land, whereas Natal had 80% of her people on 33 1/3% of her land.

20. Evans, English-born and a former Natal politician, had by now produced several books and pamphlets on the native question and allied topics, some of which are referred to in this study.

21. House of Assembly Debates, 16 May 1913, p.2525.

that it was the pre-ordained purpose of the native to serve the white man, and to occupy as small an area as that on which he could be accommodated.

E.N.Grobler (Edenburg), for instance, was only afraid that the Bill, for all its obvious merits, would adversely affect the farmers' labour supply.

Farm Labour + Taxation

> 'Neither could he agree to the principle of expropriation of land belonging to whites in order to increase the size of native reserves ... He was glad to learn, however, that reciprocal provisions applied in the case of land held by natives.'

He considered that the labour supply problem could best be solved by taxation; all natives in the service of whites should be exempt from paying tax (and 'treated as well as possible'), and all itinerant natives who would only intermittently should pay £1.

Grobler concluded by referring to a speech by Theo Schreiner on 28 February, in which he had spoken of the injustice which might be done if squatters were compelled to leave the lands upon which they had long been living:

> 'The hon.member for Tembuland [Theo Schreiner] had offered many objections to the Bill. They should make the hon.member king of Tembuland. In a country of the blind a man with one eye would be king.' (22)

P.G.W.Grobler (Member for Potchefstroom and proposer of the original motion on 28 February which had precipitated the Bill now before the House) did not think that there was much danger of individual natives acquiring land, but feared an increase in communal land-buying:(23)

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22. House of Assembly Debates, 9 May 1913; p.2286. This final slice of levity, possibly combined with scorn, is comparable with that of G.W.J.du Toit (Middelburg, Transvaal), who was upbraided by Fawcus for referring to the natives as "Schepsels" (creatures), (See House of Assembly Debates, 15 May 1913; p.2472).

23. cf. House of Assembly Debates, 24 February 1913: A petition laid on the table of the House regarding farms in the Transvaal which had been registered in the names of natives was referred to the Select Committee for Native Affairs.

'The natives first as a tribe bought the ground, and after that three or four of them made a plan to buy a farm, for the kafir was the most absolute communist that ever existed ... His needs were not very great, and he could easily exist with many others on one farm.'

Both P.G.W.Grobler and Creswell, the Labour leader who followed him, implied that they understood the Bill as only a small part of a grand plan to ease the existing situation between black and white.(24)

The last noteworthy speaker during the early stages of these debates was Patrick Duncan, to whose pamphlet published at the end of 1912 reference has already been made. He urged caution and forethought before all:

'Whatever was done to put this question of the tenure of land on a different footing from the present, must be done in a manner which would last (hear, hear). It was a question upon which policy should not be allowed to chop and change. If we took a step in the wrong direction it would not be easy to reverse it.'

Duncan agreed in principle that the "points of social contact" between white and black should be reduced, but was not certain whether the present Bill would bring this about, especially on the farms.

'Under this Bill it would be possible for farmers to accumulate on their lands as many natives as they could get, so long as they could use them as servants (Labour cheers).'

Duncan was also the first to suggest that special provision be made for "civilized natives or coloured men" to buy land outside the scheduled areas; 'otherwise the effect would be to drive the superior native back to his less

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24. House of Assembly Debates, 9 May 1913, p.2290. It is worth noting that at this time "communism" had none of its modern connotations, and that natives described themselves thus when referring to their traditional methods of communal farming.

civilised people, and to do a thing like that would be fatal to those who did it.' For this and other reasons Duncan proposed that the Bill should first go to a select committee.(25)

Exerpts from the speeches of members quoted above have been grouped together rather than given in sequence so as to illustrate their strict adherence to the party line and to provide an impression of the overall tone of the debates. The course of these latter did not progress logically to any definite conclusion, but were rather a series of individual opinions expressed one after the other. The debate on the first day, Friday, 9 May, was adjourned until Thursday of the following week. This was 15 May 1913, and Merriman was the first speaker. In the course of a long and reasoned discourse he indicated that Sauer, despite their long association in the past, had not consulted him on the Bill in the making, and that he, Merriman, gave it only his reluctant support. Merriman was now over seventy, but his mind had not yet become blurred as it did in his latter days. He pointed out the obligations which the whites had to the natives:

> 'Let them think what the industry of the natives had done for us. Who had built our railways, who had dug our mines, and developed this country as far as it is developed? Who had been the actual manual worker who had done that? The native: the coloured races of this country. We must never forget that we owed them a debt in that respect - a debt not often enough acknowledged by what we did for them.'

Merriman felt that, mainly on this account, some attempt should have been made to get their views. The Bill, as far as they were concerned, was going to set up a kind of

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25. House of Assembly Debates, 9 May 1913; pp.2288, 2289.

pale; there was going to be 'a sort of kraal in which all the natives were to be driven', and they were going to be left to develop on their own lines.

> 'To allow them to go back on to their own lines was merely to drive them back into barbarism; their own lines meant barbarous lines; their own lines were cruel lines.
> 'All along they had been bringing them away from their own lines.' (26)

Merriman concluded by asking for 'justice, toleration, moderation and delay' in the matter. He did not intend to vote for Crewe's amendment because he thought that parliament should first consider the matter; it should be read a second time and then sent to committee.(27)

Merriman's speech - as "liberal" as any made in the course of the debates - was later criticised by Col.Leuchars (Umvoti), who called it "destructive", and feared that it would 'furnish ammunition for the less enlightened among the natives for the purpose of opposing the measure.' Without hesitation, Leuchars gave it his own unqualified approval:

> 'Personally he welcomed the bill and thought that it was a good measure.' (28)

After Leuchars' statement on 19 May, however, the Natal members virtually ceased such protestations as they

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26. Merriman Papers, Merriman to Prof.Goldwin Smith, 12 January 1908; he wrote that Natal native policy was designed 'to keep the natives in a state of barbarism.'

27. House of Assembly Debates, May 15 1913, pp.2439-2447. Merriman went on to compare the principles embodied in the Bill with those underlying the treatment of the Irish by the British. Although the two systems had very little in common, it is nevertheless interesting that such an analogy should have been drawn by Merriman, for Rose Innes (see ch.X) compared the provisions of the Land Bill with the treatment of the Poles by the Germans.

28. House of Assembly Debates, 19 May 1913, p.2531.

had made earlier.[29] For all that Sauer had anticipated little opposition from the Natal Independents or, indeed, any other party or faction in parliament, some uneasiness may have been occasioned by the silence of Hertzog, the man who had preached the virtues of territorial segregation long before Sauer, but who apparently had nothing to add to the arguments advanced by others on the first few days of the second reading debates.

Merriman had delivered his major speech on May 15 and in the middle of the next afternoon, Hertzog rose, and began by congratulating Sauer on the step he had taken in introducing the measure.

He regarded it as by no means sufficient in itself, but as a guarantee of what would come in the future. Though he conceded that Merriman's speech had 'lifted the debate out of a rut', he begged to differ from him on the question of whether the educated native should receive special treatment. To this he was moved to reply in the words of one (whose name he did not give) who had addressed the educated natives in the United States of America:

> "The place of the educated native is not among the white people, but among his own people" (Cheers). When in the Middle Ages an educated German came back from Rome, the centre of learning, to his own people

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29. In the course of the third reading, during the second week in June, Hunter (Durban, Central) still pressed for the appointment of a commission in order to give the natives 'a greater sense of security' (See House of Assembly Debates, 11 June 1913, p.3385), but by that time further protests were unavailing.

had he felt any objections, had he felt degraded because he went back to his own people?' (30)

The speech of a leading Unionist, Sir Lionel Phillips, who followed Hertzog, is interesting in that it shows that he was uneasy about the Bill, about native reactions to it, and about the fate of those natives upon which it would fall most heavily, yet he must ultimately have been satisfied that such a law, would be ably and equitably administered, for he was not among the handful who voted against proceeding to the committee stage.

'This Bill he looked upon as a step in the right direction but he was not sure that the Minister had taken that step in the best possible way. This Bill they were told, resulted from discussions that had taken place in the committee-room. But he did not think that anyone was prepared for a measure of this sort being launched upon the House with a request to take the second reading at once, while a great many people interested in the matter had had no opportunity of expressing their opinion on it.

'He believed that the present Minister of Native Affairs enjoyed, in a unique degree, the confidence of the native people in South Africa; and he said that with some foundation, because he got it from persons in authority in connection with Missionary Societies, who were in touch with the principal native people in this country, and they told him that the bare fact of this measure having been introduced by the present Minister of Native Affairs had avoided a tremendous outbreak of violent speeches and opposition to the Bill.'

Though Phillips was at one with the majority of the members in feeling that the basic principle of the Bill was the right one, he urged even greater safeguards for the rights of the natives.

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30. House of Assembly Debates, 16 May 1913, p.2498. See also Stanford Papers, Diary of 1913, under an entry dated 29 April: 'Hertzog was making notes in the House, so I suppose he will speak tonight.' This was the evening of the no-confidence debate.

'With regard to the Commission, they knew that they had a Minister of Native Affairs today who enjoyed the confidence of the natives; but they might not always have a Minister like that, or one who was sympathetic with the natives, and therefore it was of the highest importance that the Commission which they were going to appoint would enjoy the confidence of the native population, as well as the white population.' (31)

Sir Bisset Berry (Queenstown) was one speaker who disagreed with the Bill. He spoke at length but on the whole to small purpose because he argued about details and foresaw minor obstacles which might prevent its fullest implementation. He referred to Saul Solomon, one of the earlier Cape liberals ('No man in this country, not even excepting the Minister of Native Affairs, took a greater interest or a broader view of matters ...'), and as Sir Bisset was one of the eight who voted for sending the Bill to a committee, the ineffectuality of his speech is perhaps both unfortunate yet significant.(32) There was in fact not one among this small group of dissentients who was a first rate speaker, and such mild opposition as they offered lacked conviction.

The final speech in this debate was made by Sauer himself, but reports of this speech differ and the text quoted below is, on that account, taken partly from the official record of the debates in the House of Assembly for 1913, and partly from the report of the same speech

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31. House of Assembly Debates 16 May 1913, pp.2504-2506.
32. House of Assembly Debates, 16 May 1913, pp.2508-2514.

in the Cape Times of 20 May of that year.

It is evident that Merriman's implied criticism of his motives had troubled Sauer, because he sought to justify himself by pointing out the similarity of the words he had used in 1894 to justify separate areas for each of the two races in the debates on the Glen Grey Bill nearly twenty years before, and the basic principles of the present Bill. 'The Hon.member for Victoria West agreed with me then, and both of us spoke in favour of this principle.' He was nevertheless pleased with the way the House had received this Bill; ninety-nine percent of the members agreed with the principle behind it.

Emphasis on application

> 'He was pleased to think that both sides of the House - friends of the natives, even the hon.member (Mr.Schreiner) who sits on the back benches - favoured the principle of separation. The question was as to how it was to be applied, and in that respect he hoped he had taken sufficient safeguards to see that all those affected would benefit.
> 'He was sorry to hear his right hon.friend [Merriman?] speak about him bringing in the Bill in the way he did, but he did not tell the House what alternative there was to this. He hoped he was, and would always remain, a friend of the native, as he had shown himself to be in the past. Could anyone say that the existing relation between the races was wholly satisfactory? He thought not. He would say without egotism that he thought it was fortunate that somebody with his views had brought in the Bill. He was not going to forfeit the good opinion of these people, who were not directly represented in the House, and who had a claim on their sense of justice ... .
> 'He believed that a liberal and fair policy if adopted would enable them to carry them with them and that would be a policy beneficial not only to the native but also to the white race.' (33).

In answering criticism about the natives not having received proper notice of the Bill, to which the majority of them were opposed, Sauer referred to the fact that Tengo

...../Jabavu

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33. House of Assembly Debates, 19 May 1913, pp.2544, 2545 cf. Cape Hansard, 30 July 1894, p.380, col.2 (quoted ch.IV, p.110 of this study).

Jabavu, "the Hofmeyr of the natives", had approved of it.

> 'He [Sauer] spoke of the inevitable degradation of the white races which sought to maintain surrounding masses of natives in a state of barbarism, and urged the necessity of carrying native opinion with you if you wished to succeed. "We have not only rights but obligations," he cried, with an emphasis which is rather foreign to his usual manner, "and unless we recognise that we shall fail, and we shall deserve it." ' (34)

Sauer having been loudly cheered at the conclusion of his speech, Crewe rose and withdrew his amendment. The motion for the second reading of the Bill was agreed to, and the committee stage set down for the following Thursday, May 29.

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34. Cape Times, 20 May 1913, p. 8, col. 1, Sauer's reference to Jabavu does not appear in the official record of the debates for that day, but comparison between the two versions suggests that his remarks about the native editor should be inserted just below the passage quoted above. See also Imvo Zabantsundu, 11 March 1913.

CHAPTER VII.

THE NATIVES' LAND BILL IN PARLIAMENT.

Part II.

DEBATES ON THE PROPOSAL TO COMMIT, THE COMMITTEE STAGE, THE PROCEEDINGS IN THE SENATE, AND THE PASSING OF THE ACT.

Delay in session redrafted

The Bill was not discussed on May 29 as a postponement was asked for, but on the Monday following (2 June) the House was asked to vote on the motion to commit. The reason for the delay was immediately apparent. Instead of placing before the House the Bill which had first been read on 25 April, Sauer had redrafted the original text in order to include a number of very minor changes in the arrangement and wording, the effect of which was mainly to "tighten up" certain provisions of the Bill and allow of no loopholes.

The second Bill was not therefore an entirely "new" Bill, as some claimed.(1) Solomon T.Plaatjie's charge, moreover, that the government in doing this, had 'proceeded to delete the milder clauses and to insert some very harsh ones'(2) is not borne out by a comparison between the first Bill and the Bill in its final form. The final version was approximately one thousand words shorter than the original, and it is easy to see how this came about when two sections like the following are compared. For instance, in Chapter II of the first Bill, Clause 5 (2a) reads:

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1. House of Assembly Debates, 4 June 1913, p.3106. Berry complained that the amendments to the present Bill were so numerous and so important that one might reasonably ask whether it was the same Bill.

2. S.T.Plaatje, op.cit., p.55.

'Nothing in this section shall be construed as applying to land within the limits in which a municipal council, town council, town board, village management board or health committee or other local authority exercises jurisdiction, unless and until such council, board, committee, or other local authority has, under the powers conferred upon it by law, established within those limits a native location and provision has been made by regulation made under section elevan, for natives acquiring land or the right to occupy land in such location, or unless and until, where no such locations have been established, regulations have been made as to the ownership or occupation by natives of land elsewhere within the limits aforesaid.' (3)

In the revised Bill, on the other hand, in which there are Clauses but no Chapters, the comparable section reads:

'8.(1) Nothing in this Act shall be construed as - ...
(g) applying to land within the limits in which a municipal council, town council, town board, village management board, or health committee or other local authority exercises jurisdiction.'(4)

This instance could be parallelled by several others in the course of the text, but the net result was to restate more briefly rather than to change. Plaatje may, however, have been alarmed by Clause 7 of the second draft, which stated that most of the laws in force in the Orange Free State should remain in force, for it was the Free State's "system", in a modified form, which was being introduced throughout the Union.

Sauer must have anticipated a sharp reaction to his amended Bill, but when Sir Thomas Smartt, the Unionist leader, asked for an adjournment to allow members to consider its contents, there appears - to the reader at least - to be a note

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3. Union Government Gazette Extraordinary, 5 May 1913.
4. Bills 1913, Vol.II; A.B.36A -'13, 10 June 1913(to be read before House in committee). This version of the Bill was not gazetted in advance but it is obvious from the debates that members had copies before them.

of irritation in the short speech in which he agreed to this. In his statement, 'much of which was inaudible in the Press Gallery', he was 'understood to say' that in order to satisfy the member for Fort Beaufort and others, he had decided to take the measure in two parts. He agreed to move the adjournment of the Bill but he hoped that, 'when consideration of the Bill was taken up again (on Wednesday next, the fourth) ... Hon.members would go right through with the measure.' (5)

When business was resumed on the evening of June 4 the Land Bill duly appeared but it was two and a half hours before the House voted to go into committee, and most of this time was taken up with the discussion of an amendment by Sir Bisset Berry that the Bill should, at that stage, go before a Select Committee. Speeches were made by various members who were opposed to the Bill - not to the principle but to certain sections of it, to its present form and to the speed with which it was being steered through parliament - and five out of the eight who were later to vote against proceeding to the committee stage spoke up at this time.

This "opposition" was slight, unorganised, and scattered. Only two (Brown and T.L.Schreiner) were South African born. Not all eight were of the same party. There were none from the Free State, two each from the Transvaal and Natal, and four from the Cape. Not one was an eminent man at that time and only one (Alexander) was destined to

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5. House of Assembly Debates, 2 June 1913, pp.3005, 3006. Sir Walter Stanford (see Stanford Papers, Diary of 1913, under an entry dated 27 May) says that Sauer had showed him a redrafted version of the bill, in which all deals in land between whites and natives were to be suspended, and the commission set up was to report in two years. He implies that he approved of the new version.

reach a degree of eminence later. Some may have been under pressure from their constituents to make a nominal protest. Some, like Schreiner, were alarmed by comment in the Bantu press. None were good speakers though Berry and Schreiner spoke with evident sincerity. All affirmed their belief in the necessity for some kind of geographical separation and almost all merely begged for delay. For a parliamentarian of Sauer's experience it was not difficult to demolish their flimsy protests. If the punctuation of the official record is any guide his voice, at one point, either rose, or he struck a note of command. This is probably one occasion upon which his "Bismarckian" tendencies were noted.

> 'He wished it to be clearly understood that he was not impatient in discussing this matter. It was altogether too important. He was not going for the sake of the party, to rush this Bill; he wanted the bill to become law this session! (Hear, hear).'

He assued members that in drafting the measure he had consulted many of those with long experience in the handling of native affairs, and that all those whom he had then taken into his confidence had declared themselves in favour of the Bill. No man would be in a worse position than he had been before the passing of this measure and some now in illegal occupation would in fact be in a better position than before.(6)

The Bill came through the committee stage unchanged and not one of the clauses of Sauer's reworked version of the original Bill was rejected. It is also interesting to note that when the amended section on squatters came up for discussion, there were a few speakers, including P.G.W.Grobler, the original proposer of the motion to end squatting, who foresaw the distress which it would cause those former squatting natives when they were turned off the land. This danger had also occurred to Merriman.

Effect on Squatters

> 'They came in a sort of half-hearted way and professed that they were against squatting. Now they were going to turn these squatters into something like Russian

..../serfs

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6. House of Assembly Debates, 4 June 1913, pp.3121, 3122.

'serfs. What was this idea of serfs? It was a man who lived upon the land and had to give service in return. They were going to wink also at this labour tenancy. If there was one thing that kept this country back it was labour tenancy. (Hear, hear.)
'He had heard the Prime Minister declaim against the slovenly way in which these farms were worked by labour tenants. A man, instead of working his land like a European, hired a lot of families to squat upon it and work it. And they were going to legitimise this. For four months a year these natives were going to scratch up a man's ground. Nominally they were in a man's employment, but actually they were in the position of Russian serfs. A more degrading class of farming could scarcely be imagined, and the whole object of the Bill should be to do away with it.'

Sauer protested that he was trying to maintain the status quo. He asked them not to talk about serfs and reiterated that the natives would not be placed in a worse position than they had been heretofore.(7)

The last hours of the committee stage of the Bill are remarkable for a doughty rearguard action by Theo Schreiner and a final plea by Sauer which came near to being an explanation both of his motives and his tactics in promoting the Bill.

As the most persistent opponent of the Bill - or, more especially of the speed with which its provisions, having become law, were to be enforced - Theo Schreiner was not in a strong position. He has been described as being at this time an 'Independent supporter of the Unionist party, and a strong believer in a liberal Native policy'. He had suffered all his life from being a mediocrity in the midst of a brilliant family with whom - as for instance during the Boer War - he had not always been in accord. In 1913, however, it was agreed that he could be 'trusted to keep the liberal flag flying in the Assembly.'(8)

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7. House of Assembly Debates, 4 and 5 June 1913, pp.3106-3150 (excluding pp.3129-3132, which report petitions and first or second readings of other bills early on the second day). Immediately before the House voted to go into committee, a division on Berry's proposed amendment was called for. By this amendment, had it been passed, the House would have gone into committee on the "new" Bill which Sauer had presented that day, six months hence. As only eight members (Alexander, Berry, Brown, Hunter, MacNeillie, Meyler, Rockey, Schreiner) supported this, it was duly negatived.

8. E.A.Walker, W.P.Schreiner, a South African, C.N.A. South Africa, 1960, p.172.

He was no match for Sauer or any of his ministerial colleagues, either intellectually or in the field of parliamentary experience. His speeches on the Land Bill lack cohesiveness and oratorical force, and since he began by declaring that he was not opposed to the Bill in principle, he could only quibble about details so that the effect of much of what he said was lost. Such liberalism as he had professed during his years in the old Cape parliament had been of a limited order, but it can be said that though he bore the natives no ill-will, he believed that they should remain on the land, keep to their tribal ways, and give no trouble. He was wary of educated natives, for his own abilities were not such as to make him feel inherently their superior, and educated natives, particularly Tengo Jabavu in his heyday, were inclined to be wary of him. Schreiner also considered it unwise to allow the better educated natives to drift into other centres for higher education, "and to receive there political ideals which will do no good to this country."

When for a short time T.L.Schreiner was joined by three other members urging the exemption of certain "good-class" natives, Sauer, feeling himself heavily pressed, replied in a different strain from that in which he was inclined to deal with minor members who opposed him.

> 'He (the minister) was now being held up by some hon. members as a sort of enemy of the natives ...
> 'There seemed to be an immense amount of suspicion, and motives of a not very creditable kind were being imputed - he did not say by hon.members, but the fact was that the impression was created. They in this House were being painted as a set of villains subtly trying to take away the rights of the natives ... .'
> 'He hoped that the hon.members would realist that there really was no danger at all. He (the Minister) was as concerned as anyone about the welfare of the natives. He was quite prepared to take full responsibility for the position created by this Act. He would assure the House most emphatically that this matter would come up for reconsideration. It was impossible, and more than impossible to think that only one part of the

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Final Resp provisions of Act

Act would be put into operation and the rest of the Act would be ignored.' (9)

Later that same day Sauer moved the third reading of the Land Bill. If he hoped that this would prove a mere formality and would soon be done with, he was once again disappointed, for the speeches made during that relatively short time of just over two hours are noteworthy in that they reflect the rise of another wave, though not a strong one, of opposition. Those who still spoke against the Bill, or parts of the Bill, were dogged, persistent men, but not always entirely sure of their facts and since none voted against the measure in the end, it must be inferred that none of them spoke from unshakeable conviction.(10)

SENATE DEBATE

The passage of the Bill through all its stages in the Senate was swift and, excepting the hour-long plea and protest by Senator W.P.Schreiner, uneventful. Tatz has said that 'the debate in the Senate was generally on a higher and more knowledgeable plane.' This was to be expected, since the senators had already read and digested the opinions of those in the lower house and, since none but Schreiner dissented from the view that the Bill was, by and large, a good thing, and, in the words of Senator Munnik, 'would restore order out of chaos', they had little need but to paraphrase the speeches already made in the Assembly.

W.P. Schreiner

Schreiner pointed out that from the day of the Bill's passing, 17/24ths of the total population of the country would lose the right which they had formerly enjoyed in every province except the Free State, to buy land.

> 'The bitterest drop of all to the natives was that it should be the Minister of Native Affairs who had introduced that, for they have rightly regarded you, Mr.Sauer, as a friend. The natives, however, must feel greatly depressed when they find that one of those whom they have regarded especially as their

Attack on Sauer

...../nearest

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10. House of Assembly Debates, 11 June 1913, pp.3377-3388. As on two previous occasions (the second reading, May 19, p.2547, and the motion to go into committee, June 4, p.3122) when a vote was taken on the Bill (11 June, p.3394) no names of dissentients are recorded.

'nearest friend has introduced this Bill. It hurts them. The measure is surely not intended to be antagonistic to the great bulk of the population, but it is so regarded by them.
'No one who knows the gifted editor of "Imvo" finds that he has the great power today with the native people which he has had: he stands now in such a poor position that there are few who go with him. He (Jabavu) must needs know to what extent the divergence has taken place, he sits in the cold as regards the others. I am not doing him an injustice when I say that in supporting the measure in his paper he has forfeited the trust of the leader of millions.' (11)

On 16 June 1913, certain amendments which the Senate had proposed (12) were considered and accepted by the House of Assembly, and late the same afternoon (for this was the last day of the session) Botha was able to state that the Governor-General, on behalf of the King, had given his assent, among others, to the Natives Land Act.(13)

Sauer's speeches, during the course of the Land Bill's passage through parliament, give the impression, in print, of being well-prepared and delivered in his customary forceful uet unruffled manner. Still, there are not wanting evidences to the contrary, and Tatz, whose comments on Sauer's delivery on May 9, the day on which he introduced the Bill, have already been quoted, makes mention of a report that Sauer's friends had found him at home in tears on the night of his introductory speech.(14)

More impressive still are the words of G.H.Wilson

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11. Debates of the Senate, 13 June 1913, p.541.(The Act was almost identical with the revised and more concise Bill published on 10 June)
12. Ibid,m 14 June 1913, pp.577, 578.
13. House of Assembly Debates, 16 June 1913, p.3554. Some minor amendments were agreed to without discussion (p.3542) and the Governor-General's assent was received the same day (p.3554).
14. C.M.Tatz, op.cit., p.19.

parliamentary reporter whom Sauer invited into his room to talk after recording his vote in the final division.

real feelings of Sauer?

> 'He (Sauer) was most deeply moved, and literally burst into tears, saying that he felt utterly ashamed of his actions in relation to the Bill, for he had betrayed his principles, and that he could never forgive himself. None the less, he said that he felt that General Botha's was the only possible government for South Africa at that time, and that he was not prepared to bring it to wreck by insisting on his own principles at such a moment.' (14)

Sauer's reputation in public life was that of a hard-headed, often hard-hearted, and utterly phlegmatic politician, too old in experience ever to be greatly moved over any issue. His family too remember him as having had at all times a firm control over his emotions, and all doubt the authenticity of the incidents referred to above. Oddly enough, however, some substance is lent to the suggestion thereby conveyed by an instance mentioned by only one newspaper at the time of his death. In a resumé of his career in the Cape Times of 25 July 1913 there is a mention of his journey to the Wodehouse district(which adjoined his own constituency of Aliwal) in 1899. He was sent, it will be remembered, by W.P.Schreiner, then Premier, to dissuade the burghers from joining the republican commandos on the Free State border in the event of an invasion. Addressing a meeting at Dordrecht, it is alleged he "broke down and fairly sobbed." (15)

At Dordrecht, however, he can be said to have had some excuse for his tears - if indeed he behaved as the Cape Times later alleged - for the threat of war hung over the Cape Colony, a rebellion on the part of his constituents could lose them their votes and him his seat (which indeed was what ultimately happened), and his own brother was among those whom he was addressing. Both on the first night (May 9) on which he is said to have been found in tears and on the second occasion (June 16) when he broke down in front of G.H.Wilson, he can be said once again to have had some reason

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*14. G.H.Wilson, Gone Down the Years, London, 1947, p.76

15. Cape Times, 25 July 1913.

for his collapse. From February 28 onwards he was hard at work drafting the Land Bill. From March 10 onwards he was also obliged to attend the sittings of the European Employment Commission. From May 9 until June 16 he was busy piloting the Bill through both Houses. He was plagued at this time by bouts of the bronchial asthma which eventually killed him, and added to the strain which he was under was the knowledge that many - some of them his erstwhile friends and supporters - would put the worst possible interpretation upon the Bill and would deprecate his sponsorship of it.

For reasons which will be discussed in the final chapter, he had had to hurry it through before the end of that session. It was probably against his principles to do this (as he told G.H.Wilson), but if General Botha's government (which he thought the best for the country at that time), were to remain in power, a Natives Land Bill had to be introduced and passed quickly.

Only in the privacy of his own home or alone in his office in Parliament did he allow, in the first case, old friends, and in Wilson's case, a gallery reporter of long standing, to see him in the extremity to which his long drawn out toil had brought him.

CHAPTER VIII

NATIVE REACTIONS

In 1913 there was only a handful of Bantu newspapers, each of which was, by and large, the product of one man's efforts as editor, reporter, printer, distributor, and business manager.

The editors of three of these papers of which the files have been preserved - Imvo Zabantsundu, Tsala ea Becoana, and Ilanga Lase Natal - were all "native leaders" in their own right. The laws of the time did not prohibit them from carrying political comment, and they were pledged to uphold the rights of the native races, and to applaud the efforts of those white politicians who sought to maintain them. Until the introduction of the Land Bill, Sauer had been pre-eminently such a man.

The Imvo ("The Opinion of the Bantu"), published in King William's Town since 1884, had been the first and, until the late eighteen-nineties, the only independent Bantu newspaper; the rest had been mission publications. It exerted considerable influence and, during its early years, had taught native voters to fear the Bond, to be wary of Rhodes's overtures, and to use their votes to keep the liberal group - notably Merriman, Rose Innes and Sauer - in parliament.

During the election of 1898, however, the editor, J.Tengo Jabavu, was led by a speech by Hofmeyr (with whom the liberals had allied themselves) to expect that certain concessions would be made to the natives; by his champion-

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ship of the Bond leader he disillusioned a great many of his readers.

As a result of this, his journal had lost a good many subscribers. Some years after the Anglo-Boer War, however, his popularity waxed once more and when in 1909 he went with certain other native leaders to London to protest vainly to the Imperial government about the colour clause in the Draft Union Constitution, he was restored to his former position of dignity among his own people and became "the great Jabavu" once more.

At the beginning of 1913, therefore, he stood high in the estimation of those of his own race.(1)

Jabavu confined his literary outpourings to his own newspaper and wrote no books or pamphlets. In this he differed from Solomon T.Plaatje, editor of Tsala ea Becoana, and a foundation member and secretary of the South African Native National Congress. Plaatje was also a prolific writer, both in his own language (Seohuana) and in English. His most important book is probably Native Life in South Africa which Jabavu once called 'a slashing lampoon on the Natives Land Act.'(2)

J.L.Dube of Ilanga Lase Natal, by comparison with these two, was a mediocre journalist, and the fervid hostility or enthusiasm he tries to convey is usually dissipated in a rush of ill-chosen words. A former preacher,

..../schoolmaster

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1. The foregoing is derived from the writer's research essay, towards the degree of B.A.(Hons.), U.C.Cape Town University, 1964 and entitled "The Ideas and Influence of John Tengo Jabavu, Editor of Imvo Zabantsundu."

2. All facts about Solomon T.Plaatje, unless otherwise stated are taken from T.D.Mweli Skota, The African Yearly Register, Johannesburg, 1931, p.245.

schoolmaster and school principal, he was among the small number of South African natives who had visited America, and this in the day of Booker Washington and W.E.Burghart du Bois, when the Negro race seemed to have a future which, if not altogether golden, at least promised some hope of improvement. Dube was, first and foremost, a native politician. He wielded great power in Natal, and was then president of the South African Natives National Congress.(3)

Jabavu's rival for political influence among the South African Bantu at this time was Dr.Walter Rubusana, a friend of his youth and, like himself, educated at Lovedale. Their relations had grown cool of recent years mainly on account of Jabavu's jealousy, for Rubusana had been a success in several fields, was an ordained minister, a school principal, and a Provincial Councillor, the first and only native to attain to this honour.

Dr.Rubusana had twice visited Britain, first in 1905 to plead the cause of the South African natives after the Boer War and once again in 1909 with Jabavu and certain others to protest against the draft constitution. He too was prominent in the affairs of the South African Natives National Congress.(4)

The National Congress had been formed in Bloemfontein a little more than a year before the introduction of the Land Bill. Its object was to have been that of uniting the

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3. Skota, op.cit., p.145. This body was the fore-runner of the now banned A.N.C.

4. Ibid., p.423.

natives in one organisation 'educating them on their rights and duties and promoting a feeling of brotherhood among them.'(5) Among its founding members were several native lawyers who, in some instances, wrote for or edited newspapers.(6) That is not to say that all members of the Congress could pretend to intellectuality however, though several had been abroad - to Britain or the United States, either for their education or on church-sponsored tours(7) - and they included schoolmasters, clerks, and court interpreters.(8) There was even a wealthy native contractor.(9)

Tengo Jabavu held aloof from the new organization in which they all placed their trust. On his visits to London in 1905 and 1909 he had met or heard speeches delivered by American Negro intellectuals, and evidently believed that something akin to - and possibly even connected with - the N.A.A.C.P. might be established in South Africa. He thus canvassed support for another organization which he himself virtually controlled.(10) This was the South African Races Congress.

Well before the first reading of the Land Bill

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6. Skota, op.cit., p.43 (Mangena), p.253 (Seme).
7. N.B.Rubusana had also been to the United States and had obtained his doctorate at a Negro university.
8. Skota, op.cit., p.71 (Msane), and p.218 (Msimang).
9. Ibid, p.185 (Mapikela).
10. D.D.T.Jabavu, op.cit.,pp.48-49; E.Roux, op.cit.,p.74.

on April 25, the native editors had taken up their stands. Jabavu had elected to support Sauer, but Dube had made an urgent injunction to his readers:

> 'There is a word to be said to you now of more serious import than any I have ever uttered.'

Having stressed the need for unity and support of the National Congress, he concluded by striking another histrionic note:

> 'Put your hands in your pockets so that your leaders may fight your battle.' (11)

Plaatje, though he now lived in Kimberley, had been born in Boshof and the problems of the Free State natives, who had never been allowed to buy land, were very close to him.(12) He felt that they had now been betrayed. General Hertzog, he conceded, referring to the promises which the late Minister of Native Affairs had made to the deputation at the end of the previous year, 1912, had promised them segregation which would allow of their free development within the confines of their own areas.

> 'But this Bill seeks to deprive them [the natives] of what little they possess today and make them roving wanderers and potential criminals.' (13)

Between 28 February and 25 April, 1913, the native leaders confined their agitation to their own journals, but once the Bill had been read for the first time, protest meetings began all over the country.

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11. Skota, op.cit., p.245.
12. Ilanga Lase Natal, 21 May 1913.
13. Tsala ea Batho, 10 May 1913.

Most of these, it seems, were well organised and well attended. The African National Congress had not yet had any major issue to cut its teeth on, but in the Land Bill it found its first true raison d'etre.

Five days before the Bill came up for discussion in parliament on May 9 the first major native protest meeting took place in the Masonic Hall, St.James Street, Cape Town. Among those on the platform were Dr.C.H. Haggar (Roodepoort) and a Miss Moltemo. As president of the S.A.N.N.C., J.L.Dube was present but the chief speaker was Advocate Mangena who declared that there was not one clause in the bill he could favour as every clause was bad.

There was much talk of "robbing" and "pauperising", and another native leader on the platform is reported to have said, with evident bitterness, 'And Sauer is "a friend of the natives".'(14) Msane, another prominent member of Congress, was also present at the Cape Town meeting and later travelled to Kimberley and elsewhere to address others.(15) At the end of May a meeting was addressed by Dube, near the race-course in Durban.(16)

Jabavu meanwhile was far from inactive. During May he addressed two meetings of the South African Races Congress in the vicinity of King William's Town. At the first meeting he both impressed and confused

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14. Tsala ea Batho, 10 May 1913; Ilanga Lase Natal, 16 May 1913.
15. Tsala ea Batho, 31 May 1913.
16. Ilanga Lase Natal, 6 June 1913.

his audience with a recital of the figures which Sauer himself had quoted in parliament. At the second, the Bill was discussed and those present appear to have favoured the measure although there were some who wished the Races Congress to reserve its opinion, and who suggested that the whites might 'by a side-wind, be contriving further spoliation.'(17)

Whites by a side wind

The forces against Jabavu were gathering strength but he refused to meet them face to face. To him they were 'small fry... and he refused to recognise them except to condemn and ridicule them in his newspaper.'(18) At the reported fears of the Free State natives he pretended surprise. The other native editors, having by this time all but exhausted their invective upon the Land Bill, now found that they had an additional target for their ire. It was not only that the very premises and principles of the proposed legislation were wrong, according to J.L.Dube, but that even 'that wrongness [did] not appear to have impressed the weak-minded Jabavu.'(19)

Invective against Jabavu

Jabavu nevertheless stuck to his guns despite the odium in which he found himself, and was rewarded for his loyalty to Sauer when he read of the minister's reference to himself as 'the Hofmeyr of the natives.' He replied in kind:

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17. Imvo Zabantsundu, 20 May 1913.
18. D.D.T.Jabavu, op.cit., p.48.
19. Ilanga Lase Natal, 6 June 1913.

'It is now over thirty years Mr.Sauer and the editor of this Journal have been associated in public affairs in exactly the relations so eloquently described by Mr.Asquith as obtaining between himself and Sir Edward Grey.' (20)

In May 1913, the S.A.N.N.C.sent a deputation to Sauer to plead the cause of those squatting natives who were likely to be rendered homeless when the Bill became law.

'The minister, Dr.Rubusana reported later, never denied the possible hardship that would follow the enforcement of such a law, but he seemed to be driven by a mysterious force in the face of which the native interest did not count.' (21)

Undeterred by this discouraging interview with Sauer, however, Rubusana then wrote to the Governor-General, asking him to withhold his assent to the Bill. Gladstone replied that this was 'not within his constitutional functions.'(22)

At length, on 16 June, the Bill passed the third reading and the same afternoon became law. For a space, the native protestors relaxed their efforts, but on 25 July another conference of the S.A.N.N.C.was opened in Johannesburg. It was resolved that funds should be raised for an appeal to the Imperial Government.(23)

Exhorted by members of Congress, the natives throughout the country began sending in money to finance

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20. Imvo Zabantsundu, 3 June 1913.
21. Sol.T.Plaatje, op.cit., pp.172, 173.
22. Ibid., p.173.
23. Ibid., p.174.

a deputation to London. Officials of the Department of Native Affairs begged native leaders in vain to desist from this project,[24] but yet another meeting of Congress was held only in February 1914 at Kimberley, and on this occasion five members were chosen to represent the organization in London. These were - predictably, for the most part - J.L.Dube, Dr.Rubusana, Sol.T.Plaatje, S.Msane, and T.M.Mapikela.

On their arrival in Britain they were met by a number of missionaries and representatives of the Aborigines Protection Society, in whom they placed excessive confidence.[25]

Their meeting with Harcourt, the Secretary of State for Colonies, is best described in Plaatje's own words:

> 'In accordance with the time fixed for the interview the deputation duly waited upon the Secretary of State, whose reply was more than fully given in Parliament. At the interview he took notes on nothing, and asked no questions. On every point, he had "the assurance of General Botha" to the contrary.'

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24. Sol.T.Plaatje, op.cit., pp.178-180.

25. Prime Minister's Papers, 155/7/1914: Henry Lambert (for Harcourt) to the Secretary, Anti-Slavery and Aborigines Protection Society, 10 June 1914: 'I am to add ... that the Union Government have already been informed that his Majesty will not be advised to exercise his power of disallowance in respect of the Act.' The Colonial Secretary had agreed to see the deputation only if unaccompanied by a member of the Society (see Plaatje, op.cit., p.194).

26. Sol.T.Plaatje, op.cit., p.194ff.

Nothing was achieved by the deputation, which had 'failed to make any impression on the British Government.'(27) Despite the assurances which had been vouchsafed it by Harcourt, the Union Government took the additional precaution of sending an official to London at this time to explain its attitude and make it clear that it had no intention of allowing protests like these to dissuade it from pursuing the native policy which it considered best met the needs of the country. The Under-Secretary for Native Affairs in the Union, who was later to undertake several tours of the country to explain the working of the Act to the natives, makes this point of view clear in a letter which he wrote during this period:

> 'It is not so much English public opinion which we fear, [but?] the effect on Colonial public opinion, of any misrepresentations which may be made in the way of prejudicing the broad and liberal view of Native policy and administration which is gradually developing itself.' (28)

Even their missionary and Protection Society supporters failed the native delegation in the end, for Harcourt's reply to their plea that the Imperial Government intervene, convinced them that nothing was to be expected from that quarter.(29) The Society then despatched a confidential telegram to Dube, advising him not to press for a veto, but to ask the Colonial Secretary for other remedial measures.(30)

Back in the Union meanwhile, Jabavu's vilification

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27. C.Tatz, op.cit., p.24.
28. Prime Minister's Papers, 155/7/1914; E.Dower to R.C.Hawkin, undated copy. (Hawkin was a London barrister.)
29. Prime Minister's Papers, Henry Lambert (for Harcourt) to Secretary, Aborigines Protection Society, 10 June 1914.
30. Ibid., Secretary, Aborigines Protection Society to J.L.Dube, draft only, undated.

of the Congress representatives abroad ceased and he turned his attention to other matters. A few years later he gave evidence before the Beaumont Commission, stating that many natives had believed that, once the Act had been passed, they could no longer buy land at all, but did not say that he had shared their beliefs.(31)

Even before this Commission commenced the sittings, however, the natives appear to have reconciled themselves to the Land Act. Dower, Senator Stanford, and other officials of the Department of Native Affairs had made tours of the native areas to explain the Act to them. Stanford records a meeting which he addressed at New Brighton, the native location at Port Elizabeth, during the course of which he was 'able to correct a good many misconceptions'. Some of the natives, for instance, had thought that they were 'going to be sent over the Kei.' (32)

The reactions of both whites and natives to the final allocations of the Commission fall outside the scope of this study, but at any rate, there is no evidence of a continued African movement to have the Act withdrawn.

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31. Natives Land Commission, Evidence, Vol.II, App.ix c.p.144.

32. Stanford Papers, Diary of 1913, under an entry dated 28 June.

CHAPTER IX.

WHITE REACTIONS TO THE NATIVES LAND ACT.

a. The White Press, especially in Natal:

Unlike a number of native journals, it was only after the Natives Land Bill had been read for the first time in the House of Assembly on 25 April that the bulk of the white press displayed any marked reaction to the "new policy" of which Sauer had given some intimation on 28 February. Even then, their comments, on the whole, were mild.

In Bloemfontein, for instance, Arthur Barlow, the editor of the English-language, pro-Boer Friend, who had viewed the advent of Sauer at Native Affairs with hostility, now hailed his Land Bill with enthusiasm. The "paralysis" which had held parliament in its clutches for the first few months of the session was now relaxing its grip, and the journal regarded the Bill as an indication that Sauer was undergoing a "conversion", to "common sense in native affairs". The only question remaining was whether or not it would be permanent.(1)

On the other hand, the Johannesburg Star, which backed the Unionist party, then in opposition, had no hesitation in attributing Sauer's awakening from his usual lethargy to "backveld influence", yet typically it saw the proposed legislation as having certain advantages from an exclusively Transvaal point of view.

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1. The Friend, 2 May 1913.

It believed Sauer to be self-interested:

> ' The Minister of Native Affairs is far more strongly animated by a desire to make at least a show of helping to solve the labour difficulties of the Transvaal supporters of the Government than any real keenness to promote a scheme of partial segregation that shall prove workable and equitable.' (2)

In the Cape, an English-language daily described the Bill as a 'logical consequence to the Glen Grey Act', and as its purpose was simply 'to check the further progress of an admitted evil', no opposition was to be anticipated from that quarter.(3)

The Volkstem, a Pretoria pro-S.A.P., Dutch-language journal, intimated that Sauer's liberal past was forgotten and forgiven and that the Union was - or at any rate, ought to be - grateful to him.

> 'Indien ons Parlement erin zal slagen n bruikbare wet te voorskyn te bringen, sal t' land opregt dankbaar wees jegen sijn wetgewers'. (4)

In Natal, on the other hand, the press seems to have been in two minds about the Bill, which is perhaps not surprising, considering what the realities of the situation peculiar to Natal recalled. In Durban, for example, the Natal Advertiser was convinced that Sauer's scheme was unworkable, and that a study of the figures quoted by him in parliament confirmed the long-held belief of many Natalians that 'the moving of natives from one place to another would be a dangerous practice' in any eventuality. All the haste with which the

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2. The Star, 10 May 1913.
3. Cape Times, 28 April 1913.
4. De Volkstem. 13 May 1913.

legislation had been introduced and steered through parliament clearly showed that Sauer (cf. the editorial comment in The Star, 10 May, quoted above) had plunged into this "reckless folly" at the demands of 'a small section of the backveld farmers in need of labour';(5) one good effect, however, was to be looked for:

> ' The Land Bill can be useful in checking further purchase of land by natives in areas that it is desirable to retain for white habitation.' (6)

A short while before the end of the session, the same editor, in commenting on Mr.Sauer's grasp of the overall situation, pointed out that, though he knew a good deal about the Cape natives, 'his knowledge of Natal [natives?] is minimal'. (7)

Whether or not the Advertiser's editor had been following the contributions of the Natal members to the debates in the Assembly is impossible to ascertain, but it is likely that this is so, and there is therefore a possibility that he had read the speech W.F.Clayton (Zululand), delivered on 16 May, in which he proposed that Natal be exempted from the operation of the law because it had the highest proportion of native land.

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5. Natal Advertiser, 7 June 1913.
6. Ibid., 12 May 1913, cf. Natal Witness 29 May 1913. There is no indication as to which lands the Advertiser considered 'desirable...for white habitation', but as land was at a premium in both Natal and Zululand, this can once more be said to illustrate the provincially - or locally orientated attitudes in Natal, as in the Transvaal.
7. Ibid., 26 June 1913.

The Advertiser, at any rate, made this claim about three weeks after Clayton's speech, and supported it with additional reasons.

The possibility of another Natal native rebellion like that of 1906-07 was mentioned, and the public of Natal was called upon to arouse itself from 'the apathy of disgust with which it was regarding the working of this Union that it had been trapped into.'(8) The leases of thousands of natives on farms were due to be renewed about the middle of the year, and there was a very real danger that, should the Bill indeed become law - a fact which the Advertiser at least refused to take for granted until the very day it received the Governor-General's signature - many of these would become 'wanderers on the face of the earth.'(9) This was indeed the fate which was destined to overtake thousands of Free State natives, but in Natal, the Land Act notwithstanding, most Natal farmers needed their labourers too badly to turn them off the land.

The Advertiser continued to protest against the Bill, even when other Natal journals (not unlike a

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8. House of Assembly Debates, 16 May 1913; p.252.

9. Natal Advertiser, 7 June 1913, cf.S.T.Plaatje, op.cit. p.17: 'Awaking (sic) on Friday morning, June 20, 1913, the South African Native found himself, not actually a slave, but a pariah in the land of his birth.' Note also chapter headings, "One Night with the Fugitives" (p.58) and "Another Night with the Sufferers."

high proportion of Natal people) either desisted from argument or sank into a kind of good-humoured apathy.(10) Some people in Natal, however, were "emphatically protesting at the Bill", and the Advertiser recorded that "urgent remonstrances" had been addressed to parliament by the Durban Church Council, the Natal missionary body, and the Native Affairs Reform Association.

Most of these were pleas for more time to consider the matter, and though it has not been possible to discover his exact feelings on this "segregation" Bill, the principle behind which he had long cherished and had urged upon the population of the Union, it is interesting to note that the writer and former Natal politician, Maurice S.Evans, was a leading light in the Natal Native Affairs Reform Association.(11)

Despite its generally self-effacing tone when discussing the provisions and/or implications of the proposed legislation dealing with land and natives, The Natal Mercury, late in May, began publishing a series of articles and letters by R.C.Samuelson.(12) An opponent

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10. The Times of Natal (Pietermaritzburg) offered no comment on the Bill at all; The Natal Mercury (Durban), 12 May 1913, having deprecated the haste with which it was being pushed through the House, consoled its readers with the statement that 'the native question', in all its aspects was, in any case, 'so formidable and complicated that no political genius would dare to offer a solution at a single stroke.'

11. Natal Advertiser, 14 June 1913.

12. The Natal Advertiser, 21 May 1913, describes this man as 'an authority on the natives in Natal.' He was a lawyer practising in Zululand, the brother of S.O.Samuelson, a former permanent under-secretary for Native Affairs in Natal, who had given evidence before the South African Native Affairs Commission, 1903-05. They were the sons of a Natal missionary. (See South African Who's Who,1913 and South Africa, 27 April 1934).

of the government policy, Samuelson attacked it with withering rhetoric:

> 'Where have the British principles and ideals gone?
> 'What has caused those principles to be thrown to the winds?
> 'Is England to be thanked for the trust she has placed in her South African white race by the creation of such conditions in this new portion of the Empire she represents as will be a thorn in her side, and jeopardy to her world-wide sound principles and truly just rule?' (13)

As the session progressed, however, the Mercury seems to have become reconciled to the "new policy" and to have begun to share the Advertiser's fear of native unrest.

> 'If the carrying out of the policy now adopted were to be permanently in the hands of Mr.Sauer the ultimate prospect of the Bill might be viewed with little misgiving ... but if the Bill is to be passed it should leave parliament in such a form that no future minister could at his personal caprice vary the intentions of the Act.'

The natives of Zululand, for instance, were then in "a trustful mood", but there was a danger that their minds might be 'unsettled ... by the dissemination of rumours' about the 'nature and object' of the new legislation.(14)

Even when the Bill was in its late stages, The Natal Witness doubted whether a uniform native policy for the Union were possible, and if indeed this was likely to prove so, the legislation then in progress was an

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13. The Natal Mercury, 21 May 1913. N.B. Among the reasons given by Samuelson as to why segregation was "socially wrong" is that often cited by opponents of "separate development" today: that 'it denies a proper home life to the natives.'

14. The Natal Mercury, 28 May 1913.

Negative provincialism — by 1936 abt disappeared 1913.

"unnecessary" measure, 'especially if there is no certainty that it will bring more labour to the farms.'(15)

It will have become evident from the comments quoted above that at this time, when the Union was only three years old, neither the whites nor, for that matter, the natives, had learned to think in terms of the country as a whole. No newspaper was wholly against the Land Bill in principle; no body of responsible men opposed it in principle, but only a handful of individuals.

No opposition to Bill in principle

For better or for worse Sauer's tactics had succeeded. The Land Bill had been launched on a country largely unprepared for it, and "steam-rollered" through parliament too swiftly to allow of any deep or prolonged thought by the ordinary citizens of the Union.

(b) The Farmers and the Farmers' Organizations:

To judge from the agricultural journals of the time, the Land Bill aroused little comment among the farmers either while it was being debated in parliament or immediately after it became law. They had no fear of losing their land and, for the most part, their chief preoccupation was labour.

Even in the survey published by the Department of Agriculture and covering the period between 31 March 1913 to 31 March 1914 this was the topic which

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15. The Natal Witness, 14 June 1913. This illustrates a negative type of "provincialism": if the new law was not going to benefit Natal, then it need not be passed at all.

received most comment: 'On the whole...there was little change, although if anything, native labour was a little more plentiful and cheaper.'(16) In The Agricultural Journal, the official departmental publication, the Act was explained 'to those who have difficulty in understanding its provisions .'

> 'It is a first step in the direction of territorial separation of black and white, Parliament having decided that an effort should be made to put a stop to the many social and other evils which result from too close a contact between Europeans and natives.' (17)

Earlier it had been promised that this Act would serve as a "death-blow" to "kaffir farming" - always the bugbear of right-thinking farmers:

> 'It will mean the clearing off of large numbers of natives from European farms, the native simply being allowed to work in return for a wage.
> 'The result will be good, clean straightforward farming, whilst land in non-native areas that is not being farmed by Europeans will simply remain idle.' (18)

The tone of such official publications reflected the attitude of their readers for thus did the South African farming community of 1913 accept the Land Act, without strong reactions of any kind.(19)

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N.C.S.T. Ref *17. The Agricultural Journal of the Union of South Africa, (issued by the Department of Agriculture, Pretoria, 1914), Vol.VII, No.2, February 1914, p.158.

18. Ibid., Vol.IV, No.1, July 1913, p.14.

19. Of the three relevant and available sections of the files of The Agricultural News and South African Dairyman studied, only in one (22 May 1913) is there any comment on the front page - and even this is entirely non-contentions - on the Bill then before parliament.

Nevertheless, the charge has been made that Sauer in introducing the Land Bill, was under pressure from the farmers' associations.(20) No doubt he was, to a certain extent, but Sauer had a way of taking deputations, even pressing ones, in his stride and in any case, farmers in different parts of the country wanted different things, whereas his Bill aimed at the creation of a uniform system throughout.(21)

The fact that a small local paper, Het Westen, published in Potchefstroom, carried a leading article calling for a law dealing with the purchase of formerly "white" land by natives, especially in parts of the Transvaal, is more a sign of the times than anything else. At least, there is no direct evidence that the farmers of the Potchefstroom district had had any influence upon Sauer; the fact that he delivered his "statement of policy" speech a fortnight after this edition appeared was probably fortuitous.(22)

Indeed, another report in the journal mentioned immediately above indicates that the farmers, as a body (with, of course, the exception of those, like Botha, who had gone into politics), were removed from the hurly-burly of the city and the seat of power and

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20. See comment in The Star (10 May 1913), quoted at the beginning of this section. Most of those who asked for the introduction of a law to control squatters in the first few weeks of the session (see ch.V) were farmers.

21. The Friend, 25 July 1913, refers to his manner of 'dealing with deputations'.

22. The Star, 12 April 1913 (quoting Het Westen, of which no files are available).

were proceeding at their customary pace.

On 28 February Sauer delivered his impromptu speech on the proposed changes to be brought about in native policy,(23) and this received at least some mention in most national newspapers. At the monthly meeting of the Eastern Transvaal Farmers Association, however, a resolution - which was subsequently included in the final draft of a report which it intended to lay before the parliamentary commission appointed to deal with native affairs - was passed:

> 'No sale of land to natives, either by the Government, or by any company or syndicate or any private person shall be permitted. The lease or use of any Government land by natives shall be forbidden.'

This might be considered one more indication of the purely local nature of the farmers' grievances and attitudes - like those of the newspapers, discussed in the first section - were it not that they concluded their deliberations by referring to a national problem and pressing for its solution:

> 'The question of the segregation of the natives was introduced, but in view of the importance and vastness of this subject, it was decided to defer further consideration till the Agricultural Union gave the branches a lead on this vexed question.' (24)

(c) The Churches.

Though certain clauses of the Land Act

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23. cf. House of Assembly Debates, 28 February 1913, pp.561-566.

24. The Star, 12 April 1913.

has now, for good or evil, taken the first steps towards adopting.'(26)

In an obituary on the late minister he was described as a man 'who was trusted by a great body of the natives as one who understood and sympathised with them.' His guidance would be 'sorely missed.'(27)

While the agitation against the Land Act was in progress, the natives had received moral support from the African Peoples' Organisation, whose most prominent leader, Dr.Abdurahman, spoke at several of their rallies. The influential Father F.C.Kolbe, in the Catholic Magazine, which he edited, deplored a 'violent speech' by the coloured leader, and said that protests of this kind were to be regretted. It was 'whilst the politicians, white and black, are discussing the generalities of the problem', so he averred, that 'the Christian missionary is solving it in the concrete'; he went on to quote from a mission paper, in which he had found a definition of the missionary aim with which he whole-heartedly agreed:

> ' The goal of the missionary priest should be to bring up the young native that he may be an upright, law-abiding, contented, clean-living and industrious member of the community.' (28)

A change in tone from the above is nevertheless discernible in The Christian Express, published at Lovedale,

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26. The Church Chronicle, vol.X, No.14, 10 July 1913, p.219.
27. Ibid., No.16, 7 August 1913, p.251.
28. The Catholic Magazine for South Africa, vol.XXIV, No.273, November 1913, p.517, cf. ch.I, pp.17, 18. for remarks by A.Vilikazi, op.cit., on aims of the German missionaries in Natal.

then known for its school (and soon to be the site of the first native college), but originally a mission station. With this journal we pass from the realm of "white" church publications to missionary journals, which were almost invariably on the side of the natives, even when this brought them into direct opposition to official attitudes.(29)

The Express, for instance, noted that large numbers of natives had been "turned adrift" by the new law. Fears were expressed that the 'tractability and docility' of these people might now turn to bitterness and violence, yet the low-pitched menace in the following passage was belied in the event, as such native protests as there were never went beyond wordy demonstrations and an abortive deputation abroad:

> 'The resulting sense of wrong among the Natives is deep and widespread. Since the Land Act was passed, Native opinion has solidified in a manner and degree altogether new in South African experience.
> 'Till now, Natives have been separated by tribal differences and jealousies. Their lack of wide-spread union and combination has been one strong element that has eased the task of the government.
> 'A religious movement such as Ethiopianism might have been expected to unite Native opinion, but this was not the case. Ethiopianism formed a few new combinations, but the fissures were more marked than the cohesion.
> 'The Land Act is the first big thing that has united the Natives throughout the length and breadth of South Africa.'

The editors believed that the government had perpetrated "a serious wrong" and "an injustice".(30)

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29. This paper was later superseded by Christian Outlook and then by South African Outlook, still published as an ecumenical magazine.

30. The Christian Express, Vol.XLIV, No.528, 1 October 1914.

Of all the "white" churches, the only one which protested against the Land Bill, vocally, by taking part in a deputation to the Minister while it was being debated in parliament, and in private, in the official church newspaper, was the Methodist. Since this church had a strong "missionary arm" - the largest at that time, of any single "white" church in the Union - it is included in this section of the study among the reactions of mission churches.(31)

On 13 May 1913 soon after the second reading debates on the Bill had got under way in parliament, a deputation representing the General Missionary Association of South Africa, and consisting mainly of Methodist ministers and laymen though led by the Coadjutor-Bishop of Cape Town, "waited upon" the Minister of Native Affairs. They accomplished little, for Sauer parried their questions with assurances that he too believed that the natives should have 'more land than they possessed', and that, indeed, it was "imperative" that they should have it, 'for their natural progress and development'.

The delegates believed that the Bill was "deplorably premature", that the natives should first be consulted, but that, in any event, the government was "unlikely" to proceed with it.(32)

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31. The native deputation to Westminster had been met by, among others, representatives of the Methodist Missionary Church of Africa.

32. The Methodist Churchman, 19 May 1913. See also Report of the Proceedings of the Fifth General Missionary Conference of South Africa, 1921 (Commercial Printing Company, Durban, 1922).

In the issue of The Methodist Churchman for the following week, however, the editors "welcomed" the remarks of one of their most faithful native communicants, the editor J.Tengo Jabavu, 'who is nothing if he is not reasonable.' The recent discussions in parliament had shown that there existed 'a desire on the part of responsible politicians' to treat the natives "fairly"; 'more than that the Natives themselves do not expect.'

It was felt, however, that, as 'the dominant race', the whites should not only be fair but 'generous' - 'and in any policy we pursue the margin of our generosity should be large as to admit of their being no fear of injustice done.'(33)

On the day upon which the Bill became law, The Churchman brought out an issue in which it stated its firm belief that 'the capable man' would always be allowed to do such work as was available, just as 'the man with purchasing power', of whatsoever nationality, would always be allowed to buy land. In the light of such sanguine hopes, it recommended Christian resignation to those most likely to be hard hit by the law:

> 'In conclusion, we would remind our native friends that God reigns, and that the hearts of all men are in his hands. Man proposes; God disposes. Native interests are certainly as precious in his sight as those of Europeans.'

Such sentiments notwithstanding, The Churchman was moved to reiterate its belief that 'we cannot have a prosperous South Africa based upon injustice for our native people. That way lies ruin for ourselves.'(34)

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33. The Methodist Churchman, 26 May 1913.
34. Ibid., 16th June 1913.

Even after the Land Act had been passed, several of the above-mentioned journals returned to the subject of land allocation for natives from time to time. One of these was The Catholic Magazine of August 1913, in which Kolbe commented upon Senator Schreiner's speech against the Bill in the Senate, a copy of which had been sent to him. He was skeptical about the wisdom of the words of this former missionary's son, however, being assured that 'it was after all the white man's duty to see that the black man was not spoilt by contact with undesirable whites.' Sen. Schreiner, in his zeal, Kolbe suggested, was fast becoming 'more "native" than the natives themselves', and this overt sympathy was more than the situation demanded, for one of the best known of the Bantu leaders, the editor of Imvo, had supported the measure.

Fears that the natives might not receive their due of land were considered unjustified, for the comparatively small area of the Union set aside for native occupation was ample for the needs of those races, whose tribal system and want of industry placed them in a very different position from the white man.

> 'This is one of those cases where numbers alone are misleading and quality counts.' (35)

A man who, nevertheless, felt himself equipped to contest this 'quantity and quality' issue in regard to native land allocations with the government was a Norwegian

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35. The Catholic Magazine, Vol.XXIV, No.270, August 1913, p.375.

missionary in Zululand, a territory in which, beyond all other areas in the Union, the natives had suffered from the intrusion of white farmers, mainly sugar planters from Natal, who had "invaded" the country immediately after its annexation by Natal in 1897.(36) The Rev.H.K.Leisegang was the successor of the host of earlier Lutheran missionaries, both German and Scandinavian, whose influence upon the natives of Natal and Zululand had been so important in their development.(37) (These missions had no connection with the "white" Evangelical Lutheran Church of today, for at that time, this church was still in its infancy in the Union).

Bearing in mind that communications at that time were much slower and that Leisegang appears to have worked practically single-handed on his lengthy statement of protest, nevertheless, he allowed more than a year to elapse after the passing of the Act before officially handing in this document to the proper authorities - in this case, the Land Commissioners who were examining him on behalf of certain native chiefs in the area.

His petition was duly "noted" by officialdom, but no more. He did little to help the cause of the natives, mainly because, like most missionaries, he was 'a

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36. See Ch.I, pp. 19, 20.

37. It is virtually impossible to trace the reactions of these missionaries from the beginning of the Land Bill controversy, as they produced only one magazine, Berliner Missions Berichte, in Gothic script, of which the files are incomplete.

poor politician'.

In a well-argued dissertation of about 2,500 words, only a few points can lay claim to originality; had they been brought to notice at the right time, they might at least have elicited comment, even if this had not provoked positive action on the part of any responsible persons or institutions.(38) He pointed out, for instance, that by the Act of Union of 1910 ('framed and passed without any reference to ... the Native races'), Section 147 read as follows:

Sec 147 'The control and administration of Native affairs throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to Native administration hitherto vested in Governors of the Colonies or exercised by them as Supreme Chief.'

Leisegang laboured this point, and attempted to demonstrate that - in theory - the natives were therefore entitled to look to the British Government 'for the securing of their rights and protection of themselves, and to such rights as His Majesty's subjects.'(39)

That the natives possessed any such rights - in practice - is virtually nullified by the attitude of those acting on behalf of the British Government.

For instance, even apart from his statement in the House of Commons, the British Colonial Secretary, Lewis Harcourt, is reported to have told the representatives of the natives, whom he met at Downing Street, not only

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38. Report of the Natives Land Commission, Vol.II, Appendix X, Ann.12, p.13, No.12.

39. Ibid., No.13. Such "appeals" to the Crown had not been unknown in the past, nor had they invariably passed unheeded. cf. that of Moshesh, the Basuto chief, in 1868, and that of the Griqua chief Waterboer in 1871.

that he 'had the assurance of General Botha' to the contrary with regard to all the grievances they laid before him, but that he also had the Union premier's assurance that the natives had too much land already.(40)

The British Governor-General and High Commissioner, Lord Gladstone, had had the opportunity to observe the condition of the South African natives at first hand, yet, as his position required, he remained an impartial figurehead, and not only discouraged the native deputation from making the journey to London, but demonstrated no very overt sympathy for the natives in South Africa itself.

Addressing an official banquet in Umtata in the middle of May 1913 while on a brief visit to the Transkei, Gladstone delivered a speech which might have come from the mouth of, for instance, a typical English-speaking Natalian, or possibly even a "northern" politician who prided himself on his "fair-minded" view of the native question. Gladstone (who had just dealt with the native deputation) was making a right royal progress through the Transkei, and 'everywhere meeting with great demonstrations of loyalty from both black and white.' He had been welcomed to the chief town in the territories by a turn-out of five thousand mounted Tembus. In the heart of this traditionally black reserve, however, he stressed that neither race had an absolute prerogative to the land:

> 'He often wondered that people seemed so eager to debate the question whether South Africa was to be a black

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40. S.T.Plaatje, op.cit., p.201, n.1.

man's country or a white man's country. Why should it be either? The white man was in the minority and the black man in the majority. Blacks were here and they must stay here. The country must be for both.' (41)

Though Leisegang's compassionate plea for generous treatment of the natives with regard to land allocations was - or so he and his fellow-missionaries may have hoped - intended to initiate a counter-reaction to the general complacency with which most whites had greeted the Land Act, it remains today merely as a monument to missionary zeal, so much of which was to go unrewarded.

This same clause is cited, moreover, by Van Biljon to explain how the Union government came to be "saddled with" the native problem as a whole. After 1910, in fact, South Africa became the "trustee", in effect, of native lands in the Union in place of the British government, and immediately after recording the fact, van Biljon comments upon this section in such a way as to make the Union appear something of a martyr:

'Hiermee was die Unie van Suid-Afrika belas met die naturellegrond probleem. Net die hoedanigheid van die las wat op sy skouers gelê word, was hom aangewys. Van die gewig van die las word niks verder in die Grondwet gerep nie. Hiermee het die Unie regering die voogdyskap oor die naturel en die trusteeskap oor Naturellegrondgebiede aanvaar.' (42)

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41. The Star, 20 May 1913, p.14, S.T.Plaatje, op.cit. p.190, states that the native deputation, on reaching Cape Town en route for Britain in May 1914, were invited to Government House where Gladstone (whom they had previously approached) urged them not to go to England.

42. P.van Biljon, op.cit., p.434.

(d) The Imperial Parliament.

Though Plaatje's deputation had been given to understand that their journey had been unavailing, they could not have complained that the South African Natives Land Act had not been discussed at the highest level, for on 28 July 1914, shortly after their interview with the Colonial Secretary, Mr.Percy Alden, the Member for Tottenham, rose to ask a question in the House of Commons on this very subject.(1)

Referring to 'the question of native lands in South Africa', he conceded that the Colonial Secretary, as indeed all other Members as well, knew that it was impossible to interfere, 'or do anything that might seem like interfering' with the Government of South Africa. Nevertheless, Alden reminded the House that he had been responsible for a resolution passed unanimously in the Commons previous to the passing of the Act of Union, and that during the discussion which preceded this, the Colonial Secretary had declared that one of the duties of the Imperial Parliament was 'to protect in every possible way the interests of the natives in their land, and respect their rights and liberties in that respect.'

> 'If we take away the land from the natives, we take away his liberty.'

..../Alden

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1. A backbencher, Alden was a writer on the social problems of the day, including the drift of the British labouring class from the farms to the city (see P.Alden, Democratic England, New York 1912).

Alden then produced figures to prove that the whites were in possession of fourteen times as much land as the natives.(2)

He then went on to read a letter from Edward Dower, Under Secretary of the Union Department of Native Affairs, to the native deputation, promising that the government would purchase the land required to meet the needs of the natives. Alden suggested that the Imperial Government take responsibility for seeing that the South African ministry carry out this promise.(3)

Alden's speech on behalf of the South African natives was supported by Sir Albert Spicer, the Member for Hackney, who in the course of his speech indicated that he had visited the country.(4) A third contributor to this brief debate, Sir George Cave, added nothing of importance.

These speakers were speedily dealt with by the Colonial Secretary, Mr.Lewis Harcourt, an experienced politician and the son of Sir William Harcourt, one of the great figures of the Gladstonian era, whom his son had supported in his opposition to the South African War.(5) He had been at the Colonial Office only a few

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2. Parliamentary Debates, Commons, 28 July 1914, Vol. LXV; p.1194.
3. Ibid., 20 July 1914, Vol.LXV; p.1163.
4. Ibid., 20 July 1914, p.1166. A member of the Spicer paper family, Sir Albert was a Director of the London Missionary Society and a leader in the affairs of the Congregational Church in Britain.
5. Dictionary of National Biography, 1901-1950 (Sir William) and 1922-3 (Lewis Harcourt).

J.W. SAUER

A cartoon by Boonzaier, one of a series on men in public life, published (probably in one of the Cape newspapers) some time between 1908 and 1910.

years when the deputation on behalf of the South African natives visited him.

It was a department which had tried the patience of a good many administrators in the past, yet it appears to have presented him with few problems - the whole issue of land allocations for South African natives being, in the eyes of men responsible for the running of an entire colonial empire, a very minor matter. In the biographical sketch of Harcourt, in the Dictionary of National Biography, for instance, this period is described as 'the most fortunate of his career.' Not only was there general progress and prosperity throughout the empire, but 'self-government in South Africa was proving successful'.

Without opponents of the first rank to deal with when the Natives Land Act came up for discussion in the Commons, Harcourt was able to dispose of the matter in a little under twenty minutes. He began by pointing out, much as he had done to the deputation in private, that it was 'no sudden inspiration of the Botha government', and that it was in any case 'a temporary measure' which would be altered when a commission had reported.

He mentioned that a native deputation had visited him and that he understood that a number of members were opposed to the Act, but reminded these that the said deputation had been advised by General Botha against making the journey. He had been informed that the number of natives in existing reserves could be increased in some instances, up to 30%; their size he pointed out, could not be decreased.

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'The Deputation which saw me admitted that they were satisfied with the promises made by the Union Government, with regard to new land allocations .'

For the British Government to "guarantee" such promises would be 'unheard-of insolence.'

'In a period of transition such as this, in the native question there are bound to be some hard cases, but I believe they will be treated with consideration. I believe that a just and considerate segregation would probably lead to the greater happiness of both whites and blacks in South Africa.' (6)

It may be curious that a spokesman of the Liberal Government should rationalise a measure which involved a curtailment of native rights, but in Britain as well as in South Africa the Natives Land Act was not regarded as an end in itself but as an overture to a new order for the natives throughout the country.

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6. Parliamentary Debates, Commons, Vol.LXV; 20 July 1914, pp.1194-1197.

CHAPTER X.

THE DEATH OF SAUER and THE LAND ACT VIEWED IN RETROSPECT.

Though the eventual allocations of land, when at last they were made, were regarded by many as unjust to the South African native, it can be considered that although possibly ungenerous in themselves, they were by no means ungenerous in comparison with land allocations by other colonial authorities. Viewed realistically, and in terms of the overall situation early in 1913, it becomes a question not so much of how much Sauer could do for the natives as of how little he could accomplish in the face of the overwhelming forces ranged against him. Taking those forces into consideration one feels that he did a great deal.

It is likely that Sauer was over-optimistic about the time which the Beaumont Commission would take to report and to allot more land to the natives. He could not foresee that the coming of the Great War would hold up its deliberations by at least a year, or that other difficulties would arise after that. He may have been certain that adequate provision would soon be made for evicted squatters, so that the ban on land-buying would not occasion any widespread distress.

Mention has already been made of the fact that after 1900 there was no longer any unclaimed land in any of the four main colonies in South Africa, and that within the first twenty-five years of the new century some form of allocation to each of the two major races had to come. This took place in many parts of the British Empire in which two races inhabited one country.

Not only within the Empire but in other countries in which different races with differing cultures were living

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side the respective governments were being driven to make similar arrangements. Rose Innes, who was evidently of the "compromise under pressure" school, drew an unexpected parallel between the new land legislation in South Africa and that obtaining in the eastern regions of the German Reich. He was staying with his daughter, Dorothy Von Moltke, in that country when he wrote to Merriman to point out this comparison.

> 'I sent a copy of his Sauer's speech in the second reading to Dorothy and we were talking about it only this morning - she said it interested her specially because the arguments were, exactly, almost verbatim, those she hears from the Prussian Junkers when speaking about the Poles.
> 'Much legislation has been evolved to discourage the Poles from settling on the land, and immense sums of money expended in appropriating land and placing German peasants upon it, but the silent encroachment of the despised Pole ... is like the flowing of the tide, and the Prussian official is at his wits' end.' (1)

Even a cursory survey of land tenure policies in other multi-racial once-British states in Africa reveals the extent to which some form of segregation or separate development was resorted to. In Southern Rhodesia, for instance, a "rough allocation" was made by the Chartered company in 1894. Outside these native Reserves (which were subsequently added to) the "Cape Policy" of allowing natives to buy land at will was followed until a Commission, appointed in 1925, declared that it was desirable that black and white occupy separate areas 'until the native has advanced much further on the path of civilization'. The result of this Commission's work was the Land Apportionment Act of 1930, which created eighty-three native reserves, often divided from one another by European lands. The available land was, however, divided

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1. Merriman Papers, No.135; J.Rose Innes to J.X.Merriman 21.7.1[illegible] Cf.Merriman's own comparison between the status of the natives in the Union once the Bill was passed and the position of share-croppers in Ireland under British domination quoted in Chapter VI (see House of Assembly Debates, 15 May 1913, p.2443).

almost equally between the races.(2)

The Kenya Land Commission of 1933 allotted just over 7% of the total area of the land to European settlement, but this area included the fertile White Highlands. This prevented the expansion of certain tribes such as the Kikiyu, whose rate of increase (like that of the South African Bantu since the advent of the Europeans) had been exceptional, and was to be one of the main factors contributing to the violent unrest which came in the nineteen-fifties.(3)

Hailey states that there were 10,000 Germans in South-West Africa before 1914.(4) By 1903 the land, excluding that held by the government, was divided up almost equally between whites and non-whites, despite the disparity in numbers.(5)

It would seem that white settlers were well provided for; nevertheless they wanted still more.

> 'Although their demands had been satisfied to the maximum, and they had sequestrated vast areas for future contingencies, they had not occupied all the available land. Hence, in that year, they promised the Africans land at the following places [eight names given].
> 'In 1914 the war broke out and nothing came of this promise.' (6)

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2. Lord Hailey, An African Survey, Oxford 1957, pp.702, 703.
3. Ibid., p.718.
4. Ibid., p.696, cf. R.Segal and R.First (ed.), South West Africa, Travesty of Trust, Oxford 1966, p.181, in which the number is placed at 12,292. The white-occupied land was in the hands of settlers or the concession companies.
5. J.H.Wellington, South West Africa and Its Human Issues, Oxford 1967, pp.213, 256. By 1914, there were about 15,000 whites and, in the Police Zone (land which the government had set aside as inalienable by whites), about 83,000 natives.
6. South West Africa, pp.181, 182. It is also stated that, in 1917, 'the Africans moved to these lands on the advice of an English officer of the Occupation Army', but of the further allocations of land made in South West Africa we cannot concern ourselves here.

The Germans were not noticeably more generous in other parts of the world, for all that one commentator has asserted that, by reason of their coming late into the field of colonisation they were able to 'benefit by the mistakes of their predecessors.'(7) By the Imperial Schutzbrief of 17 May 1885, the Neu-Guinea Kompagnie was granted a monopoly of the land acquired from natives. This company falling upon evil days, however, it surrendered its authority to the Protectorate in 1899, and the latter then laid down that if a colonist wanted land he could acquire it only with the approval of the Government.

> 'If, after investigation, the Government was satisfied that the natives were not acting under coercion, or were selling more land than they actually needed for their own support, it closed the deal with them.' (8)

It is evident that, despite the superficially well-intentioned tone of these regulations, certain abuses must have crept in, yet those who supported this policy believed that the government of the Protectorate had 'set itself up as a firm regulator of further alienation of native land.'

> 'In the matter of land laws then, we see the Government interceding on behalf of the natives as their protector.' (9)

The Germans, by so doing, avoided the issue of surveying the entire available territory and making land allocations, and though their colonial empire came to an end with the

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7. S.W.Reed, The Making of Modern New Guinea, New York, 1943, p.131.
8. Ibid., pp.132, 133.
9. Ibid., p.133.

Great War it is likely that this system of trying to please both sides while not committing themselves one way or the other would have ended disastrously.

Even in the two countries which did not legislate against - yet did not encourage - social mingling and even marriage, of the native race and Europeans, viz. New Zealand and the U.S.A., there were attempts to separate the indigenous peoples territorially from the whites. After the Maori wars had ended in 1871, these people were granted "special representation" in parliament. Land purchases on behalf of the Maoris were made in the North Island.(10)

On the other hand, it should be remembered that Britain had decided to annex New Zealand in 1840 mainly "to protect the Maoris from unregulated colonisation", and that the chiefs in the North Island (there were few Maoris in South Island) agreed by the Treaty of Waitangi to accept British rule so that the British would protect them in the possession of their lands.(11)

In 1865 a Natives Land Act was passed and by its provisions the Native Land Court was set up in order to "give effect to the guarantee offered by the Crown by the Treaty of Waitangi" - that is, 'to determine Maori land in accordance with custom, and otherwise to safeguard it.' Statutes making financial assistance to Maori more readily

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10. Encyclopaedia Britannica, Vol.16 (London, 1962), p.395.
11. Oxford New Zealand Encyclopaedia, Oxford 1965, p.172.

available if they wished to buy land were passed in 1903, 1906, 1909 and 1912.(12)

Even such a cursory survey of the land allocation systems in other countries and in other colonies makes it clear that, allowing for local differences, the pattern of development was usually similar to that in southern Africa before 1913. Though it has already been suggested that the Natives Land Act was late in coming, the main thing is that it was not too late, and that developments since 1900 - after which there no longer was any extensive land to which farmers of either race could trek - were arrested, if a little drastically, before they got beyond control.

The Natives Land Act, apart from the legislation it introduced for the territorial segregation of white and black, also contained sections dealing with the squatting problem, and it was the ban which this Act imposed upon share-croppers which caused the most immediate distress, especially in the Free State. Both here and in the Transvaal - perhaps even more in the latter after the discovery of gold had "robbed" the farmers of their previously abundant supply of labour, the authorities, and especially that section which represented the farming interest in politics were not in favour of granting large areas of land to the natives at all.

The Free State kept its reserves down to a minimum, and regulated the comings and goings of natives in and out of these reserves. The Transvaal evaded making

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12. An Encyclopaedia of New Zealand, Vol. II, Wellington N.Z. 1966, pp.435, 436.

substantial allocations of land to natives by a process of decentralisation and the delegation of authority. It has been suggested that the Transvaal boer, living on the land and obliged to make a living from it, naturally wanted to be able to depend on the work of the native:

> 'Waar die naturel onwillig was om saam te werk in hierdie proses is van verskillende metodes gebruik gemaak: die vroeëre Paswette en Belastings, later die Plakkerswette ... om soedoende jong naturelle uit die reservate te dwing om eers by die boere te werk voordat hulle na die myne gaan.' (13)

The Transvaal, Free State, Natal and the Cape had made scattered efforts to deal with the squatting problem prior to 1910 but in the case of the northern colonies had allowed any question of land allocations to become so bogged down in red tape that nothing much was ever done.(14) The Land Act enforced uniformity with regard to both land and squatters, and such land allocations as were eventually made north of the Orange River were probably in excess of what would have been made by the local authorities. This Act, the culmination of a series of commissions and departmental reports since the end of the Anglo-Boer War, enforced uniformity throughout the Union on a major issue, and as such was possibly the most important piece of legislation passed by the Botha ministry up till then. It is notable also that, as it turned out, it was virtually unopposed, which suggests that even those who doubted the benefit of certain details did not contest the need for such a measure.

Sauer's Land Act was the logical end of a process of evolution in his own ideas on native policy. It reflects

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13. B.J.Kruger, Die Landelike Arbeidsvraagstuk in die Suid-Afrikaanse se Republiek, 1885-1899, Pretoria, 1966, p.58.

14. Geskiedenis van Suid-Afrika, Vol.II, ed. A.J.H.van der Walt, J.A.Wiid, and A.L.Geyer, Cape Town, 1955, pp.453-455, explains: 'Heelwat verondersoek deur die lokasie-kommissie moes verrig word voordat met die afbakening van lokasies n begin gemaak kan word.' Several locations were, nevertheless, declared in 1885 and, nie minder as twee-en-twintig' in 1969. The locations were scattered among white farms so as to render the natives more available as labourers, and also so that, hulle nie op groot skaal kon verenig om soedoende n gevaar vir die binnelandse vrede te word nie'.

an apparent gradual change in his liberal views, but not necessarily a winnowing away of the same. By living longer he could have done little to amend its main provisions though it is a fair supposition that he would have seen to it that this mere "geographical separation" was supplemented by measures which would have contributed to the betterment of the welfare of the natives as a whole.

It is probable then that the Bill was framed by Sauer principally as a result of the development of his own views on the long-term benefits of segregation, possibly in conjunction with other legislation, and that he introduced it in haste for fear that Hertzog might propose a similar Bill of his own, containing harsher provisions. So much Sauer could have foreseen. He could not foresee that Hertzog would still be designing ways to get rid of the native vote twenty-three years later, and that ultimately he would succeed.

Once Sauer had brought such a bill before parliament he was obliged to speed its progress because the end of the session was only five weeks away, and he may well have feared that if a bill of this nature were left to hang fire until the next session, the result might be panic-buying. What is more, he had to consider the dangers of nationwide agitation by the natives themselves. The native press had considerable freedom at that time and there were several non-white political organisations.

The Natives Land Act was also a measure designed to protect the whites - not only the rich white farmers who

were assured of a lion's share of available land, but the landless bywoners who were thereafter assured of work on the farms of others, and the urban "poor whites" who could no longer be forced to compete with unskilled or semi-skilled natives in the few categories of jobs for which they might offer themselves. The virtual disappearance of the Poor White problem within the next generation or so is, in some part, directly traceable to "Sauer's Act". It was the first major measure needed before anything constructive could be done in regard to this question. The Act was, in the nature of things, a somewhat negative measure in its day. It prohibited, restricted and prevented. Since 1948, which brought in the Nationalist Government, which is still in power, a great many more restrictions in various spheres of native life have enforced the practical application of apartheid. Side by side with this, nevertheless, has come a movement towards a program of development for the non-whites, such as was never dreamed of by the old Cape liberals, let alone the native administrators in the "northern" provinces between 1910 and 1913. "Segregation" is a word scarcely ever heard nowadays; its place has been taken by "separate development", the official term for the present government's policy, which in itself implies that the present state of affairs will not remain static, but that the native will progress towards a new order which has in it much of General Hertzog's unconsummated scheme for segregation and separate administration quoted earlier,

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yet also a lot that is still a carry-over from the legislation brought in by Sauer, who considered it his duty to ensure that at least some proportion of the land was permanently allotted to the natives of South Africa.

It is a measure of how ill-organised, scattered, and ineffective the native political organisations - there were, at most, only two or three - were at that time, that in an era in which they were legally allowed to operate, they could achieve nothing except for a few protest rallies. It has already been said (in the chapter in which "African/Native Reactions" are discussed in detail) that native opinion coalesced to oppose the Land Act, yet the effect of this drawing together was small since the time allowed them for action was so short. Had they been an organised body before and not after the Land Bill controversy arose, had Jabavu been persuaded to abandon his championship of Sauer, right or wrong, and had they had sufficient funds already at their disposal, they might have done a great deal, but, in the event, they did not, and it was the swiftness with which Sauer moved which defeated such efforts as they made.

Twenty-three years were still to elapse before the Native Land and Trust Act of 1936 took the common roll franchise from them and still more years until the A.N.C. and all other native political organisations were banned. The Land Bill controversy, however, though it eventually produced a deputation to London, did not produce a tightening up of the local or national organisation of the S.A.A.N.C. At any rate, having been unprepared for the speed with which Sauer moved to get the Land Bill through parliament, the

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natives, immediately after that, were unprepared (as were most people in the country at large) for the speed with which death overtook him before he could ameliorate the situation created by his Land Act in any detail.

Sauer's health had been poor for some time. Since the middle of 1912 he had suffered recurrent bouts of bronchial asthma, and the strain of steering the Land Bill during the last five weeks of the 1913 session had been considerable. When the House rose on June 16 he could not retire to his farm to rest and recuperate for he held the portfolios of both Native Affairs and Justice and having disposed of the work of one he was obliged to hurry north and turn his attention to the other.

In May trouble had arisen out of a minor dispute concerning underground mechanics at the New Kleinfontein mine. Riots had flared and some lives had been lost. In calling in imperial troops to put down the dissident element, Sauer (though several other members of the Government bore the responsibility along with him), was said by some to have betrayed yet another of his principles. He, 'who had always been inclined to flatter the self-dependent protestantism of the Afrikaner', had ended by letting down his own people.(15)

Towards the end of July Sauer fell ill and was confined to bed for a few days. He died in Pretoria early in the morning of July 24. Arrangements were immediately made to convey his body to the Cape where he would be buried. Reporters who approached Merriman found him deeply affected

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15. Cape Times, 25 July 1913.

and unwilling to discuss his former comrade-in-arms at that stage. The feelings of Sauer's fellow-'mutineers' at this time can be gauged by their letters, notably by one which Rose Innes, who was in Germany, wrote to Merriman immediately after he had read the announcement in the London Daily Mail.(16)

Merriman's reply has been lost, but in one that he wrote to another friend we read that the loss of Sauer had brought back 'all the troublous days and many stricken fields we have seen together'.

> 'Few men had greater political courage or were more ready to stand in a small minority for truth and right .... As you know Sauer spoke English better than any Afrikaner and he thought English too though he was misjudged because it was of Washington and Franklin and not of Chamberlain and Milner. How he hated the caucus and the "machine" and "was he no' a bonny fighter?" ' (17)

Condolences reached his family from far and wide and in the "white" press there were long obituaries accompanied by black-bordered portraits. Alone among the Bantu journals, the Imvo accorded him similar honours. Tributes were paid him by judges, elder statesmen, and other eminent men. A few days after his death Sauer's name and portrait disappeared from the newspapers, seldom to reappear, and he has rated brief mention in later histories and biographies, though the principle of separate development, of which his Land Act is the cornerstone, remains in

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16. Merriman Papers, No.152: J.Rose Innes to J.X.Merriman, 28 July 1913.

17. Merriman Papers, No.161: J.X.Merriman to Maokarness, 28 July 1913.
Though Stanford (see Diary of 25 July 1913) 'received with sorrow' the news of his death and recalled that there had always been a 'friendly feeling' between them, F.S.Malan (See Notebook May 1910 to September 1914, p.159) recalls that: ‚Sauer en ek waren nooit op vertroulike voet as Kolegas.' He appears to have thought that Sauer had a poor opinion of him.

force to this day, he enjoys little fame as its sponsor. The question of why he sponsored it resolves itself into a choice of three possibilities. Was it a betrayal, a compromise, or a decision on principle?

Betrayal

The Schreiners (principally Olive and Senator W.P.Schreiner) believed that it had been a betrayal. Mrs.Cronwright-Schreiner told Merriman that she regretted that Sauer's last major political act should have been the piloting of the Natives Land Bill.

> 'It runs against all he has faithfully upheld during his life.' (18)

The 'compromise' school of thought generally explains its conclusions by suggesting that Sauer was under strong pressure to bring in legislation of this kind to appease the backveld. Tatz is practically certain that this was the factor which forced the decision upon Sauer.(19)

Compromise

It has, however, been pointed out earlier that by the time Sauer made his first policy statement on 28 February 1913, he was no longer under pressure from Hertzog. Not only was Hertzog out of the cabinet but Fischer, the only other Free State minister, had elected to remain in it and had thereby made it plain that he had no intention of making a stand on behalf of Hertzog by resigning or refusing to serve. After the cabinet crisis of December 1912 they drew apart and thereafter Hertzog had no ally within the cabinet itself. He had quarrelled with Botha and had never been

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18. Merriman Papers, No.134: Olive Schreiner to J.X.Merriman, 20 July 1913. She adds, in parenthesis, 'if he is taken from us.'

19. Tatz, op.cit., pp.18, 19.

close to Sauer. The policy statement at the end of February 1913 came as a surprise to him and during the second reading debates on the Bill he delivered a lengthy and, in parts critical speech on the Bill because he felt that, though it was along the right lines, it did not go far enough. From his behaviour, one can but conclude that he did not know of Sauer's scheme before it was publicly announced and had no part in framing it. After his speech on May 9 Hertzog, if he attended the debates at all, took no part in them. His name appears in only one of the divisions at the committee stage. Throughout the proceedings of the 1913 session he played only a minor part and exerted little influence.

Sauer's Bill, moreover, differed from Hertzog's plan - from what we know of it - in one notable respect. This was the fact that Sauer's Bill did not affect the Cape native franchise.

Those who believe that Sauer's hand was forced by the <u>backveld</u> are apt to see his death so soon after the passing of the Bill as the real tragedy, for had he lived longer it might, they are convinced, have been more generously administered.(20) This was the view held by Richard Solomon, who wrote to Merriman late in August expressing his foreboding that the Land Act was to be implemented by others, some of whom might be hostile to the native:

> 'As long as Sauer was there one felt that no injustice would be done to them.' (21)

Although it is tempting to postulate on Sauer's

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20. See also Solomon T.Plaatje's version of the 'Origin of the Trouble', quoted in ch. V.

21. Merriman Papers, No.221: R.Solomon to J.X.Merriman, 27.8.13.

having conceived the Land Act as merely the first instalment of a grand plan, in the manner of Hertzog's "Native Bills" in conjunction with his "civilized labour policy", a review of Sauer's earlier career tends to suggest that he was not by nature a maker of grand plans. He had been an able administrator of the Railways department and a great fighter, especially in the period 1881 to 1892, against illiberal moves on the part of other politicians, but apart from the Land Bill the only other important measure he had ever sponsored was the ill-fated Railways Extension Bill of 1912 which, as already explained, had to be set aside.

He was accustomed to deal with each contingency, each situation, as it arose, and the way in which he dealt with it was evolved out of his past experience and was intended to suit that occasion and solve that problem only. Once the Land Act had been passed and the problem of continued squatting and land-buying by natives solved, the next contingency which Sauer felt himself called to deal with was the native dissatisfaction and unrest which the Act was causing. The solution to this problem had to be shelved because of his pressing commitments as Minister of Justice, but it is said that, at the time of his death, he was planning a trip to Zululand to explain the provisions of the Land Act. Although he did not live to carry out this project such trips were indeed made by high officials of the Department of Native Affairs, including the Under-secretary, Edward Dower. At one meeting in the Free State

...../Dower

Dower is reported to have answered questions put to him by Makhothi and Solomon T.Plaatje.(22)

That the Act should come into operation immediately was what Sauer himself wanted, and it was that which caused the most immediate distress especially to the squatters who found themselves homeless. The apportioning of the land, which would cause more distress later, was not in his hands but in those of others, over whom he would not have had any control. Hertzog had made generous promises to the deputations which included Plaatje and had used a map to illustrate what vast tracts of the Free State would be set aside for the natives. Had his plan ever been embodied in a bill, and had that bill ever become law, it would have necessitated the setting up of a commission just as Sauer's did, and it is doubtful whether such a commission would have been any more generous than the Beaumont Commission eventually was. Yet the latter Commission was regarded as over-generous by many white farmers and its allocations scaled down proportionately.

The Land Act, though late in coming, was not too late. Yet it did not do a great deal for the natives, or bring them much that they had not already enjoyed prior to 1913, and in the case of the Free State share-croppers took away the tenuous hold upon the land which some of them had hitherto enjoyed, though illegally.

Between 1927, when Hertzog laid his "native bills" on the table, and 1936 when the Natives Land Trust and Registration Act was passed, attempts were made to abolish the Cape

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22. Stanford Papers, Diary of 1913 in an entry dated 28 June, the former Chief Native Commissioner records that he had just addressed a meeting of natives in the New Brighton location near Port Elizabeth.

native franchise, and though these were opposed by Smuts in 1930, they were not contested when the final bill came up six years later, as by then fusion had come about. It is evident from the speeches made by Hertzog during all that period that his views on the native question had not changed since 1912 and 1913, and the introductory speech of his Minister of Native Affairs, P.G.W.Grobler on 30 April 1936 is reminiscent of his leader's earlier dissertations upon the subject at that period:

> 'The object of this Bill is to provide further areas where the natives can maintain a reasonable standard of life and develop their own institutions, and secure a better relationship between black and white.' (23)

Hertzog himself, though he kept doggedly at his plan to abolish the native vote, seems to have felt that, on the positive side, owing to the delays caused by the Great War and the opposition of white landowners, very little had been done on the natives' behalf as a result of the 1913 Act:

> 'That Commission [the Beaumont Commission] reported ... that about 8,500,000 morgen should be allotted to natives. That, to their mind, would be equitable and that was the extent of the land which they considered would be required by the natives in the next ten years. That was regarded as being too much in those days.
> 'Subsequently another commission, or rather commissions, were appointed. Those commissions made investigations and ... suggested which ground should be set aside in each of the provinces. They arrived at about 7,500,000 morgen, less, therefore, than what was suggested in the Beaumont Commission.' (24)

Once again during these debates three weeks later, he reminded a back-bencher that 'what we have here is the

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23. House of Assembly Debates, 30 April 1936, Vol.26 (24 January to 1st May), p.2747.

24. Ibid., p.2830.

very starting point of our legislation, namely, segregation.'

> 'We are busy to say (sic) to the native, "We want as few of you as possible in the white man's area. For that reason, we are setting aside defined areas for you in which you can go and carry on your farming operations and to which you can go and live. When you come within the white man's areas you should know that really you come, in the first place, to serve his interests ...'

Hertzog also appears to have looked forward to "development" and "advancement" within the native areas, but did not specify details.(25)

Once the land in the Union had been apportioned to each of the two races as a result of the Land Act, 13% of the area was occupied by the natives and 87% by the whites, despite the preponderance in numbers of the former group, yet these figures as they stand, without qualification, present a misleading picture of the true state of affairs. Only a small proportion of the whites were farmers but for their operations they required large tracts of land on which to farm.

Though farming was the occupation of the majority of the natives, they required, in areas in which the traditional system of communal farming was still practised, relatively little land per head. Many of the natives did not, in any case, farm the whole year round, their communal system allowing for those who preferred to do so to leave the Reserves for a number of months every year to work for white farmers, in the towns or on the mines. Allowing for population growth, however, the Reserves were likely

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25. House of Assembly Debates, 20 May 1936, Vol.26, p.4085.

to become less adequate in the future.

Obviously the "system", as it developed, and of which the Land Act's provisions created only a part, was open to abuse, and to accusations that the natives were being confined and "corralled" so that they might be the better exploited by the whites. Also, when it is remembered that the Land Act was passed fifty-seven * years ago it may seem as if the process of evolution of a fair and just native policy has been immensely slow.

If the program of development for the natives in their homelands is greatly speeded up in the near future, however, as the signs seem to indicate, an Act which, in itself was largely negative and reactionary from the native point of view, may yet prove to have been an essential preliminary to a new concept of expansion and growth within the Bantu homelands, such as neither the uneasy Sauer nor the dogmatic Hertzog can have foreseen.

* Theses submitted 1970.

NOTE ON SOURCES

Manuscript Sources

In the absence of Sauer papers, it was necessary to use the Merriman and Rose Innes collections in the South African Library a good deal, though mainly to provide information about the background to the events narrated. Far more useful, however, was the F.S.Malan collection in the Cape Archives, and especially a notebook kept by him intermittently between 1910 and 1914. This provided first-hand evidence of the proceedings at cabinet meetings after the ejection of the then Minister of Native Affairs, J.B.M. Hertzog, at the end of 1912, and the appointment of J.W.Sauer to this office.

The Duncan collection, now in the Jagger Library, University of Cape Town, contains few letters - at least in the section on Native Affairs - but Duncan kept a great many pamphlets and press cuttings of the time, many of which have proved useful and would otherwise have been unobtainable. Also in the Jagger Library are the Stanford papers, and of these his diaries, for the years 1910 to 1914, which report his meetings with Sauer, have been invaluable.

Unfortunately, little relevant information was found in the Union Prime Minister's files in the Central Archives, Pretoria.

Newspapers.

Both English-language papers at the Cape in the

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eighteen-eighties and nineties (the Cape Times and Cape Argus) were prepared to give any English-speaking leader a measure of support, be he Sprigg, Scanlen, or Rhodes. Once Merriman, Rose Innes and Sauer had entered a Bond ministry, these same papers were prepared to concede that such a coalition government might do much for the Colony's good, but it was the East London Daily Dispatch and the Grahamstown Journal which gave a more consistently pro-British viewpoint by their support of Unionist politicians, and their opinions bore a faintly "Jingoistic" tinge even as late as 1913.

The Bloemfontein Friend, in those days edited by Arthur Barlow, though published in English, was strongly pro-Boer, pro-Hertzog (though not after his fall from office in December 1912) and, at first, opposed to Sauer at Native Affairs when it seemed that, with his record, his views would be "too liberal" for the northerners.

The Johannesburg Star was a newspaper in a difficult position, since it appears to have supported the Unionist party and even carried a series of articles by B.K.Long on the spirit of Unionism at the end of 1912, yet was prepared to give Sauer and the Botha administration a fair trial. There is a distinct difference between the tone of the editorials and the political comment provided by the gallery correspondent, W.Dewdney Drew, who was staunchly on the side of the natives during the Land Act's passage through parliament.

The Afrikaans/Dutch-language newspapers published in the larger centres at the time were consulted in the hope of obtaining an opposite view of the situation, but their

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comments differed less markedly from those in the English press than would be the case nowadays. Mention of the Bantu press has been made in the chapter entitled "African Reactions" as has been done in the case of the Natal papers during the Land Bill period in the next chapter which is entitled "White Reactions".

In conclusion, I cannot express my gratitude to the anonymous writer of the "Letter from the Cape", evidently a gallery habitue or at any rate a frequenter of the lobby, whose digest of parliamentary and other local news appeared in the Umtata Tembuland News from the beginning of 1912 onwards.

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