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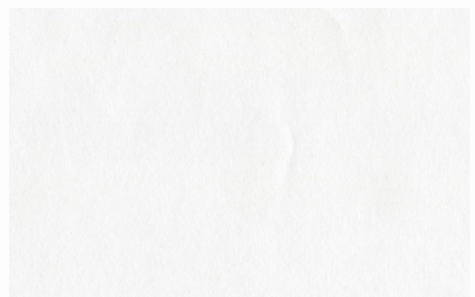
THE CIVIL ADMINISTRATION
OF THE
SOUTH AFRICAN REPUBLIC
(1831-1898).



THESIS PRESENTED FOR THE
DEGREE OF M.A. IN HISTORY

BY

Signed



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P R E F A C E.

The aim of this treatise has been to write not so much a constitutional history as to give an account of the actual governmental conditions existing within the South African Republic during the short period in which it was the storm-centre of South African politics. For this reason a chapter has been devoted to trace the relations between the various classes and the Government, that otherwise would have been out of place in a purely administrative history.

I have striven to confine myself strictly within the borders of the Republic, though I admit that the administrative facts of the Government are only seen in their true colour when held up to the light of political happenings not only in South Africa but also in Europe. In order therefore to see these facts in their true perspective it would be necessary to consult some reliable political history as Professor Walker's "History of South Africa".

The year 1898 has been chosen as terminal for the reason that of all the times of stress and danger - and these circumstances must be borne in mind in passing judgment on the administration of the Republic - to which government in the South African Republic was subject that of 1899 culminating in war before the year was out, was certainly the worst.

I regret that in some cases regarding statistical information I have been compelled to rely on secondary sources owing to the scanty collection of Transvaal Greenbooks in the Cape Town libraries. Where, however, I have been able to test the figures used by official returns come to hand, I have found them correct.

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SOURCES.

OFFICIAL.

British Parliamentary Papers.

- C 3114 of 1882 : Report of the Transvaal Royal Commission.
- C 3381, 3419 of 1882 : Further Correspondence respecting the Affairs of the Transvaal and adjacent Territories.
- C 3654 of 1883 : Correspondence respecting the debt due to H.M.'s Government by the Transvaal State.
- C 3947 of 1884 : Correspondence respecting the Convention concluded with the S.A. Republic on 22nd February 1884.
- C 3841 of 1884 : Further Correspondence respecting the Transvaal.
- C 4588 of 1885 : -do-
- C 4643 of 1886 : -do-
- 1) C 5588 of 1888 : Report of H.M.'s Agent at Pretoria on session of the Volksraad in 1888.
- C 7212 of 1893 : Correspondence re affairs of Swaziland.
- C 7633 of 1895 : Correspondence on the number of British subjects resident in the S.A. Republic.
- C 7911 of 1895 : Papers relating to the Grievances of H.M.'s Indian subjects in the S.A. Republic.
- C 7946 of 1896 : -do-
- C 8159 of 1896 : Papers relating to the Commandeering of British subjects in 1894.
- C 7933 of 1896 : Correspondence on the subject of the recent disturbances, 1896, and on affairs in the S.A. Republic.
- C 8474 of 1897 : Correspondence on the closing of the Vaal Drifts in October 1895.
- C 8423 of 1897 : Further Correspondence re Transvaal Affairs.
- C 8721 of 1898 : -do-
- C 9345 of 1899 : Papers relating to the complaints of British subjects in the S.A. Republic.
- Cd 623, 625 of 1901: Report of Transvaal Concessions Commission.
- Cd 628 of 1901: Report of Sir David Barbour on the Finances of the Transvaal.

No's 311 and 311 ⁽¹⁾ - (4) : Report of the Select Committee on the
of 1897 : affairs of the British South Africa
Company. (though more of an enquiry
into the affairs of the S.A. Republic)

GREENBOOKS.

- Nos. 1 and 2 of : Correspondentie van de Z.A. Republiek
1894 : met betrekking tot De Kwestie van
Aziatische Gekleurde Personen.
- No. 1 of 1899 : -do-
- No. 6, 1894 : Rapport van den Inspecteur-Generaal van
Invoerrechten van de Z.A.R. voor het jaar
1893.
- No. 2, 1896 : Stukken betrekking hebbende op den inval
van de troepen der British South Africa
Company in de Z.A. Republiek.
- No. 7, 1899 : Rapport van den Inspecteur-Generaal van
Invoerrechten over het jaar 1898.
- No. 8, 1899 : Correspondentie van de Z.A. Republiek met
betrekking tot de Kaapsche Kleurlingen in
de Republiek.
- No. 12, 1899 : Rapport van den Superintendent van
Naturelle over het jaar 1898.

Notulen van den Eersten Volksraad (E.V.R. Not)

Notulen van den Tweden Volksraad (T.V.R. Not)

Locale Wetten der Zuid-Afrikaansche Republiek - 1849-1885,
1886-87, 1888-89, 1890-93, 1894, 1895, 1896, 1897,
1898. (Lok. Wet)

Staatscourant.

Staats Almanac der Zuid-Afrikaansche Republiek voor 1892, 1893,
1894, 1896, 1898, 1899 (in the form of a yearbook).

SOURCES.

NON-OFFICIAL.

(but nevertheless often equally valuable)

- AMERY, L.S. (general editor), The 'Times' History of the War in South Africa, 1899-1902, Volume I.
- AMPHLETT, G.F., The History of the Standard Bank of South Africa Limited (1863-1913).
- BOPHA, P.R., Die Staatkundige Ontwikkeling van die Suid-Afrikaanse Republiek onder Kruger en Leyds.
- BROOKES, E.H., The History of Native Policy in South Africa from 1830 to the present day.
- BEYCE, JAMES, Impressions of South Africa.
- BUTLER, SIR W., Autobiography of Sir William Butler.
- COOK, E.T., Rights and Wrongs of the Transvaal War. Edmund Garrett. A Memoir.
- DE KOCK, M.H., Selected Subjects in the Economic History of South Africa.
- DORMER, F.J., Vengeance as a Policy in Afrikanderland, a plea for a new departure.
- EYBERS, - Select Constitutional Documents illustrating South African History (1795-1910).
- FITZPATRICK, (SIR) J.P., The Transvaal from Within.
- HOBSON, J.A., The War in South Africa, its Causes and Effects.
- HOFMEYR, J.H., The Life of Jan Hendrik Hofmeyr.
- JEPPE, CARL, The Kaleidoscopic Transvaal.
- JORISSEN, E.J.P., Transvaalsche Herinneringen.
- KRUGER, S.J.P., Gedenkschriften van Paul Kruger (Geautoriseerde Nederlandsche uitgawe bewerkt door Frederick Rempel).
- LEONARD, CHARLES, Papers on the Political Situation in South Africa 1885-1895.
- LEYDS, W.J., The First Annexation of the Transvaal. The Transvaal Surrounded.
- LIGTENBURG, A.H., Geskiedenis van die Onderwys in die Suid-Afrikaanse Republiek (1836-1900).
- MALHERBE, E.G., Education in South Africa (1652-1922).
- PHILLIPS, (SIR) LIONEL, Some Reminiscences.
- REITZ, F.W. (issued by), A Century of Wrong.
- ROSE, E.B., The Truth about the Transvaal.
- STATHAM, R., Paul Kruger.

SCOBLE, J., and ABERCROMBIE, H.R., The Downfall of Krugerism.

VAN DER MERWE, N.J., Marthinus Theunis Steyn, Volume I.

VAN OORDT, J.F., Paul Kruger en de opkomst der Zuid-Afrikaansche Republiek.

'VINDEK', Cecil Rhodes. His Political Life and Speeches.

WALKER, ERIC A., A History of South Africa.
Lord de Villiers and His Times.
South Africa, 1842-1914.

WILLIAMS, BASIL, Cecil Rhodes.

NEWSPAPERS.

'The Star',

'Die Burger', 26 September 1932,

'The Forum', April 1896; article by Bryce entitled "Two South African Constitutions".

Errata

For

Malherbe, *History of Education*

read

Malherbe, *Education in South Africa*.

GENERAL GOVERNMENT.

The President - Executive Council - Executive's control over legislation - Legislative procedure - hasty legislation - Constitution of Volksraad - impeachment of President - Second Volksraad - sovereignty of the nation - qualifications for voters - judiciary - 'toetsings recht'.

On August 3th 1881 a proclamation issued by Kruger, Pretorius and Joubert, announced to the Transvaal burghers that as a result of the signing of a Convention between the representatives of the Royal Commission and the members of the Triumvirate,¹ "is het land weder onder onze Regeering teruggekeerd."

The form of this Government would be that laid down in the Rustenburg Constitution of 1858. This document, however, did not contain the feature common to a written constitution in that it was placed out of reach of alteration by the legislature. That the nation did not entrust to it the guardianship of its sovereignty was illustrated by the fact that it imposed no restriction on the legislature by providing for its special amendment. From the beginning it was therefore regarded as inferior to the legislature, and the custom arose to alter it in the ordinary course of legislation. Many amendments thus crept in and were incorporated as addenda to the Constitution, which in fact became merely a document having in handy form the rules and maxims in accordance with which the powers of sovereignty were exercised. As such it was redrafted in 1889 and in 1896. To avoid confusion the Constitution of 1889 will be taken as a basis for this analysis especially as most of the important changes it embodied were effected by 1881² and it hence gives a good idea of the Government as it existed from 1881 onwards.

The/

- _____
1. Eybers, Constitutional Documents, p.463.
 2. cf. Law 3 of 1881

The salient features of the constitution were a republican form of government, the division of powers, an elective representative government, and the supremacy of the Volksraad.

The absolute supremacy of the Legislature came out clearly in the way in which every act of the Executive was checked. The Executive power was vested in a President, but he was to be responsible to the Volksraad. He was elected by popular vote for a period of five years and was eligible for reelection. He had to be a burgher qualified to vote for the First Volksraad, ¹ 3⁰ years of age and a member of a Protestant Church. He was the first and highest official in the State, all other public officials were subject to him, except the judicial officers who were "geheel en al vrij en onafhankelijk" (art.56). He could suspend all officials from their posts, make preliminary appointments and fill all vacancies, but had to account for all such actions to the Volksraad. The patronage of the President, though great, there being in 1898 some 5,497 officials, ² was thus rigidly controlled by the legislature. On the whole the Volksraad recognised that it had not the right to order the appointment of an official, but on more than one occasion availed itself of the right to instruct the Executive to dismiss one. ³

The President had a pardoning power which he exercised in conjunction with an Executive Council and on recommendation of the Court (80). Sentences of death or declarations of war would require the unanimous consent of the Executive Council. The President with the Executive Council could decide as to the nature of the danger in case of a declaration of war, but if possible had to summon the Volksraad before such declaration. (66,67). Similarly the treaty making powers of the President was controlled by the Volksraad, for no treaty would be valid

unless/

1. Law 6 of 1890, art.1...

2. 'Times' History, p.127.

3. cf. E.V.R. Not. of 1897 art. 112, of 1898 art. 532, of 1899 art. 442, art. 1189, 984.

unless ratified by the latter (arts. 24, 57).

The President carried out his executive duties in conjunction with an Executive Council over which he presided. This Council consisted of two burghers qualified to vote and chosen by the Volksraad for 3 years as non-official members; and of the Commandant-General, the Superintendent of Natives, the State-Secretary and a Keeper of Minutes as ex-officio members. Of the ex-officio members the State-Secretary and Keeper of Minutes were chosen by the Volksraad for four and three years respectively, and the Commandant-General for 5 years by the nation in the same way as the President. The Superintendent of Natives was the only official in whose appointment the President had any say. The President was therefore not in the position of a cabinet-former, he had no choice over the constitution of the Council and it would be idle to speculate what would have been the result once rigid political organisations had been established in the Republic. Was the President a political leader and his party in the majority in the Volksraad, he would of course have been able to obtain those desired in the Council. Deadlock seemed, however, inevitable, if the majority in the Volksraad was hostile to him, especially since all proposals of law to the Volksraad had to be determined by the President jointly with the Executive Council (63). How weak party politics were in the Transvaal can be gathered from the fact that Joubert who held the post of Commandant-General was the President's most formidable political opponent and added to this the complete domination of the President over the Council and Volksraad alike no such difficulties presented themselves.

As/

1. E.V.R. besluit, art. 1789, 20th September 1894.

As it stood the Council was widely different from the British cabinet. It was a formal body, taking formal resolutions that were submitted to the Volksraad (87). There seemed to be no combined responsibility, the members not only being separately elected, but also chosen for different periods. Unanimity of votes was only necessary in the case of a declaration of war or a death sentence and the President could continue work with only two members as such would be considered a quorum. (86) He could therefore do without any recalcitrant member and since the members of the Council could speak in the Raad, but not vote, he could actually be attacked by such member in the Raad. The Council developed more along the lines of the American cabinet i.e. towards a purely administrative one. The heads of the departments were permanent officials appointed by the President. They were therefore independent of political influence and could devote their attention to purely administrative matters. They formed a cabinet in this sense that the President could summon each head official to the Executive Council when the subject to be discussed concerned his department. He would then have a vote in the Council and be co-responsible for the resolutions passed and for ~~the~~ ^{their} explanation when introduced in the Volksraad (82). The responsibility of these officials to the Volksraad was further emphasised by the fact that the Volksraad could summon them to explain or defend any matter when the Volksraad so desired, i.e. they would be responsible for the acts of administration falling under their department. For the general policy followed by the Government the Executive Council, but chiefly the President, would be held responsible. Chiefly the President for he was the person who had been elected on the program of policy outlined when he stood as a candidate. Such, however, was the jealousy of the Executive that he was not allowed to choose his confederates who were to assist him in the carrying out of the policy for which he

had/

had committed himself. The Council could place obstacles in his way at every step, especially since they had not committed themselves to the President's policy and were not responsible to him but to the Volksraad. The free action of an efficient Executive could thus be considerably hampered.

What was the President's influence over legislation? Here the Transvaal Constitution was liberal; it gave the President every opportunity to obtain the desired legislation necessary for the fulfillment of his promised policy. To him was detailed the duty of proposing laws to the Volksraad (62). He had thus a firm grip on the legislative matters to be dealt with by the Volksraad. He could appear in the Raad, and although he had not the vote, could vigorously support the proposed measures and could be aided by the members of his Council who had the same privilege. As the popular representative of the people and especially ^{if} he was a leader and a man of commanding personality, as undoubtedly was the case with President Kruger, he had all the odds on his side to get such legislation passed. The fact that the President was eligible for re-election and that Kruger was firmly entrenched in the office for nearly 17 years went far to explain the rapid ascendancy of the Executive over the Volksraad. But the dominance of the office must also be sought in the times of constant stress and danger that threatened the Republic from within and without during its short career. The people pinned their faith on an active, powerful and unhampered Executive wielded by a man about whose passionate love for independence there was no doubt. So that Bryce observed in practice the President "exerts more actual power than the chief magistrate of any other Republic, though

there/

1. cf. the American Constitution where the President was denied all influence over legislation and where this consequent weakness of the Executive to obtain the desired legislation to which it had committed itself has been in the past a harassing problem to U.S.A. presidents, and which has only been overcome by usage.

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there is scarcely any other chief magistrate whose legal authority is confined within such narrow limits. So much do economic and social facts - and so much do the qualities of individual men - effect and modify and prevail over the formal rules and constitutional machinery of government."

1

The Volksraad was in two articles definitely asserted to be the highest authority in the country (12,26). It has already been indicated how this authority was exercised, by the way in which the President was checked at every turn. But it seemed to be paralysed in its most important duty, that of legislation. No member had the right to submit a law to the Raad. The power of initiating legislation was allocated to the Executive. But firstly the Raad had full power of rejecting such laws submitted to it. Secondly it could alter any law submitted to it out of all recognition. The usual procedure was that the law was referred to a Volksraad Commission "met opdracht in overleg met de Hoog Edele Regeering gezegde ontwerp wet in verband met de verschillende memories na te gaan en zoo spoedig mogelijk haar rapport en aanbevelingen den Raad voor te leggen."

2

This Commission could amend the law as it liked and during the discussion in the Raad further amendments could be incorporated by 'besluit'. The President had no veto over such legislation, although he could delay publication of the law in the Staatscourant for two months (65). And since a law only came into force after publication, the President thus could exercise a sort of suspensory veto.

But the Volksraad could initiate legislation in two ways. Any member could during the course of the session submit to the Raad a motion for the amendment or repeal of any law. If the motion was accepted by the Raad, the sole discretion left to the Government was to decide whether it was urgent enough to merit of immediate treatment or had to be published first. The Raad could thus at any time take into reconsideration any law and

either/

1. Bryce in "The Forum", April 1896, p.164, article "Two South African Constitutions."
2. cf. E.V.R. Not. 1896, art.888.

either instruct the Government to amend it according to its wishes or repeal the measure.¹ Secondly the nation itself could initiate legislation by means of memorials. The Constitution definitely laid down, the President was to propose the laws to the Volksraad, "hetzij eigene voorstellen, hetzij anderen van het volk by hem ingekomen." (62) The Executive would only have the power to decide whether such proposals needed publication or not (63), otherwise they were to be submitted to the Raad accompanied by the memorials to be dealt with as the Raad thought fit e.g. appointing a Commission to draw up such a law in conjunction with the Government.

The Volksraad had full control of the purse. Annually the President had to submit to it the estimates of revenue and expenditure (70) which were treated and approved of by the Raad. It voted annually not only the salary of the President, but also of all civil servants including the judges.

The Volksraad had two ways of legislating. One was a cumbersome procedure involving the publication of laws three months before they were to be treated by the Raad. This according to the Constitution was to be the ordinary procedure in legislating. But in case of necessity, which it left for the Raad to decide, the Constitution permitted the Raad to dispense with the above stipulation. It must be admitted that the former requirement was most hampering to the supreme legislature in the efficient transaction of business. Accordingly from the beginning it became the customs to follow the later procedure and legislate by 'besluit'. This usage was especially encouraged with the rapid development following on the gold discoveries in 1886.

The old order in the Republic had practically to be uprooted overnight to meet the new condition of things. The

Volksraad/

1. Reglement van Orde van Volksraad, art. 67 (f) and 74; Lok. Wet. 1849-85, pp.1085 ff., cf. the procedure in case of Aliens' Expulsion Law, see p.108

Volksraad even went so far as to provide in 1887 that the Government would have full legislative authority to deal with urgent matters during the recess for which the Volksraad had made no provision, subject, however, to the approval of the Volksraad when it met again. This provision was regularly passed till 1893. A whole system of legislation was thus built up on 'besluiten' and many rights especially of the new population dependent on it, so that it was a serious matter when the Courts in 1896 called in question the validity of such legislation.

The Volksraad was often accused of by means of 'besluit' indulging in hasty and panicky legislation. To deduce, however, that it proceeded solely by the method would be wrong. An examination of some of the acts against which the Uitlanders raised the most serious objections, show that most of them were passed in time sufficient for mature consideration. The worst example was the Public Meetings' Act of 1894 which was passed within two days, the submission, first and second readings being accepted in one day. The Press Law of 1893 was submitted on 7th June, referred to a commission and passed on 24th August, that of 1896 was duly published for three months. The Government was instructed to draw up an Aliens' Immigration Law on 5th June, 1896; the law was submitted on the 25th November, and passed on 27th, while in the case of Aliens' Expulsion it was approved of in 1895 and passed in 1896. As regards the stringent franchise law of 1893, a commission was instructed to draw up the law on 30th June, it reported on 8th September, and the bill was put temporarily in force till the next session in order to enable the public to express its opinion on it. On 31st May 1894 the bill was taken in discussion with the memorials that had come in and passed on the 11th June. And it must be remembered, these

were/

1. Van Cordt, Paul Kruger en de opkomst de Z.A. Republiek, p.568.
2. E.V.R. Not. 1894, art. 843-866, art.882.
3. E.V.R. Not. 1893, arts. 273, 279, 1191; see p.104; C8423 of 1897, p.82.
4. E.V.R. Not. 1896 arts. 511, 2094, 2129, see also p.
5. E.V.R. Not. of 1893, arts. 497-499, 1340,1341; of 1894, art. 284 ff., 339, 375.

were all matters in which passions were apt to be swept along.

The Volksraad consisted of 26 members elected by a majority of the votes of the electors of each district. A member had to be 30 years of age, reside in and own in the Republic landed property, belong to a Protestant Church and to have been born in the Republic or else to have possessed the vote for 15 years (art.28) - a provision which practically excluded all Uitlanders from becoming members. The members were elected for a period of four years, but half were to retire every two years. The Raad met annually on the first Monday of May. But the President had the power of summoning special sessions. He had not the power of either proroguing or dissolving it, for the Raad did not disperse before all matters which had to be considered were finished and the session closed by the Chairman (40) who was elected by the Volksraad (38). A peculiar feature of the Raad was its right to hold secret sessions (42).

The Volksraad chose as Vice-President one of the members of the Executive Council. The Vice-President was to act if the President in the case of disability through bodily or mental infirmities or of his death or through absence from the country or through deposition was unable to do his duties (art.59). The President could be deposed by the Volksraad if he was convicted of any criminal offence by an ordinary judge. In case of any unconstitutional action, official misdemeanour or inefficiency, he was to be tried by a special court to consist of five members appointed by the Volksraad and four members of the High Court. The provision for the Constitution of this court was only made in 1894. Up till then it consisted of the High Court of Justice, the Chairman and another member of the Raad (art.61). The accusation against the President was brought in by the Volksraad.

The constitutional supremacy of the Volksraad was thus pretty absolute. It had absolute control over the President's appointment and treaty making powers, it surrounded him with a Council to advise him, but primarily to check him, it had

complete/

complete control of all money bills, it could impeach the President and the latter had no veto over its acts nor could he dissolve it. When in 1890 a Second Chamber was created it was made so inferior as not to embarrass the chief one, nor could the President play the one off against the other.

This Second Volksraad was an attempt to give the foreign population some say in the Government of the country which as we have seen was denied them in the First Volksraad. In order to be eligible, a member had to satisfy all the qualifications as laid down for the First Raad, but in case he was not a ¹ born burger he need only have held the franchise for two years. Now it took an alien two years to get naturalised and obtain ² the vote for the Second Raad, so that after four years he could become a member of the Second Raad. The procedure and constitution of the Raad was similar to that of the First Raad, but it was limited not only in the subjects it could consider, but by its complete inferiority to the First Raad. All laws and resolutions of the Second Raad were within forty-eight hours to be made known to the First Raad and the President. Within the fourteen days following the First Raad had full power to deal with such a resolution or law of the Second Volksraad either on its own initiative or if submitted by the President. If the fourteen days had expired and neither the First Raad nor the President had availed themselves of this right, then the President would be bound to publish the measure in the Staatscourant, provided, however, he did not with the advice and consent of the Executive Council deem such a measure undesirable in the interests of the State. ³ So that even after the fourteen days the measure would still be subject to nullification by the Executive.

The list of subjects the Second Raad could deal with com-

- prised/

1. Law 4 of 1890, art. 16.
2. Law 5 of 1890, art. 1 (d).
3. Law 4 of 1890, arts. 28, 29, 30.

-mined e.g. the mining industry, roads, postal service, insolvency, the condition, rights and duties of companies, civil and criminal procedure and all such subjects as the First Raad should detail to it. It will be noticed that the subjects covered chiefly economic matters of direct interest and concern to the new population, and that had they availed themselves of the Second Raad they could at least have secured their desired 'decent administration'. Through the weakness of the Second Raad was that it had no taxing power.

The Uitland/Press and the National Union held the body up to ridicule, yet it seemed that within its limited scope it served an increasing useful purpose. ¹ It was able to assume a very strong position towards the superior body. Only once did the First Raad attempt to reject a resolution of the Second Raad when the latter granted the preference of the undermining rights to owners of the surface rights in principle. The Second Raad threatened to resign en bloc and the superior Chamber had to capitulate. ²

Although the Constitution nowhere definitely asserted that sovereignty was vested in the nation, but on the contrary had emphatically laid down that the highest authority in the country was the Volksraad, yet the sovereignty of the people was implied. The terminology is consistently ^{that} "Het Volk". ^{is the} ~~The~~ source from which all authority is derived, ~~is~~ "Het volk wil geene gelijkstelling van gekleurden met blanke ingezetenen toestaan", "Het volk wil geen slavenhandel" etc. The nation entrusts the legislature in the hands of a Volksraad, the proposal and the execution of the law to the President, the maintenance of order to the army and the judicial power to the High Court of Justice (arts. 12, 13, 14, 15).

Possessing/

1. Jeppe, The Kaleidoscopic Transvaal, pp.132.
 2. Botha, Kruger en Leyds, p.325.

12

Possessing sovereignty therefore, by what means did the nation exercise it? In the first place by directly electing the head of the Executive and the members of the Legislature who were thus directly responsible to it. Every male adult in the population could participate in these elections, for every burger born in the country who had attained the age of 16 years could vote. No other qualification such as for instance a property or educational one was necessary.¹ In case of aliens the qualification was also one only of time. Up to 1890 it was merely naturalisation and five years residence. But any alien that had not obtained the franchise before 1890 or came in after 1890, was by various laws passed practically excluded from voting for the President or the supreme legislative body. It came to this that a naturalised alien, which he could become after two years residence, could only vote for the Second Raad and in such elections as concerning only his district, e.g. for a fieldcornet or Town Council.²

The nation reserved to itself the right to express its opinion on any of the laws submitted to the Volksraad, hence the laws had to be published in the Staatscourant three months before being dealt with by the Volksraad (art. 12, 62). The nation would then make its views known by means of memorials sent to the Raad. It has also already been indicated how the nation could itself initiate legislation by means of petitions to the Raad. There was of course nothing to prevent the Raad from rejecting such petitions for they were a mere expression of opinion and not an instruction. But the moral force behind them if they came from the majority of enfranchised burghers was of course great. This was, however, not the case with memorials emanating from the unenfranchised section of the population as the Uitlanders found to their disgust, when for instance petitions bearing some 30,000 signatures were rejected.

- This/
1. Law 4 of 1890, art. 9; Law 5 of 1890, art. 1 (a); Law 14 of 1893, art. 4.
 2. Tybers *op.cit.* p.438 (note); Law 14 of 1893, art.4. For fuller details see pp. 36, 38, 39

This power of petitioning seemed to be so abused by the foreigners that the Raad in 1897 provided that petitions would only be accepted from those who were registered on the fieldcornet's books.

Owing to the fact that only half of the members of the Raad retired at each election, a general appeal to the country was impossible. Changes in its composition were gradual and the imposition of the will of the nation on the legislature² was a matter of considerable time and delay.

The responsibility of the President to the people was emphasised by the fact that he was eligible for re-election. The people were also given the opportunity to lay their grievances directly before the head of the State; for it was provided that the President was to make an annual tour of the whole country, and besides inspecting the public offices, was to give the inhabitants of each place he touched at, a chance to bring their interests before him (art. 75).

The judicial power was vested in a High Court, a Circuit Court, Landdrosts and such other officials invested with judicial power by law (art. 115); the latter included the fieldcornets who could act as arbitrators in minor disputes between burghers, the Justices of the Peace, Mining Commissioners, Native Commissioners and a Land Commission consisting of three burghers in each district with power to decide all boundary disputes subject to an appeal to the higher courts. The Landdrosts had limited jurisdiction in civil or in criminal cases.

The High Court consisted of six judges, two of whom constituted a quorum. Sessions were usually held by three judges. Criminal cases were determined by one judge assisted by a jury of nine whose decision had to be unanimous. As jurymen would only be eligible burghers qualified to vote and 30 years of age (art.)

1. Law 5 of 1897.
2. Jeppe, p.173.

(art. 119), which the Uitlanders complained denied them the privilege of having their cases tried by their own fellowmen. The decision of the High Court was final, from it there was no appeal. The Circuit Court was conducted by one judge assisted by a jury in criminal cases and held session twice a year in every district, except in Johannesburg where every month a session was held. There was an appeal from the Circuit Court to the High Court.¹

The judges were appointed for life, but their salaries were voted annually by the Volksraad. This provision together with a vague stipulation in the 1889 Constitution that the law determined the manner in which in cases of misdemeanour or incapacity the judges could be dismissed (art. 115), aroused a feeling of insecurity with the judges; especially as the past history of the relations between the Executive and the Judiciary had not been devoid of some disturbing signs. In 1886 there had been the case in which the President, without consulting the judge, had pardoned a wealthy supporter of the Government who had been sentenced to imprisonment. The case was practically still sub-judice, since the accused had reserved certain points for consideration by a full court. The judge concerned immediately resigned in protest and the situation was only saved by the Chief Justice who had the accused once more re-arrested, and tried by a full court which set aside his conviction. The prisoner was thus set free by order of the court and not of the Executive.

In 1893 relations were further strained when the Volksraad entertained loosely worded petitions demanding an inquiry into the conduct of the judges and the Chief Justice closed his court for some time in protest. When the same occurred in 1894 the Chief Justice publicly proclaimed the country in danger and demanded security of tenure and fixed salaries from the Volksraad, lest the judges remained at the annual mercy of the Raad.³ The Raad provided for security of tenure by resolution

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1. Almanac for 1898, pp.282-283.

2. Walker, De Villiers, pp.191-192

3. ibid. pp.239, 251-252.

of 23rd August. The judges would be impeached for any official misdemeanour by the Executive Council before the Volksraad. The latter would then provide for the constitution of a special court which was the same as in the case of the President.¹ The question of salaries was left untouched.

Despite the fact that this security was provided by means of 'besluit' the Chief Justice in the next year called in question the validity of Volksraadbesluiten and claimed the power not to apply a law or besluit when in the opinion of the Court it conflicted in form and substance with the Constitution, and in the following year reaffirmed this when he declared that the Volksraad was not a sovereign legislature.² This despite the fact that the Constitution nowhere delegated to the courts the power of testing laws; that it definitely declared that the Volksraad was the supreme authority and that the legality of laws and besluits as published in the Staatscourant was to be respected; that the courts on two occasions had recognised that a besluit had force of law and that the Constitution was no different from any other law;³ and that the people in whom sovereignty were vested had not raised any protest against legislation by besluit. But on the contrary had consented to Law 4 of 1890, and according to article 32 in that law which laid down that the legal force of a law or 'besluit' published by the President in the Staatscourant was not to be disputed. This law had been published both prior to passing and after, ~~it~~ before being put in force in order to obtain the approval of the people.⁴

Had the legislature and the Executive in past years been guilty of encroachment on the powers of the judiciary, the latter was in its turn trying to do vice versa. But what was a more

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1. Eybers, op.cit. No. 225.
 2. Walker, De Villiers, p.289; Botha, Kruger en Leyds, pp.52,68.
 3. Addendum to 1858 Grondwet, 19th September 1859; Eybers op.cit. p.417.
 4. Preamble to Law 1 of 1897.

serious consideration was that chaos threatened the laws of the Republic since a whole system of legislation had been built up on besluits. The Volksraad, determined to end both this uncertainty and the aggressiveness of the judiciary, declared that the besluit of 1894 did not apply in this case and empowering the President by Law 1 of 1897, to put the question to the judges whether they claimed the testing right, and if he received an unsatisfactory reply to dismiss them at once. When the question was put, the judges closed their courts in protest, but before the law was applied an agreement was arrived at by which the judges promised not to exercise the testing right on the understanding that the President would introduce legislation providing against the hasty alteration of the Constitution. When by the end of the 1897 session such legislation had not been introduced the Chief Justice declared the agreement broken, claimed the testing right again and when dismissed decreed the High Court adjourned which was disregarded since the other judges refused to support him. A new Chief Justice was appointed, and Law 1 of 1897 remained on the Statute book, requiring that all judges on appointment should take an oath not to exercise the testing right.

The effort had thus failed. The judges could be summarily dismissed by the ^{Pr.} Resident if they did not respect Volksraad-besluiten and laws. Otherwise under the besluit of 1894 they enjoyed comparative security of tenure, but what was a more serious threat to the independence of the judiciary was the fact that they still remained at the annual mercy of the Raad since their salaries were not fixed by law.

1. Walker, op.cit. pp.290 ff., 295, 316-318.

II

LOCAL GOVERNMENT.

Municipal functions of the Volksraad- District Councils - Town Councils - Stand Townships - Diggers' Committees - Sanitary Boards - Johannesburg Sanitary Board - Municipality for Johannesburg - **military organisations as a basis of civil government - fieldcornets, Justices of the Peace, landdrosts.**

Government in the South African Republic was centralisation in the extreme. For the purpose of local government as well as with a view to defence, the Constitution of 1858 had divided the Republic into districts and fieldcornetries. These districts were managed by the Executive Council through landdrosts and Fieldcornets. The right to local self-government in the form of District and Town Councils was first incorporated in the Constitution in 1877 and reaffirmed in 1881¹. Accordingly in 1883 effect was given to these provisions when separate municipal laws were passed enabling the setting up of District and Town Councils. In the case of the latter body, however, the law was allowed to lapse after a year² and when in 1886 another law was passed, the citizens seemed still disinclined to assume the responsibility of managing their local affairs, preferring to leave it in the hands of the central authority.

The Executive Council thus continued to see to the execution of purely municipal matters, while the Volksraad ever jealous of its rights, kept a minute control over every act of the administration and thereby itself assumed in many instances the aspect of a municipality. In May 1889 by resolution it empowered the Executive Council to draw up water regulations for the town of

Ventersdorp/

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1. Bylage tot Grondwet 1877, arts. 14-18; Lok. Wet. 1849-85, p.679 ff., Law 3 of 1881.
 2. Law 11, 1883; Lok. Wet. 1849-85, p.1214.

Ventersdorp and in June of the same year considered a memorial requesting regulations to be drawn up regarding the use of tables¹ for the sale of vegetables at the Johannesburg market. While the Republic consisted of a small community of pastoral farmers whose wants were small and desires still less, legislation would cover comparatively unimportant matters. When, however, the State became faced with industrial problems of the first order, the issues to be dealt with by the legislature increased at once in extent, intricacy and importance. Minor affairs such as those indicated would not only be unworthy of, but tend to sidetrack the chief legislature from essential issues, and swamp its efficiency in a morass of details.

It was to be hoped that if the central authority was obliged to take cognizance of purely local concerns, then at least the Second Volksraad, created in 1890, would assume this control. This was to a large extent the case, but not entirely so. In 1891 we find the First Raad confirming a resolution of the Executive Council compelling persons to walk over bridges and regulating the speed of vehicles.² In 1897 the First Raad considered a memorial from Vryheid requesting that a sanitary inspector be appointed.³ And in 1899 the First Raad still entertained memorials requesting that the waterfurrows of the town of Christiana be improved, a market be established and a market-master appointed.⁴ Here is a list of subjects dealt with by the Second Raad in 1895, 1896, 1897; cab-regulations for Pretoria, the sale and purchase of mules and a 'traction engine' for streetmaking in Pretoria, lengthening the market street of Pretoria, repairing the streets of Ermelo, removing natives from town lands, construction of a dam and waterfurrow for Pietersburg and the unsanitary state of Pretoria.⁵

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1. Volksraad Not. 1889, art. 285, 28th May; June 26th, art. 551.
2. E.V.R. Not. 1891, art. 94.
3. E.V.R. Not. 1897, art. 1120.
4. E.V.R. Not. 1899, arts. 1034, 1036, 1350.
5. T.V.R. Not. 1895, arts. 464, 1281; of 1896, arts. 410, 483, 772; of 1897, arts. 354, 375.

In 1883 a law enabling the setting up of District Councils was passed. ¹ The Council was to consist of as many members as there were fieldcornets and to be elected from among and by those conforming to the demands of the general franchise law - in the case of burghers who formed the rural population and thus alone interested in District Councils, this merely meant being 21 years of age - residing in and owning in the district immovable property or renting such at an annual value of £50. (arts. 1,3.)

The qualifications were thus extremely liberal. Members were elected for three years at elections fixed by proclamation of the President (Arts. 5,7). The Council would be presided over by the Landdrost who apparently represented the authority of the Government. The sole task of the the Council would be to see to the improvement of public communication by the laying down and maintaining of roads and bridges. (art. 12) For defraying the expenses thereof the Government would place at the disposal of the Council the road money collected in its district and in case these funds proved insufficient the Volksraad was to decide the matter. ² The Council was hence practically void of any taxing powers. The road money was a tax fixed by the central authority, collected by it and paid into the Treasury, to which the Council had to send a request if it needed any funds (art. 17). A further evidence of the minute control exercised by the Government was the stipulation that the Council had to submit estimates of its receipts and expenditure annually to the Government and that only such estimates as were approved of would entitle the Council to expenditure (arts. 15,16).

Perhaps it was the very fact that the Council possessed so little taxing powers, and was practically provisioned by the central authority that rendered ^{it} ~~them~~ popular. District Councils

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1. Law 6 of 1883.

2. Eybers, Constitutional Documents, p.467.

were for instance set up in Rustenburg, Zoutpansberg, Lydenburg in 1884, and later in Bloemhof, Carolina, and in Lichtenburg as late as 1895.¹ It must, however, be pointed out that where such councils had been established, the Volksraad refused to care for roads, but insisted that the Councils should carry out their responsibilities.²

Satisfactory provision for the institution of Town Councils was made by Law 10 of 1886, subsequently modified by Law 19 of 1892. Every town of at least 500 European inhabitants would be entitled to a Town Council if it so desired. It would consist of from 6 to 8 members half of whom were to retire each year. No member could receive any payment from the Council or participate in tenders for Council work, obviously to prevent corruption. (arts.

24 & 36.)³ The qualification for membership was restricted to owners of property of the value of £500 in the town. (art. 14) In 1898 the membership was extended also to lessees who paid an annual rent of £75, and to owners of property of unspecified value.⁴ Qualified to vote would be all enfranchised burghers residing in the town, which meant adult male suffrage. In the case of non-burghers a property qualification to the value of £100 was attached.⁵

To meet the wishes of the Uitlanders, the municipal franchise was made increasingly liberal. In 1896 it was extended to include those who paid annually a house rent of £50, which sum was further reduced to £25 in 1898.⁶ This would practically include every adult male Uitlander residing in the town and would place him on an equal footing with the burgher.

Here too the Central Government made its authority felt in that it appointed and paid the burgomaster who was to preside over

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1. Lok.Wet. 1849-85, pp.1236,1244,1304; of 1888-89, p.72; of 1890-93, p.902; of 1895, p.362.
2. Cf, Raad resolution 27th June 1889, art. 560; Lok.Wet. 1888-89, p.158.
3. The articles referred to are from Law 19 of 1892.
4. Law 17 of 1898, art.14.
5. Law 19 of 1892, art.3.
6. Law 13 of 1896, art. 3c., Law 17 of 1898, art. 3c.

the Council (art. 2). The Council was given full power to deal with municipal matters. It could appoint municipal police, provide for the lighting of streets, see to the construction and maintenance of roads, bridges, dams, waterfurrows, markets and pounds and all such matters "die te pas mocht komen in een geregeld stadsbestuur." (arts. 32-35)

The sources of revenue which it was empowered to tap were also adequate and satisfactory. These were rates on property, not to exceed, however, one penny in the £1, market and pound dues, cab licences, rents from town property, fines for breach of town regulations and "alle andere stedelijke inkomsten."¹ Any further tax would require the consent of the First Volksraad. (art.28) Nothing was said about the Councils' power of raising loans, presumably it could do so with the consent of the Executive Council and Volksraad. For in the case of buying and selling of town property the consent not only of two-thirds of a public meeting was necessary but also of the Executive Council "die volkomen bevoegd is zijne goedkeuring te weigeren." (art.38)

Despite the fact that even the "Star" described the provisions of the Municipal law as establishing the right to local self-government and checking the process of centralisation,² the burghers showed very little inclination of availing themselves of this right. If they assumed the privilege of managing their local affairs, they would have to tax themselves, a proceeding to which they were very much averse. The law itself contained no provision compelling the inhabitants to form a Town Council and consequently the Government was obliged to meet purely local expenses from the State Treasury. In 1892 the Executive Council asked the First Volksraad, in view of the

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1. Questioned as to the nature of these, the Chairman of the Volksraad explained that by it was understood "alle kleine belastingen zooals van tyd tot tyd door den Stadsraad konden worden opgelegd, hetzy op honden of katten." T.V.R. Not. 1896, p.284.
2. 'Star', August 12th, 1892.

heavy expenses incurred in connection with certain towns, for a resolution that would empower it to impose the taxes contained in the Municipal law in order to meet the local expenses in such towns where Town Councils had not been established.¹

It was to be expected that this 'besluit' would see the towns go over to the establishment of municipalities. Yet that the progress made in this direction left much to be desired appears from the discussions in the Volksraad in the various municipal laws. A member predicted in the Volksraad in 1892 that Pretoria would have a municipality within three months. Yet in this town, the capital of the Republic, only in December 1897 a temporary Town Council was set up by proclamation.²

While the burghers were given the opportunity of managing their own affairs and were not availing themselves of it, the Uitlanders, concentrated on the goldfields in Stand Townships were clamouring for such privileges and denied them. When in July 1889 the Volksraad considered a memorial from Johannesburg, drawing attention to the unsanitary state of the place and asking for a Town Council or some form of local administration, the Raad referred the sanitary measures to the Government and resolved that no Town Council was to be established in a Stand Township.³ So that the Volksraad drew a definite distinction between what was called an 'erven' township and a 'stand' township. As late as 1899 it refused a request from the Stand Township of Haenertsburg to be changed to an 'erven' township.⁴

Stand Townships according to the provisions of the Gold Law arose in the following way. On each proclaimed diggings every white person wishing to erect a store, dwelling house or other building had to apply to the Mining Commissioner for one or more stand licences for that purpose. The usual size of the stand was

50 x 50/ -

1. E.V.R. Not. 1892, pp.361-362, art. 1116.
2. Lok. Wet. 1898, p.320; cf. E.V.R. Not. 1896, p.284.
3. Volksraad Not. 1889, arts. 964, 965; Lok.Wet. 1888-89, p.159.
4. E.V.R. Not. 1899, art.1033.

50 x 50 feet at a monthly licence of 7/6, actual diggers being exempted from payment of such licence. ¹ The State retained the ownership of such stands, for after 99 years they were to revert to the State. ² To such a community of diggers, prospectors, store-keepers, speculators and all the elements that go to make up a mining society, the right to self-government was refused. Considering the migratory character of such a heterogeneous population, sustained and harmonious co-operation towards self-government may well have been doubted. When, however, mining society assumed a settled and permanent form and prepared to face the many minute and intricate problems cropping up in such a society, it was from a purely administrative point of view a mistaken policy.

Chiefly the administration of the goldfields was an official one, carried on by the Executive Council with the assistance of Mining Commissioners and their subordinate officials. Some form of local autonomy was, however, allowed from the beginning in the shape of Diggers' Committees. They were to consist of nine members ³ elected by all licenceholders for one year. The Committee at first had fairly substantial powers. Jointly with the Mining Commissioner who was to preside over it, it could draw up such rules and regulations as were expedient for the local requirements of the fields; but what is more important it was competent to decide all disputes with regard to obtaining, working or loss of claims, water-rights, stands etc. with an appeal to the High ~~Commissioner~~ ^{Court}. ⁴ The diggers could therefore have their affairs decided by a body whom they had put there themselves.

Unfortunately the tendency was all along to increase the powers of the Mining Commissioner and reduce those of the Diggers' Committee. Already in 1883 the former enjoyed extensive powers.

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1. Law 10 of 1891, sections 65, 67.
 2. Gedenkschriften, p.116.
 3. Law 1 of 1883, art. 13; Law 8 of 1885, arts. 34, 35, 36.
 4. Law 1 of 1883, art. 36.

He was to supervise the fields under his jurisdiction, see to the interests of the diggers, do everything to promote the prosperity of the diggings, see to its sanitary condition and generally manage all local affairs and carry out the regulations of the Government. He was to issue licences, but was not to hold any claim himself. He was put in control of the police appointed by the Government, and was even given civil and criminal jurisdiction equal to that of a landdrost;¹ till in 1886 when special landdrosts were appointed.² In 1887 the jurisdictionary powers of the Diggers' Committee were abolished being taken over either by the Mining Commissioner or by a Special Landdrost where such had been appointed. What remained to the Committee was in fact to draw up waterregulations and even this was subject to the approval of the Volksraad.³ The Committee existed only in name, the diggers took no interest in them and petitioned the Raad in 1891 to dissolve them. This was done and what little duties it still had were transferred to the Mining Commissioner.⁴

The Diggers' Committees having died a natural death, the inhabitants of the Stand Townships were, however, not entirely placed in the hands of government officials. They were given some form of local control in the shape of Sanitary Boards. Provision was made by Law 4 of 1887 for the institution of such Boards in towns where there were no Town Councils and under the Gold Law the Government could make regulations for the establishment of such Boards in the Stand Townships.⁵ In Barberton for instance the Board consisted of six members, chosen from among and by the holders of stand licences and presided over by the Mining Commissioner. It could make its own sanitary regulations and fix a tariff accordingly, and under Law 4 of 1887 it could levy

a tax/

1. Law 1 of 1883, arts. 9, 10, 16, 37.
2. Lok. Wet. 1386-87, p.66 ff., art. 9.
3. Law 10 of 1887, arts. 25, 26, 30.
4. T.V.R. Not. 1891, p.195 ff. Law 10 of 1891, arts. 34-40.
5. Law 10 of 1891, art. 38.

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a tax on fixed property. The fact that these bodies had sources of revenue at their disposal remedied the very weakness of the Diggers' Committee. They were in a position to undertake and accomplish useful work, independent of the Government. The Uitlanders availed themselves of this opportunity and the Sanitary Boards on the Goldfields developed along lines that rendered them veritable municipal bodies. A typical example was the Board at Johannesburg. In 1890 already it was complained in the Volksraad that the Board had exceeded its powers, had levied too high taxes, had become "een Regeering in eene Regeering", while the Town Council of an important town like Potchefstroom "zedelijk dood was gegaan."^{2.} The Johannesburg Board was elected by the householders for two years on an occupation franchise. It could choose its own chairman, but a Government Commissioner would supervise the revenue and expenditure while every agreement above £150 would require the approval of the Government. This was not exceptional, as we have seen it applied equally to the Town Councils and was merely part of the system of centralisation ^{and administrative tutelage.} The only objectionable provision for the Uitlanders was the requirement that all members had to know Dutch and that all business of the Board was to be transacted in that language.³ It was equally true, however, that the provision was not strictly enforced. From 1893 the Government, in recognition for the large sums of money raised by the Johannesburgers in the form of taxes for local purposes by which the Government was saved many expenses, granted the Board an annual subsidy of £25,000 for the care of the streets.⁴ In 1894 the Board raised a revenue of £132,000 and in 1896 its revenue and expenditure totalled the huge sums of £313,261 and £345,546 respectively.⁵ By no stretch of imagination could such expenses

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1. Staatscourant, 30th November 1892, p.1723; Law 4 of 1887, arts. 22, 23.
2. Volksraad Not. 1890, p.287 ff.
3. Staatscourant, 1st October 1890, p.966.
4. Lok. Wet. 1890-93, p.857-858.
5. Statham, Paul Kruger, p.253; Almanac for 1898, p.383.

be attributed to a body fulfilling mere sanitary duties.

The Johannesburgers, however, wanted a municipality not only in fact but also in name. While it was to be admitted that a city like Johannesburg needed a local governing body with wider powers than those practised by the Sanitary Board, on the other hand their conception of a municipality seemed to be that of a body entirely free and independent of the central government; something like a scheme of "Home-Rule". In 1892 the 'Star' commenting on the general Municipal Law, considered its provisions entirely inadequate for the needs of Johannesburg and insisted on a Special Act.¹ This attitude was also clear when in 1897 the Volksraad passed a special act by which a municipality could be established at Johannesburg and it was condemned as "wholly unworkable, bristles with defects, limitations and inconsistencies."² In effect the law³ was as liberal as the general law. Qualifications for electors and members of the Council were practically similar to those under the general law (which see). Its powers covered all municipal matters; it could even have its own police force; while its income was derived from such solid sources as taxes on stands and property up to 3d. in the £1, rents from the use of public property; licences for vehicles, theatres, market and pound dues and such other taxes necessary which would, however, require the approval of the Volksraad (sect. 32). It could raise loans with the city property as security, but the consent of the Executive Council would be required. The supervision of the Government was further exercised through a Burgomaster, appointed and paid by the Government, and who presided over the Council. This also as has been indicated was a feature of the general law and characteristic of a system of government inclined to interfere/

1. 'Star', August 12th 1892.
2. C9345 of 1899, p.65.
3. Law 9 of 1897.

interfere with the minutae of administration. If to this¹ be added the general political conditions in Johannesburg at the time and the natural distrust - the Raid was still fresh - wherewith the Government would regard the activities of a powerful municipal body like that of a city of Johannesburg's type, the veto given to the Government over every action of the municipality can be understood. Similarly the objectionable provision that half of the 24 members of the Council was to be burghers, where the burgher element in the population of Johannesburg was insignificant. Such a stipulation was bound to destroy the confidence of the Uitlanders in the body.

But it was the golden rule in the South African Republic that practice differed very much from theory. *i.e. rigid rules but lax administration.* Consequently the municipality was able to assume a far stronger attitude against Government interference and control, than it would be gathered from the provisions of the law. For instance, in November 1898 considerable excitement was caused in Johannesburg by the grant of a concession for carrying out a drainage scheme for the town by the Government. The Council rightly regarded it as an infringement of its rights and decided to test the matter in court. The Burgomaster whose signature was necessary for such an application refused it. The Council then threatened legal proceedings against him and the upshot was that the Government capitulated and cancelled the concession.²

In conclusion a few words about the officials who played a very important part in the local government of the country.

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1. Art. 30 laid down that "De Burgermeester is verplicht elke door den Raad aangenomen verordeningen aan den Uitvoerende Raad binnen vier dagen na den dag der aanneming mede te delen. De Uitvoerende Raad heeft het recht binne eene maand na den datum van de ontvangst der kennisgeving te beslissen dat zulk een regulatie niet van kracht zal zijn."
2. C9345 of 1899, p.75; Fitzpatrick, The Transvaal from Within, p.323.

The unit of local government was the veldcornetcy under the veldcornet. Now the latter was primarily a military official and a leader of the men from his division in time of war. The fact that a military officer had such an important share in the civil government of the country can be explained as follows. Originally the community of men to the north of the Vaal had in the face of the constant dangers surrounding them drawn together in a military organisation for purposes of mutual defence. The military organisations served at the same time as some framework of administration. In the course of time it became such an inherent feature in the national life of the country, that even when the necessity for it had disappeared, it continued to serve as a basis for the organisation of civil government. The Constitution of 1889 (art. 136) laid down that the civil administration of the State derived its authority from the Executive Council and was subject to the commands of the President and the members of the Executive Council. For the purposes of administration the territory was divided into districts, composed of wards and towns. Changes in the division of districts ^{or} ~~as~~ wards were to be made according to Article 98 of the old Constitutional Law. Now this article defined the military organisation, it laid down as follows: "Tot indeeling van de krygsmagt, wordt het grondgebied dezer Republiek verdeeld in veldcornetschappen en districten. De scheidings-lynen der veldcornetschappen en districten worden bepaald door en by gezamenlijk overleg van den President van den Uitvoerenden Raad, den Commandant-Generaal en de aangrenzende Commandanten en Veldcornetten." Clearly the organisation of civil government was derived from that of the military.

What is more the military officials, although there was no

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more need for it, continued to assist in the civil administration, being made, however, subject to the civil authorities. The Commandant who in military matters stood at the head of a district was made subject to the Landdrost who governed the district in civil matters. Similarly the fieldcornets as far as they assisted in the civil administration were subject to the Landdrost.¹ Though the office of Commandant was abolished in peace time,² that of the fieldcornet continued and the civil duties attached to it became in the course of time far more important than the military.

As laid down by Law 2 of 1885 he was elected by the burghers of his ward for a period of 3 years. His multifarious duties varied from purely military ones to encouraging postal and telegraphic communication and holding post-mortems. He had to make known all Government notices and laws, obey the orders of the courts, keep lists of all burghers in his division for purposes of military conscription and voting, act as a sort of detective when any crime was committed by conducting a preliminary investigation and arresting suspects, to act as an arbiter in private disputes so as to prevent litigation and generally had to take an oath "den handhaving der wetten stiptelijk na te komen en niks anders te beoogen dan den bloei en de welvaart en onafhankelijkheid van het land en volk dezer Republiek." There was a host of other duties for nearly every law laid some obligation on him. The important influence exercised by holders of the office was due to the fact that the fieldcornet was not an official in the ordinary sense of the word. He was the popular representative of the people in the administration and being usually^a respected and leading citizen of his neighbourhood commanded much deference.

1. Art. 139, 1889 Grondwet.

2. Eybers, Constitutional Documents, p.384.

Justices of the Peace appointed by the President for the better maintenance of the laws, dated since 1870. They were of two classes. One class was empowered to take evidence on oath, to make arrests on such evidence and to conduct preliminary examinations, thus taking over some of the judicial duties of the fieldcornet.¹ The second class with the title of Resident Justices of the Peace were appointed in the smaller towns where there were no landdrosts and could hear and determine minor civil and criminal cases.

At the head of the district and managing it stood the landdrost. Where, however, district or town councils had been set up, his local governing powers were taken away. So for instance it was laid down in the 1853 Constitution (Art. 187) that the landdrost would be entrusted with the supervision of the town or village and of the inferior officials in order that all matters might be conducted in an orderly manner. To which the 1889 Constitution added "where this is not entrusted to the city or town management."²

The Landdrosts were proposed to the people by the Executive Council, two names being submitted from which the people had to choose one, thus exercising a limited choice (art. 116, 1889 Constitution). It will be observed therefore that the fieldcornet was the only official who was the result of popular choice, which explains the importance the people attached to this remnant in the civil government of a democratic military organisation in which all officials from the lowest to the highest were elected. The resulting discipline of the army was notorious and it was wise that the elective principle was not adopted wholesale in the civil administration.

1. Eybers, Oncit. p.lxx.
2. ibid. p.403.

III

THE GOVERNMENT AND THE CLASSES.

The Boers - the Natives - relations up to 1886 - the newcomers - the Civil Service - Hollanders and corruption - denial of franchise to Uitlanders - the National Union, the Progressives and the working classes - appeal to the High Commissioner - the Raid - reforms after the Raid - revival of agitation.

With dismay the few thousand 'loyals' had watched the British troops march out of the Transvaal and turned to face the new Government with apprehension. While the Boers had rejoiced at the hoisting of the 'Vierkleur' on the 8th August 1881 and having seen their Government safely installed returned to their farming pursuits with somewhat mixed feelings at the terms of their restored independence.¹

Society as it presented itself to the new Government consisted of some 38,000 Boers, 5,000 English and a swarming native population of over 700,000.² The Boers were the reigning class - a position they had attained after years of suffering. It had been the outcome of their love for liberty and independence which had become a veritable passion with them, which they were prepared to maintain at all costs and which they believed only safe while the reigns of government were firmly in their grip. Added to this they were as a class extremely conservative, old fashioned Puritans in dogmatic beliefs and social usages. Two centuries of solitary pastoral life had given them an aversion to commerce and industrial pursuits, so that from the foundation of their State trade and finance were in the hands of foreigners. When the latter formed a small minority they passed unnoticed, but when they threatened to outnumber the old population, it became a different matter.

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1. Jeppe, The Kaleidoscopic Transvaal, p.110; Jorissen, Transvaalse Herinneringen, p.119; Van Oordt, p.354.
 2. C3114 of 1882, map facing p.65.

The Boers were prepared to deal firmly with the natives for alleged inability to deal with natives in the past had been held up as a pretext for annexation. The mass of the natives were concentrated in the Zoutpansberg region, "a rugged country vaguely subdivided into numerous tribal fastnesses", and "filled with a wild and numerous native population composed of many tribes that owe allegiance to no one chief." The districts Lydenburg, Zoutpansberg and Waterberg contained over 600,000 of the entire native population, living for the most part in numerous and powerful tribes under their own tribal discipline. For the rest they were scattered over the country in small bodies, with little tribal unity or strength. The only district in which the whites outnumbered the natives was that of Heidelberg.¹

Relations between the Boers and the foreigners in the years immediately following on the retrocession seemed superficially cordial, so that in 1883 the British Resident could report:

"I have great pleasure in reporting the manifestly increased and still progressing sympathy and union between the white races inhabiting the Transvaal. When I reflect upon the very bitter state of feeling which existed between the Dutch and English sections of the community only two years ago, I feel that there is reason for great thankfulness that they should so soon have come to understand and appreciate each other so much better and that as a rule all vestiges of antagonism are rapidly departing."²

There were, however, some omens which bade ill for the future. In 1882 prior to the first Presidential election a new franchise law had been passed with a view to exclude those whose attachment to the Republic was regarded with suspicion. Where under the old law one year was sufficient for naturalisation and obtaining the franchise the period was now raised to five years.³ From the English side there was in 1882 a protest to the British Government against the commandeering of some for a native war and

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1. C3114 of 1882, p.15, pp.30 ff. For administration of these natives see Ch.VI.
2. C3841 of 1884, p.101.
3. Van Cordt, p.388; Eybers, op.cit. p.438.

certain stringent provisions requisite for the taking out of diggers' licences e.g. an oath of allegiance. ^{of the British Resident} The reply was

that they had no leg to stand on, that "if persons come into the country for gold mining purposes, it seems proper that they should acquaint themselves with and submit to the conditions, or either not come or leave the country." ^{an} The temper of the Volks-

raad was indicated by a resolution taken in 1885 which disqualified all who had signed petitions leading to annexation and against the country's restoration, from holding any State office or becoming a member of the Volksraad. It was only repealed when the British Government protested it was a breach of the Convention.²

Into such a condition of things the newcomers poured in following on the gold discoveries in 1886. Prospectors and diggers were followed by the choicest and most successful of the 'peripatetic adventurers and wandering thieves' that migrated from Kimberley especially. Hard on the heels of the men of high finance came the traders, shopkeepers and professional classes, forming a community that congregated with alarming rapidity on the goldfields; migratory at first but tending to settle down as the long life of the industry became proved. On the Witwatersrand goldfields a town ~~rose~~^{arose} buzzing with all the industrial activity and social life of a modern world city; a town that threatened to dominate the whole country as Paris of old during the French Revolution; only in this instance the Government was safely entrenched forty miles away. With therefore an enterprising, industrial and urban population of loose morals facing a conservative rural population of Puritanic religious beliefs with which it never mixed and consequently did not understand, an old struggle was once more in sight only in this case intensified

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1. C3841 of 1884, pp.53-54, p.31.
2. C4588 of 1885, pp.29,35; Van Oordt, pp.452-453.

by ancient antipathy and mutual distrust.

The primitive administration of the State accustomed to deal with a backward rural population was severely strained. The Government in view of the difficulty of obtaining adequate recruits for the Civil Service from a comparatively uneducated population and with a distrust for Colonials, embarked on the policy of importing Hollanders. They^k knew the official language of the country and could be trusted to serve as a check to the increasing British section of the population. From the nature of things the new population was predominantly British, many hailing from the Cape and Natal. It was estimated in 1895 that of 73,000 Uitlanders over 50,000 were British subjects, the rest of the mixture being chiefly made up of Americans, Germans, and Polish Jews.¹ The officials appointed in the goldfields were in the beginning popular with the Uitlanders, but as things developed they began to complain of corruption and to cry out with the burghers against the Continentals in the Civil Service. The number of Hollanders in the Civil Service was exaggerated. A count of Civil Servants in 1897 showed that out of 1958 officials only 306 were Hollanders or 17%, the rest Transvaalers and South Africans.² The Volksraad insisted that Civil Servants should be naturalised and preference given to burghers. The President followed this policy. Immediately after the retrocession with the exception of two, all the other chief officials were South Africans, e.g. the Judges, the Superintendent of Education. The peculiar position often resulted that the heads had to rely on their subordinates to do the work, which did not enhance the respect for the Civil Service.³ That there was corruption could not be denied, the temptations surrounding officials were enormous and it must be remembered that there are

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1. C7633 of 1895, p. 14; Bryce, Impressions, p.383 ff.
2. Botha, p.360.
3. cf. E.V.R. Not. 1892 art.433, 1894 arts. 926,938; Van der Merwe, Steyn⁷ p.120.

usually two parties to such a transaction. That the Government connived at it was another matter; its intentions were good. It passed stringent laws against bribery and enforced them on more than one occasion. The Second Road especially was active in exposing scandals, the best known being the Stands Scandal.¹

On the coming of the foreigners the Boers had sold their farms and shifted ~~to~~ to carry on their industrial pursuits elsewhere. They had rejoiced at the prosperity brought by the newcomers but with an eye to their independence had viewed with apprehension their alarming increase. There was no immediate danger; the Uitlanders absorbed in the feverish activity of money-making and uncertain about the duration of the fields, paid little attention to political matters, not bothering to register themselves on the fieldcornets' books. When, however, the President on a visit to Johannesburg in 1889 was presented with a petition demanding among others a municipality,² it showed him where things were drifting. It was true that he had invited the Uitlanders when on a visit to London in 1884,³ but then had never dreamt that ~~it~~ ^{the influx} would assume such proportions. It was clear to him that once the Uitlanders outnumbered the burghers and obtained control of the Government, the independence of the Republic might not be taken away by force but would in course of time be so undermined that its fall would be sure. The independence he meant to maintain at all costs and in this attitude he was supported through thick and thin by the Boers. The only way he saw clear was to withhold the franchise from the Uitlanders.⁴ This was perhaps a mistaken policy for it was certain throughout that the only class who would have availed themselves of the right to ~~ac~~quire the franchise were the Cape Africanders and Free Staters, the rest of the Uitlanders as a

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1. cf. Law 10 of 1894; Jeppe, p.144, 177 ff., Phillips, Reminiscences, p.130; Van Oordt, p.566 ff.
2. Gedenkschriften, p.125.
3. Cook, Rights and Wrongs, p.262
4. Van Oordt, p.497.

body would not have sacrificed their British citizenship for the doubtful one of the Transvaal. Its denial only seemed to inflame passions and to lend its enemies a stick to beat the Transvaal Government.

Resolved, however, to make matters for the Uitlanders "zoo gemakkelijk mogelijk, maar onder voorbehoud dat niet ge-²recht word aan ons onafhankelijk standpunt," the President evolved a scheme for the creation of a Second Volksraad in which the Uitlanders would be able to exercise a limited form of self-government over matters immediately touching their interests. It would at the same time serve to cover the accompanying measure by which aliens would only be able to obtain the rights of full citizenship i.e. the vote for President, members of ³ the First Raad after being ten years eligible for the Second Raad, which meant after fourteen years residence. At the same time the franchise qualification was reduced from 21 years to 16, ³ obviously to increase the number of burghers on the voters' roll.

The Uitlanders hailed the measure as "a tub thrown to the Uitlander whale", and refused to have anything to do with it. The duration of their stay in the Transvaal was still very uncertain and they did not take political disabilities seriously as long as they were able to make money. But in 1890 the share market was still in a state of collapse as a result of the excessive speculation indulged in and in these depressed times they showed an increasing inclination to turn round on the Government. They had given the President when he passed through Johannesburg in 1890 a hostile reception, hauled down the Vierkleur and trampled it under foot; for a time there was wild ⁴ talk among the burghers of a march on Johannesburg.

In one or two quarters a cry of taxation without representation had been raised, ⁵ but it was not until 1892 that this

principle/

1. See evidence before the British Select Committee especially Phillips and Leonard, No. 311 of 1897. (2) Van Oordt, p.469.
3. cf. Law 4 of 1890, arts. 9,10,6; Law 5 of 1890
4. Van Oordt, p.512.
5. Statham, Paul Kruger, p.198.

principle was taken up by the Johannesburgers. In this year the Government passed a new Education Law that in itself made no provision for the education of Uitlander children, raised the ad valorem customs duty from 5% to 7%, passed a liberal Municipal Law for the 'erven' towns of the Republic and refused the demand of the Johannesburgers for a Special Act. The Uitlanders claiming they were governed "in an unintelligible manner by an unintelligent minority", organised a meeting representative of all classes except the capitalists on 22nd August at which they set forth all their grievances, - the dynamite monopoly, lack of a Licensing Act to regulate the drink traffic with natives, neglect of education, denial of the right to local self-government, but above all the denial of the franchise, and representation in the legislature of the country despite the fact that they contributed the greater portion of the public revenue. A political organisation, styled the National Union was ushered into being with the object of maintaining the independence of the Republic but of obtaining by constitutional means equal rights (especially the vote) for all citizens of the Republic and the redress¹ of grievances.

In view of the coming Presidential election in the beginning of 1893 it was resolved to appeal to the more liberal minded Boers. Pamphlets were distributed among the burghers and one or two of the leaders of the Progressive Party spoke on the platform of the National Union, especially advocate Esselen who accused the President of being responsible for the exclusion of the Uitlanders from political privileges in order that the country could be governed by a greedy few. Circumstances were favourable. The Boers were involved in a fierce religious dispute, there was a growing feeling against the Netherlands Railway Company and the pro-Holland² policy of the Kruger regime. The result/

1. 'Star', August 15th 1892; Leonard, Political Situation, pp.42-45, p.157 ff.

result was a small disputed majority for Kruger; Joubert, who described the National Union as a curse to the country, but was nevertheless a candidate of the Progressives supported by it, being defeated.¹

The year 1893 was another dismal one for the Uitlanders. The Government for the first time passed a Press Law imposing penalties for seditious and malicious journalism. A new franchise law reached a degree of rigidity unknown in the Republican Constitution. It required that an extension of existing electoral rights could only occur if a proposal to that effect had been published in the Staatscourant for one year and at least two-thirds of the enfranchised burghers had declared themselves for it.² The National Union continued holding meetings demanding the reconsideration of its political claims, protesting against the unequal incidence of taxation (the bulk of taxation ⁱⁿ the Transvaal had inevitably to fall on the mines)³ and the extortionate rates of the Railway Company. But there was a feeling among the members of the Union that the workmen who had united themselves in a Labour Union were not one with them.⁴ All along the Government had treated the workers well. It saw to the safety of the miners by making the employment of certified engine drivers compulsory, passing a Boilers' Inspection Act and submitting in 1895 an Employers' Liability Act to the Raad. In 1892 the Labour Union had successfully resisted the passing of a Gold Thefts bill submitted by the Chamber of Mines which made all mine employees liable to be searched for gold amalgam by police of the Chamber.⁵ The working classes were afraid that if the franchise ~~was~~ ^{were} obtained they/

1. Van Oordt, p.572; Statham op.cit. pp.216-217; Leonard, p.74ff.
2. Law 14 of 1893, art. 4.
3. Leonard, op.cit. p.
4. cf. Leonard, pp.214, 239-246.
5. Rose, The Truth about the Transvaal, pp.29ff.

they would become the mere tools of the capitalists as had happened in Kimberley. Consequently to ensure their support the National Union passed a resolution to strive for a Ballot Act to accompany the extension of franchise.

A Deputation from the Chamber of Mines received the reply from the President, "De Menden op hulle hoopjen staan soek die¹ dou geen vrijen invoer of vrijhandel van dynamiet toestaan." All these measures assumed a more serious aspect to the Uitlanders as the belief in the longevity of the industry on the Rand grew, and many of them realised that they were in the Republic for good. Sir Henry Loch, the British High Commissioner who in this year visited Johannesburg, and was enthusiastically received with the singing of 'Rule Britannia' and presented with an address in which the British population assured him of "their most loyal and devoted attachment to Her Majesty's august and beloved person", found that experts were already² predicting a 100 years life to the industry.

In the next year the deep levels were definitely proved and matters took an ugly turn. An Uitlander petition for the franchise bearing 13,000 signatures was rejected. Instead the Rand added a provision to the law that all children of³ foreigners had to follow the nationality of their fathers i.e. all children born in the Republic of unnaturalised parents would be disenfranchised. On top of this a number of British subjects were commandeered for a war against a native chief, Malaboch. The Transvaal Government was acting within its rights for British subjects were not exempted by special treaty, but it was hardly wise. The Uitlanders protested and appealed to the High Commissioner. Before the latter's arrival, however, the Volksraad passed a resolution freeing all persons who were

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1. Van Oordt, p.583.
2. C7212 of 1893, p.153 ff.
3. Law 3 of 1894.

not burghers from personal military service on payment of a yearly contribution in money. The National Union was not to be gainsaid in its desire for foreign intervention and promptly passed a resolution "that any mere abrogation or modification of the commande law which is not accompanied by the removal of all disabilities under which aliens are now suffering will not be regarded as a satisfactory settlement by this Union."

The High Commissioner arrived on the 25th June was received ² with an exceptionally pro-British and anti-Boer demonstration and was presented with petitions pointing out the disabilities under which they were suffering especially the franchise all urging him to use his influence with the Government to obtain the redress of their grievances in order "to maintain and strengthen the attachment of our fellow-countrymen to their Queen." With such sentiments it was not surprising that the Boer Government maintained that the Uitlanders held they could acquire the privileges of a Transvaal burgher without losing their British citizenship. This conviction was further strengthened by the objections of the Britishers to the Transvaal oath of allegiance which contained the denial of any allegiance to a foreign power. Loch reminded the Uitlanders that as regards the internal administration of the country, the Government was free to exercise its independent discretion and urged them to bring their grievances before the Government in a constitutional and respectful manner. ³ This caution seemed necessary for feeling was running very high. In fact the President had requested Loch not to visit Johannesburg in that excited state for it would be bound to lead to trouble.

The Uitlanders gave vent to their disappointment at a meeting held in the Johannesburg circus on the 14th July. They demanded a Republic "broad based on the people's will", warned the Government that if it persisted in its policy "blood would

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1. Gedenkschriften, p.130.
2. Scoble and Abercrombie, Krugerism., p.140.
3. C8159 of 1895, pp.26 ff., 29.

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be shed in the streets of Johannesburg" and ended by roundly abusing the capitalists for not supporting them. The accusation against the latter was unmerited. The capitalists convinced of the long life of the industry were determined on reform for cheap working costs were essential if the deep levels whose ore was not rich, were to be developed. But with an eye to business were desirous of preventing any row. They did not care a 'fig' about the franchise; their trump card was an election fund to "improve the Raad" at the forthcoming elections, and if the spending of money did not bring reform the only alternative would be force. The Uitlanders took heart again. The outgoing Raad though it had rushed through a Public Meetings' Act to prevent 'volksoploopjes' had given indications of better things by definitely showing itself against the granting of concessions on the ground that the people had declared themselves against such a policy. It contained a liberal minority of seven or eight members and if to this consideration be added that the Chief Justice was touring the country and attacking the Government on the relations between the Executive and the Judiciary, the Uitlanders had high hopes of seeing a Progressive majority returned. Assisted by the funds of the capitalists, refraining from holding meetings so as not to arouse feelings and adopting the cry "Africa for the Africander" in view of the pro-Holland^{ey} policy of the Government which was disgusting the burghers as well, the Uitlanders threw themselves in the electioneering campaign.

Hopefully the Uitlanders tendered various petitions to the new Raad urging for instance that the State should take over the railways. A motion of the Progressives that full citizenship be extended to foreigners after five years obtained a third of the votes.

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1. C8159 of 1896, p.45 ff.
2. Greenbook No. 2 of 1896 pp. 1 ff.
3. Van Oordt, pp.601 ff., Statham, Paul Kruger pp.246 ff.
4. Leonard op.cit. pp.80 ff.
5. Botha, p.613-614.

It culminated in a franchise petition of ⁸ 75,000 signatures obtained by paid canvassers and not supported by the Labour Union because their respect for a Ballot Act to accompany it had been turned down by the National Union. How many of these signatories would have actually taken up the franchise was even unknown to the leaders of the National Union. For these and for reasons already indicated the Volksraad a body that was "constantly being attacked and attacked and attacked in the columns of the Press" ¹ rejected the petition in August.

Considerable excitement reigned in Johannesburg. Already in June Rhodes despairing of ever getting the Transvaal in to the orbit of his economic federation had suggested to Beit the idea of organising the discontent that existed at Johannesburg, providing money and arms for the purpose of an insurrection and placing a force under Jameson on the border ² of the Transvaal. The leaders of the National Union fearing that the movement unless organised might result in a failure, accepted the idea when communicated to them. From this moment onwards the stimulus to the whole concern came from without. Johannesburg did not contain the stuff revolutionaries were made of. There was no danger to life, religion, property and personal freedom; on the contrary a boom was in full swing and everyman a potential millionaire. ³ The capitalists, however, though making huge profits - the Robinson mine for instance had a nominal capital of £2 ³/₄ million with shares issued at £5; before the Raid these shares stood at £7, the capital at ~~24~~ 24 million and a dividend was declared at 14% - were convinced that the industry was being throttled by the burdens of bad administration, that the paying mines could be made more profitable and others ⁴ worked to advantage. They announced to the world at large that they had joined the movement in a speech held by Lionel Phillips,

Chairman/

1. Rose op.cit. pp27, 31; No.311 of 1897, pp.238, 374, especially 37125-7132.
 2. No. 311 of 1897, p.vi. (5) Bryce, p.534, Cook, Garrett, p.53; Dormer, p.209 ff.
 4. No. 311 of 1897, pp.371 ff.

Chairman of the Chamber of Mines, on the 20th November in which he dwelt on the grievances of the foreign population and hinted at strong measures. They willingly financed the revolution while the leaders of the latter turned to outside assistance for "without very influential aid from Cape Colony we could not hope to obtain arms or ammunition through the ports."²

The plotters met Rhodes in October, seemed satisfied that Rhodes wanted only "free trade" in turn for his assistance but had no clear idea what would happen after Johannesburg had risen in revolt. One view was to expect mediation from Rhodes and the High Commissioner, another to hold out till the British Government took pity on their plight and intervened.³ In fact the whole thing was built on such rickety foundations that when rumours towards the latter half of December drifted to the ears of the Reformers that Rhodes meant annexation they were thrown into confusion and coupled with the non-arrival of arms and the alertness of the burghers at the open preparations for revolution going on in Johannesburg, trains being crowded with women and children sent away, the whole thing "fizzled out like a damp squib." On the 27th December a manifesto was published detailing all their grievances, and ~~called~~ a mass meeting ^{called} for the 6th January. On the 29th and 30th Kruger promised to deputation of moderates from Johannesburg and Pretoria various reforms; removal of restrictions on the municipality of Johannesburg, legalisation of the English language in the Rand courts and public offices, extension of the franchise to all those who supported the Government during the crisis (some 6,000 were thus enfranchised, confirming Kruger's statement to Garrett that he wanted to prove these people first before he extended them any privileges).⁴

Reduction/

1. Stathan, op.cit. p.238; (2) No.311 of 1897, pp.410 ff.
3. No. 311 of 1897, 27998, 3003; Phillips, Reminiscences, p.148.
4. Jeppe, The Kaleidoscopic Transvaal, p.199; Jorissen p.135; Van Oordt p.695; add. in Botha, p.615, Cook, Garrett, p.220.

Reduction in customs was embodied in a proclamation issued on the spot and in which the President also promised to lay before the Volksraad all grievances brought forward in a respectful manner.¹ But on the same day Jameson despairing that if the Johannesburgers were left to themselves there would be no rising at all, decided to make his "own flotation" and rode in^{to} the Transvaal.² The Government immediately refused to consider grievances, defeated Jameson at Doornkop, declined to bargain with the Johannesburgers who had raised a state of revolt, demanded their unconditional surrender and arrested the chief Reformers, fined them and forbade them to take part in politics for three years.

The Uitlanders were bewildred.^e Deprived not only of their leaders, but of the sympathy of the Progressive Liberal Boers and the rest of South Africa which had been a great moral support to them against the Kruger regime; divided amongst themselves for the Chamber of Mines had split and a rival body formed,³ all organised political agitation disappeared. They were further chastised by the depressed markets following on the speculation before the end of 1895, while many of the burgher community were brought on the verge of ruination by visitations of drought, locusts and rinderpest. It was perhaps for this reason that the Raad that met confirmed the suspension of the duties on foodstuffs and brought relief to Uitlander and burgher alike. Kruger in a proclamation of the 10th January had maintained that concessions had been withheld because of the manner in which they had been demanded, of the "gruzame opstokery vooral van de pers", and had promised a municipality to Johannesburg but had pointed out that after what had happened, he would not dare to propose to the Raad /that

1. Staatscourant 30th December 1895.
2. No. 311 of 1897, p.viii.
3. Fitzpatrick, p.312.

the reforms already achieved, the suspension of the customs duties, abandonment of concession policy, obtained a substantial reduction in railway rates and a 10/- reduction in the price of dynamite chiefly by the Government sacrificing the major portion^r of its profits in the concern.¹ As regards the Advisory Board, the Volksraad would have nothing to do with it despite the fact that the mining companies urged it could consist solely of Government nominees. It described it as equal to the proposal of Chamberlain to give Johannesburg Home Rule; the Government accused the mine managers of conniving at the Illicit Liquor trade with natives^{ve} and considered it had done enough by instructing the Chief Detective to see to the better administration of the law. The mines celebrated these^e measures by reducing the native wages and reporting at the end of 1897 a saving in working costs of 2/- a ton.² In the same year the liberal municipal law for Johannesburg was put in force and on the 3rd November 1897 the first elections took place.³

The Government and Volksraad was definitely treading the slow path of reform. In the next year after the presidential elections in which Kruger as the sure guardian of the independence which had so recently been endangered, was elected by an overwhelming majority, improvements in the Civil Service were inaugurated. Capable officials South Africans by birth and commanding the confidence of the Uitlanders were appointed as heads of departments; Reitz ex-President of the Free State as State Secretary, Smuts a brilliant Cape lawyer as State Attorney; Piet Grobler as Foreign Secretary and Kleynhans a popular and efficient Hollander as Minister of Mines.⁴

But the South African Republic Government would not have been the only Government in history whose reforms had led to its downfall.

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1. C9345 of 1899, pp.16 ff.
2. C9345 of 1899, pp.27, 33, 37, 38, 39 ff., 45.
3. Almanac for 1898 p.382.
4. Walker, De Villiers, p.327.

The Uitlanders were once more uniting against it. The delay in ^{and} the non-carrying out of the recommendations of the Industrial Commission in extensio and a 5% tax on mining profits had united the Mining Chamber once again. The dismissal of the Chief Justice by Kruger after his re-election and following on the struggle between the Legislature and Judiciary the previous year raised a storm among the Uitlanders which was further stirred up by the systematic Press campaign against the Transvaal Government both within and without the Republic. For the movement that now started against the Republican Government was definitely influenced from without.

Towards the end of the year the South African League, a colonial society with the object of maintaining the supremacy of Great Britain in South Africa, ² began its activities in the Transvaal and soon showed what the nature of the agitation was going to be. It seized any real or imaginary grievance of British subjects and laid it before the British Resident. It pounced on the arrests of some Cape Boys for not fulfilling the pass regulations and who were somewhat rough-handled in the process and laid their case before the British Agent ignoring the courts of the country. It opposed the attempts to enforce the segregation laws against the Asiatics, although the British community was the loudest in its clamour for such enforcement. And at the end of the year (24th December) it summoned an unlicensed open air meeting to demonstrate against the shooting of Edgar by a policeman. Edgar had left another lying for dead in a street brawl, had resisted arrest and was shot by a policeman (Jones) in self-defence. The policeman was tried for manslaughter and acquitted. The League held the case up as showing the oppression/

1. Walker, History of South Africa, pp. 466, 470, 472, 473.
2. Hobson, The War in South Africa, p. 193, ff.

Oppression of British subjects by the Transvaal Government and
 published a petition to the Queen.¹ The publication of this
 petition marked the beginning of the end. The pre-Raid agitation
 was revived in all its aspects, only in this case definitely
 supported from without. For although the acting High Commiss-
 ioner, Sir William Butler who believed that it was not the
situation that was difficult but the men, that Johannesburg was
 "probably the most corrupt, immoral and untruthful assemblage of
 beings at present in the world", that any information coming
 from it was being worked by a "colossal syndicate for the spread
 of systematic misrepresentation",² refused to send the petition
 to the Queen; Sir Alfred Milner when he received such a petition
 in March of the next year accepted it and thereby championed the
 Uitlander cause which culminated in the war.³

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1. Rose, The Truth about the Transvaal, Chapter vii.
 2. Butler, Autobiography, pp.400, 407.
 3. Walker, De Villiers, p.328, 'Times' History, p.246.
 cf. Loch's attitude in 1894.

IV

FINANCE.

(i) FINANCIAL DEVELOPMENT.

Debt due by Pretoria Convention - early financial difficulties as illustrated by attempts to meet this debt - gold discoveries and overflowing Treasury.

The retrocession had left the Transvaal Government with an empty Treasury and a public debt of £425,893. This debt consisted in part of the balance of the debts for which the South African Republic was liable at the date of annexation. During the annexation period the British Government had paid some £150,000 of the Republic's pre-annexation debt of £301,727, but had contracted new debts to the sum of £296,000. The restored Republic was therefore made responsible for a sum of £265,000 due to the British Government as "lawful expenditure lawfully incurred for the necessary expenses of the Province since annexation." Added to this there was the prospect of a further tidy sum to be awarded by the Sub-Commission appointed under the Pretoria Convention as compensation for war losses to be paid by the Transvaal Government. As, however, it was evident that the new Government had no chance of making immediate provision for such payment it was agreed that the British Government would advance the money which would be consolidated with the £265,000. The money so lent would bear half-yearly interest at the rate of 3½ £ per cent per annum. Further there would be payment of 2£ 10s. 9d. per 100£ per annum for a Sinking Fund to extinguish the debt in 25 years, provided that the Republic paid in reduction of the debt a lump sum of £100,000 before the 8th August 1882.

Faced/

1. G3114 of 1882, pp.31 ff., Pretoria Convention, arts. IX,X,XI.

Faced with such formidable prospects the Triumvirate thought it unavoidable to temper the joy of the burghers at the restoration of the country, by admonishing them to pay their taxes immediately.¹ The Volksraad that met before the year was out considered that the farmer exhausted by the war and without a market for his products, was unable to bear increased taxes. It therefore embarked on a policy of raising money by means of concessions and imposed a customs tariff on colonial as well as foreign goods, which, in the face of a declining trade brought in little.² These measures only tended to increase the general lack of confidence in the country following on the British retrocession. Trade became stagnant, merchants began to liquidate preparatory to leaving and the Standard Bank only reconsidered its decision of withdrawal at the special request of the President and the remaining British subjects.³

Things looked blacker when at the opening of the Raad session in 1882 the President announced that the award of the Sub-Commission against the Transvaal Government totalled £136,910.⁴ It was true that the British Government had agreed to advance this, but the Transvaal saw no chance of raising enough revenue to pay the £100,000 on the 8th August nor was the credit of the State such that it could raise a loan on reasonable terms to obtain the money. It adapted the expedient of tendering the British Government a counter-claim of £176,755 consisting chiefly of taxes that would have been due to the Government during the annexation and demanded that "this our contra account shall be placed to our credit on the 8th August next against the payment of £100,000."⁵ In view of the impossibility of the Transvaal to meet its liabilities under the Convention, the
British/

1. Proclamation, 8th August 1881; Eybers, Constitutional Documents, p.464.
2. Van Oordt, pp.365,370 ff., Walker, De Villiers p.165.
3. Amphlett, History of the Standard Bank, pp.84-85.
4. C3381 of 1882, p.103 ff.
5. C3419 of 1882, p.15.

British Resident suggested modification of the latter. But the British Government, after consideration of the counter-claim, consented to a reduction of £10,000 and postponement of payment till the₁ end of the year hoping that at least £50,000 would then be paid.

To the harassed Transvaal Government postponement meant no relief and it made another attempt to relieve itself of this crushing burden. This time it appealed to the generosity of the British Government to waive the compensation awards, stating that such a debt was oppressive to the State and that its imposition was not contemplated when conditions of peace₂ were signed in March 1881. The appeal was turned down.

Though belated the Republic by the end of September managed to pay the interest due to the British Government - a sum of £6,298.₃ Added to its difficulties the State became involved in a native war that lasted till July the following year, so that when the time came round for the £50,000 to be paid, it informed the British Government that it was unable to do so owing to the "necessity imposed upon us of subjugating Mapock which cost us thousands of pounds in gold",₄ and the debt had to be paid in sterling money.

The Transvaal was owing at this stage some £380,000₅ to the British Government, bringing its total debt up to £540,893. While it could pay the half-yearly interest on the debt, it was unable to pay any large sum in reduction. In 1883 for instance its revenue and expenditure totalled £143,324 and £184,344₆ respectively, yielding a deficit of some £40,000. The deputation that proceeded to England in 1883 made it one of its objects to get the debt reduced. It was successful in obtaining a reduction of £127,000 "being the deficit incurred during the / administration

1. C3419 of 1882, pp.37, 39, 77 ff.
2. C3419 of 1882, pp.96, 108.
3. C3654 of 1883, p.3.
4. C3114 of 1882, p.31; C3654 of 1883, pp.3, 5.
5. C3654 of 1883, p.10.
6. Figures taken from Fitzpatrick, The Transvaal from Within, p.71.

administration of the country while under British occupation." The debt due to the British Government was placed at the round figure of £250,000. This settlement was arrived at on the basis that the Transvaal would be responsible for the debts that were in existence prior to annexation and which were either reduced or extinguished during the British occupation together with the amount advanced for the payment of compensation awards; a far more equitable agreement than that of the Pretoria Convention, but which left the Republic still responsible for a sum of £131,000 over and above the original debt.¹

The deputation returned in 1884 to find the whole of South Africa in the throes of a depression such as had preceded the diamond discoveries. Money was scarce, trade and agriculture at a standstill. In the South African Republic the farmer, without communication and far removed from Kimberley had no markets for his produce; wheat and fruit obtained no price and the tobacco culture was declining as a result of the Cape tax on Transvaal tobacco. Hardly able to provide for his family the burgher got into arrears with his taxes. The finances of the Republic were approaching a crisis. The previous year had ended in a deficit, there was an overdraft in the Standard Bank which was disinclined to make any further advances and the Government was forced to raise a loan of £5,000 on onerous conditions from a private individual. It even toyed with the idea of issuing Government 'Goodfors' or so-called 'Thesauriers-noten' of £5 and £10.² For the first time it was unable to meet the half-yearly interest on the debt due to the British Government and asked for postponement, as to crown it all the Republic was engaged in another costly native war on the Western Frontier. The British Government allowed three months respite,

but/

1. C5947 of 1884, pp.41, 46 ff., Leyds, First Annexation pp. 213 ff.
2. Van Oordt, pp. 448, 454, ff., 457.

but even then the Transvaal Government was only able to scrape together £4,319 to pay the interest, the instalment on the Sinking Fund of £3,227 it was only able to pay the next year, January 1886.¹

But in this year that which all South Africa had been waiting for to turn up happened. Already in 1885 the Struben brothers had shown to members of the Raad some gold they had found on the Witwatersrand and in 1886 they definitely proved that the "banket riffen" were gold-bearing. In July there was already a considerable gathering at Ferreira's Camp and in the same month the Government proclaimed it a public diggings. The year which had opened so gloomily that the Government had sought to raise a loan of £40,000 to meet current expenses and had abolished the representation of the towns to economise, saw during the latter half a wave of dazzling prosperity sweep over the Republic. Immigrants poured into the goldfields, providing invaluable markets to the sorely tried farmers. Trade and with it customs revenue soared up, yielding £48,000 in the last months of 1886 as compared with £7,000 during the same period of 1885.²

The financial nightmare of the Republic was definitely a thing of the past. As gold output increased so did the revenue of the country. In 1886 the revenue was £292,000 in 1887 nearly trebled £668,000. By 1889 the gold output had increased from 23,000 oz. in 1887 to 369,000 oz., the revenue to £1,577,000.³ The fortunes of the Exchequer were indivisibly bound up with those of the gold industry. A Stock Exchange had been established on the Rand and speculation was rampant up to 1889. At the end of 1887 there were 270 gold mining companies in the Transvaal. Speculators and promoters were far more active than engineers and miners/

1. C4643 of 1886, pp.3, 6, 14, 201, 206, 207, 241, 242.
2. Van Oordt, pp.454 ff.; 460, 465.
3. Cd 628 of 1901, pp.2-3 - given in round figures.

(a) Personal Taxes (b) licences (c) Transfer and Stamp duties.

- (a) Personal Taxes. These taxes amounting to 18/6 per annum per adult male were loosely collected especially in the case of the Uitlanders. Rose, chairman of the Labour Union admits that he only paid them thrice in thirteen years. In 1894 they yielded a revenue of £28,292 representing something like 4/- per head on the entire white population and in 1898 amounted to less than £50,000 out of a total revenue of three and a half millions.¹
- (b) Licences. In the absence of an income tax in the Transvaal the licences imposed on the exercise of trades, professions and callings constituted a very imperfect attempt at such a tax. They were born chiefly by the professional and merchant classes; an attorney paid £25 annually, a butcher £2 etc., and yielded in 1898 a revenue of £174,383.² But the chief of these licences were of course the diggers' and prospectors' licences that constituted the only source of direct taxation on the mines.³ A prospector's licence was 5/- monthly, while a digger's was 15/- raised to 20/- as soon as machinery had been erected and was in working order. The State seemed to have lost a considerable sum by the mines taking out fewer digger licences than necessary, which shows either a lax or corrupt administration. During the years 1896, 1897 and 1898 receipts totalled £498,500, £681,659 and £389,643. According to the Gold Law, however, one half of these had to be paid over to the owners of the land on which the diggings had been proclaimed, so that the State receipts from them only totalled £274,586, £380,636 and £211,440. And this when for instance in 1898 the value of gold produced exceeded £15 million and dividends declared by the mining companies did not fall

short/

1. Statham, Paul Kruger, p.244; Rose, p.72; Cd628 of 1901, p.11.
2. Cd628 of 1901, pp.8, 28. Figures for 1898 are taken from Cd628 of 1901, p.28.
3. A 5% tax on mining profits was voted in 1898, but not imposed; Cd628 of 1901, p.15.

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short of £5,000,000. What was more owing to the fact that the capitalists bought up a promising farm before it was proclaimed, the peculiar position resulted that they received back half of the licences they paid for mining.¹

The State, however, did not regard these licences as a tax, but as a rent charged for the exercise of mining rights which by Law belonged to the State. This view is clearly put by Leyds:

"Maar zijn het wel alles belastingen die zij betalen? Ik beweere het niet. De mijnen behoor by ons alle aan den Staat. De Staat laat de bewerking aan particulieren over. Een groote gedeelte nu van de inkomsten van den Staat bestaat uit een deel van de opbrengsten van mijnen die zijn eigendom zijn. Kan men dan spreken van eigenlijk-gezegde belastingen? De Staat verhuurt bouwgrond op langen termijn; kan men beweere dat die huurprijzen een belasting is?"²

- (c) Transfer and Stamp duties were paid chiefly by the commercial i.e. Uitlander community. The duty of 4% on the transfer of immovable property, payable also on transfer of mining claims and stands which frequently changed hands, was high. It yielded a revenue in 1898 of £125,439. The Stamp duties yielding in 1898 £285,383 seemed high, but in it was included an amount of £195,000 realised by levying fees on passes issued to natives on the mines, amounting to £1 4s. per head per year.³ Both these duties were often, and "in some cases habitually" evaded.⁴

Further there was a light land tax doubled in the case of absentee owners dating from the 1858 Constitution. The receipts from the absentee owners would be devoted for war purposes, but could hardly go far since in 1890 it was only £1,221. Generally therefore direct taxation was not only light, but seemed to have been systematically evaded by the Uitlanders. So that to quote a well-worn example, Leonard admitted that on an annual income of £10,000 he only paid £150 in taxes to the Government.⁶

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1. Cd628 of 1901, pp. 9 ff., 22. Almanac for 1899, pp. 58-59. For the liberality of the Gold Law towards the capitalists see Cd628 of 1901, p. 22ff.
2. Cited by Botha, Kruger en Leyds, p. 346.
3. For other native taxes see p. 95 (4) Cd628 of 1901, p. 5.
5. *ibid.* p. 28. (6) No. 311 of 1897, p. 423.

To return to sources of indirect taxation. A glance at the customs returns explains the enormous advance in the revenues of the State. Customs in 1835 totalled 238,643 doubled itself in 1836, amounted to £190,790 in 1887, increased to 2692,331 in 1893, passed the million mark in 1895, totalling by 1896, £1,355,486 and dropping to £1,058,224 in 1898¹ when it constituted a little less than a third of the total revenue. This advance in customs revenue went hand and hand with the development of the mines, for as the British financial expert in 1901 observed import duties on articles used by the mines fall directly and on articles used by white employees of the mines fall indirectly on the mines. Practically the whole of the white labour employed on them had to be imported and the higher the cost of living, the higher the wages, so that the wages of white² labour amounted to about 30% of the cost of working the mines.

It is clear therefore that taxation that sent up the cost of living, sent up the working costs of the mines and thus constituted in the absence of direct taxation, a way of raising revenue from the mines. An analysis of the customs tariff shows that it favoured the mines where it could, while offering undoubted protection to the interests of the rural population. For instance the duty on mining machinery was reduced from 15% in 1881 to 5% in 1885³ and ultimately to 1½%^{in 1888}. Otherwise the tariff favoured the farmers. In addition to an ad valorem duty that was raised in 1892 from 5% to 7½%, special duties were imposed on common and necessary articles of food. These were in some cases excessive e.g. the duty on sausage, ham and bacon being £4 10/- per 100 lbs., eggs 6d. a dozen, on mealies, Kaffir corn the chief native foods 7/6 per 100 lbs. etc. The duty on articles that had to be imported for consumption of the farmer

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1. Greenbook No. 6 of 1894, No.7 of 1899.
 2. Cd628 of 1901, p.16.
 3. De Kock, Economic History, p.308. C 5588 of 1888 p8

also were lower e.g. $2/6$ per 100 lbs. on coffee, $1/6$ per 100 lbs. on rice.¹

While it would be a misrepresentation to state that as a rule breakfast consisting of 2lbs. of ham, some bread, butter and tea cost $2/9$ in import duties alone² - at the morning market hams were selling at 1ld. a lb., eggs at $1/2$ a dozen, fowls $1/9$ each and mealies at $14/3$ per bag³ - these duties certainly raised the cost of living considerably. As a result of the Uitlander agitation against them, the special duties on foodstuffs were temporarily suspended by proclamation on 30th December 1895.⁴ The Industrial Commission of 1897 similarly recommended the abolition of the import duties on foodstuffs since it was impossible to supply the needs of the population of the Republic from the products of the local agriculture which was in a very backward stage. The Volksraad Commission pointed out that these duties had already been suspended, added some more items as butter, cheese, coffee so as to make the removal apply to all foodstuffs and recommended that the loss of revenue which was estimated at £700,000 be compensated by increased duties on articles of luxury as pianos, liquor etc. The Volksraad duly approved, partly influenced by the fact that many of the farmers had been ruined by rinderpest, drought, locusts and that cheap food would be a blessing to them as well.⁵ The result was that although there was a decrease in customs in 1898 not of £700,000 but of £230,815 which was not so much caused by the reduction in duties, as by the decrease of nearly £3 million in the amount of goods imported, yet there was an increase in the articles imported "voor mijn- en grondbewerking en voedingsartikelen en aldus gedurende dit jaar van kracht gebleven tydelijke opheffing der speciale invoerrechten, nog steeds aan het doel heeft beantwoord om namelijk de behoeftige bevolking van goedkoop voedsel te voorzien."⁶

The/

1. Law 4 of 1894, art. 3.
2. Leonard, Political Situation, p.54.
3. 'Star', August 25th, 1894. *ps*
4. Staatscourant, 30th December, 1895.
5. C9345 of 1899, pp.7, 16 ff., E.V.R. Not. 1897, p.240 ff.
6. Greenbook, No. 7 of 1899, pp.3, 6.

The costs of transport affected the mines in exactly the same way as did customs dues. Railway rates were thus similarly used by the State to extract some revenue from the mines. Although the Transvaal railways were held under a concession by a foreign company the Government was entitled to 35% of the surplus profit which amounted to £329,783, £265,948 and £371,459 in 1886, 1897 and 1898 respectively. ¹ If therefore railway rates were somewhat high, as complained by the mining companies, it must be remembered that they were not railway rates in the ordinary sense of the word, but a form of taxation. The Volksraad Commission succeeded in securing in 1897 a reduction in the rates amounting ² to a reduction of £200,000 of the gross revenue of the company. As to the rates after this, the British Commission appointed to investigate concessions in 1901 found "though complaints continued, they do not appear to be different in nature from those which in varying degrees are made by traders affected against railways everywhere." ³

The trouble of course was that the mines were serving as a milk-cow for the neighbouring states, as well, ~~as~~ being severely burdened by customs and railway rates on goods passing through them to the Transvaal. For instance, revenue in the Cape increased from £1,990,000 in 1886-1887 to £2,434,000 in 1889-90, in Natal from £478,000 to £798,000 in the Orange Free State ⁴ from £186,000 to £281,000. It may be urged that the Republic might have avoided duplication of import duties at least by entering into a Customs Union with the neighbouring states and colonies. But besides this being to the Transvaal a question of political policy, it is doubtful whether she would have benefited economically. The Customs Union between the Free State

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1. Cd623 of 1901, p.20.
2. C9345 of 1899.
3. Cd623 of 1901, p.22.
4. De Kock, Economic History, pp.114 ff.

and the Cape had a tariff that favoured the rural population as well with an ad valorem duty of 12%. Even when in 1898 on Natal joining the Union and the duty was reduced to 7¹/₂%, the import duties in the Union amounted to 15% of the value of the goods while in the Transvaal they amounted to less than 11%.¹ The British Commissioner reporting on Transvaal finances in 1901 similarly held that under such conditions "I cannot recommend that the Transvaal should join the Customs Union at the present time."² The Transvaal had to pay transit duties to the Cape of some 5% totalling about £300,000 annually. Yet despite all these burdens the dividends distributed by the mines in 1897 amounted to £2,713,580 or 25.64%³ of the total output.

Another source of indirect taxation that was at first indulged in by the Transvaal was the granting of concessions with a view to fostering local industries, but chiefly at first with a view to raising money when no other source presented itself. In 1884 the President estimated that the Treasury derived an annual income of £14,000 from concessions, while the concessionaire had reaped no benefit.⁴ After 1886 the position was reversed. Concessions tended to become a profitable source of income to the speculator and to lead to corruption. As a result of the outcry against them the Volksraad appointed in 1895 a Commission to investigate. Many of the concessions were declared lapsed for non-compliance with conditions of concession and an Industrial Scheme was adopted, under which the Volksraad undertook to provide a protective duty for any promising factory but reserved the right to recall it any time.⁵ The concession policy was definitely ended,⁵ such concessions as still existed yielded by 1898 the meagre revenue of £28,221.

Excise/

1. Century of Wrong, appendix p.112-113; Greenbook No.7 of 1899, p.3, De Kock pp.310,311.
2. Cd628 of 1901, p.4.
3. C9345 of 1899, p.16, 27.
4. Van Oordt, p.429.
5. Cd623 of 1901, pp.164ff., p.159; Cd628 of 1901, p.28.

Excise duties were in the Transvaal non-existent, as a result of the fact that liquor, upon which this duty is usually imposed, ~~since it~~ was manufactured under a concession free of duty.

An item on both sides of the estimates for 1897 arouses some curiosity. It featured as 3500,000 for the sale and purchase of explosives and was an outcome of the State monopoly for the manufacture, importation and sale of explosives, which carrying out was transferred to a concessionaire on condition that he erected the necessary factories. The whole object of the transfer of such a valuable State right was that a home industry under the control of the Government should be established. The original concession dating back as far as December 1838 was cancelled in 1892 for non-compliance with this condition, it having appeared that the concessionaire was importing dynamite in its finished form under the name of "guber^{hr} impregne" and that the so-called factory was merely sham.¹ The concession was, however, revived in 1893, the conditions as approved of by the Volksraad being definitely that by April 1896 factories had to be in working order for the manufacture of explosives "of such nature and quality and in such quantities as the needs and demands within the South African Republic should require."²

The Volksraad adhered to this standpoint throughout. It refused an application of the Executive Council on behalf of the concessionaire for extending the period in which the factories had to be erected. The Executive Council did not give effect to these instructions of the Raad. It allowed the Company till October 1896 to have its factories in working order and knew that even by this time the factories erected were only able to produce 80,000 cases per annum when the needs of the country were some 200,000 cases. But the Council even went further. By a resolution/

1. Cd623 of 1901, p.70.
2. C8423 of 1897, p.130; Cd623 of 1901, p.74.

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resolution of the 14th October 1896, in violation of the Raad's regulations, it allowed the Dynamite Company a further 2¹ years to erect the necessary factories and to meet the deficit in the meantime by importation.

The Raad suspected that the conditions of the concession were not being complied with and when considering the item £500,000 on the estimates for 1897 appointed a Commission to investigate the matter.² This Commission³ pointed out the above facts, the ultra-vires action of the Executive Council and consequently the strong legal position of the Volksraad if it wanted to cancel the concession. But what was more enlightening explained how this item £500,000 was arrived at and the financial loss accruing to the State. The State had only granted the right of manufacture and trading to the Company; it had strictly reserved the right of importation of explosives to itself. Any individual desiring to import explosives had to obtain a special permit. That this was a wise precaution the dilemma of the unarmed revolutionists of the Raid showed. But since no factories had been established till 1896 and then inadequately, explosives had to be imported all the time and to be continued. The Government appointed an agent, who was at the same time the Company's representative, to see to the importation and annually voted large sums as the above, to pay for such importation. This agent then resold the explosives to himself as agent of the Dynamite Company, pocketed the difference and returned the amount advanced to the Government, augmented⁴ by a royalty of 5/- a case. The Volksraad Commission showed that the Company was making a profit of £2 a case on the imported dynamite and calculated that if the State itself undertook the importation for the years 1897-1900 it would make a

- profit/
1. Cd623 of 1901, p.80; C8423 of 1897, p.131 ff: From a constitutional aspect the activities of the Executive Council is interesting to note, but observe the Raad's action.
 2. NO. 311 (i) of 1897, p.556.
 3. For report of Commission see C8423 of 1897, p.130 ff.
 4. Vide also Cd623 of 1901, p.77.

profit of £350,000, while if present conditions continued only £107,500 would accrue to it. That was more the Government was entitled to 20% of the surplus profit of the Dynamite Company, and both the Industrial Commission and the later Volksraad Commission found that this was not being paid by the Company.¹ A later inquiry estimated that during the years 1894-1899 the shareholders of the Company had the benefit of dividends and savings added to the capital amounting to £1,321,000 while the Government the owners of the monopoly received in royalties £264,000 or little over $\frac{1}{5}$ of the gains of its transference.²

It was this flagrant financial mismanagement of a State right that aroused the indignation not only of the mines, but also of the Volksraad so that its cancellation as recommended by the Industrial Commission in 1897 was only defeated by one vote. The mines calculated that they were being taxed to the extent of £600,000 for the benefit of private individuals. Their objections to the price of dynamite cannot be taken too seriously. The price of £7 10/- per case in the original concession was high, it was lowered to 85/- by 1895 and in 1897 to 75/- per case. While in 1894 the Chamber of Mines had made tentative negotiations with Nobels for a contract in which the price agreed upon was 90/-.³

In justification of the Government must be stated that the Transvaal Dynamite Company was in the hands of interests especially of Nobels Trust⁴ that practically controlled the world trade in dynamite and that as the Volksraad Commission pointed out it would have been doubtful even had the concession been cancelled whether the price would have been any cheaper. In justification for the Company it must be said that all inquiries

agreed/

1. C9345 of 1899, pp.18 ff.
2. Cd623 of 1901, p.69.
3. Walker, History of South Africa, p.470; 'Times', History of the war, pp.122-123. Fitzpatrick, p.309.
4. Cf. Cd623 of 1901, p.71 ff.

agreed that it expended large sums of money in trying to establish a home industry in a country where raw materials were lacking and had to be imported at great cost, where there was no market for the bye-products and labour very dear. In fact it seemed clear that its only chance of making profit was from the importation, the cost of manufacture in the Transvaal was too expensive to admit of any large profits.¹ Therefore as soon as importation ceased, the large profits of the Company would have disappeared automatically.

The expenditure of the State soared up with the revenue. It jumped from £154,636 in 1886 to £721,073 in 1887, totalled over a million in 1889, exceeded the revenue in 1891 during the slump period by over £300,000. In 1895 it totalled £2,579,095 and about doubled itself in 1896 viz. £4,571,393, in 1897 £4,394,066,² but dropped to £3,476,345 in 1898.

An explanation of this violent increase is not far to seek. The growth of the salary list speaks volumes. In 1886 the expenditure on salaries was £51,831, in 1887, £99,083, in 1894, £419,775, in 1896 ~~£213,029~~,³ in 1897 £995,959, and in 1898 £1,080,382 i.e. on an average a little less than a third of the total revenue was devoted to the Civil Service. Prior to 1886 the Civil Service was not only understaffed but underpaid; after 1886 the population of the country was nearly doubled and the Republic itself industrialised. Not only a far bigger Civil Service was required but a more capable and technical one and in view of the many temptations surrounding them the Civil Servants had to receive adequate salaries. The last year before the war, fixed salary lists amounted to £1,203,027 divided among 5497 officials; which meant that the average official received little more than £200 a year which was the minimum for a respectable citizen/

1. C9345 of 1899, p.17.

2. Almanac for 1898, p.56.

3. Figures given by Fitzpatrick, p.527. See also Almanac for 1899, pp.58-59.

citizen to maintain himself where cost of living was as high as in the Transvaal.¹ The estimates for 1897 show that the Mining Department involved the second highest expenditure viz. £95,355,² police being the highest with £269,683.

Expenditure on Public Works was heavy. In 1890 it was £507,579, 1895 £353,724,³ in 1896 £701,622 and in 1897 the huge sum of £1,012,365,³ thus forming in 1897 with salaries half of the total expenditure. But this item on the Transvaal budget was misleading. For bookkeeping purposes it was generally used to include various items, in 1897 it included for instance the £25,000 subsidy to the Johannesburg Sanitary Board, £230,000 customs duties collected by the Railway Company and payable to them,⁴ and on actual buildings and roads £562,138 and £135,000.⁴ Jeppe was of the opinion that the heavy expenditure was not extravagant; many useful works had been completed e.g. the Post Office at Johannesburg which cost £80,000, the High Court at Pretoria some £170,000 and many iron and brick bridges had been built. Bryce when he visited the Republic also paid tribute to the stately and sumptuous buildings that contained the Government offices in Pretoria, said to have cost some £200,000.⁵

The Uitlanders maintained that this was all being paid out of their pockets, since the bulk of taxation was born by them - some $\frac{19}{20}$ according to Rhodes' doubtful calculation. The obvious reply of the burghers was that the revenue was being extracted from the mines which belonged to the State. The Uitlanders were merely exploiting a State asset and making huge profits out of it at the same time. Rhodes' Company, for instance, the Consolidated Goldfields of South Africa paid dividends in 1892 of 10%, 1893-94

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1. 'Times', History, p.127.
 2. No. 311 (i) of 1897, p.535 ff.
 3. Figures given by Hobson, Ch.xvi.
 4. No. 311 (i) of 1897, p.535 ff., See also Budget in E.V.R. Not. e.g. 1894, 1895 for similar practice in other years.
 5. Botha, p.350, Bryce, Impressions, p.386.

of 15%, 1894-95 of 50%. Rhodes himself for several years drew £300,000 to £400,000 on a basis of $\frac{3}{15}$ of the net profits in respect of founders' shares.

Military expenditure prior to 1895 averaged some £30,000, in 1893 being £19,540, in 1894 £23,158. It was often urged that such vague items as Special Expenditure, Sundry Services were used to cover heavy expenditure, or armaments but this could hardly have been since up to 1894 the Government had only a mixed bag of 18 field-pieces, most of them old fashioned, and some 100 artillerymen.² But from 1894 onwards the Republic began to arm. Military expenditure increased to £87,708 in 1895, the Raid sent it up to £495,618 in 1896, £396,384 in 1897 and £413,088 in 1898.³

So that from 1895 onwards salaries, public works and war expenditure absorbed about two-thirds of the total Transvaal expenditure. Other items that featured on the expenditure list were for instance education, hospitals as much as to £106,758 in 1897, administration of justice, police and prisons totalling some £180,000 in 1897 and general items as Sundry Services which was used to cover various expenditures. In 1895 for instance it was the huge sum of £838,877 which was chiefly due to heavy expenses incurred with the Raid.⁴ The department of Posts and Telegraphs chiefly for the benefit of the Uitlanders was being run at a loss, the deficit being in 1898 nearly £100,000.

The Republican Government was often charged especially by the Mines that its administration was far too costly, its Civil Service too bulky and extravagant.⁵ Sir David Barbour, the British financial expert in 1901 stating that the Transvaal

Civil/

1. Williams - Rhodes, p.111.
2. Walker, History of South Africa, p.448 (footnote).
3. Figures given by Hobson.⁴xvi; see also Almanac for 1899. pp.58-59.
4. *ibid.*
5. Cf. C9345 of 1899, p.44.

Civil Servants should be well paid, found that in some cases the salaries of Republican civil servants had been insufficient and generally came to the conclusion "in the opinion of some persons, who are competent to form a judgment, the expenditure on the ordinary business of administration will not be less than it was under the late Government." Accordingly he drew up a budget that under the British administration would yield only some £150,000 less revenue than under the Transvaal Government.

The management of the finances of the country was in the hands of two officials, a Treasurer-General and an Auditor-General. All heads of departments had to account to the Treasurer-General for their receipts and all payments were made by him by means of cheques on the National Bank signed by him or his assistants. His accounts of receipts and expenditure were duly checked by the Auditor-General, who every three months had to publish a report on the state of the country's finances. The Budget was compiled as follows:

In January of every year the Treasurer-General had to compile a budget from the budgets sent in by the heads of Departments. This budget accompanied by a comparative statement from the Auditor-General of the revenue and expenditure of the past year, was then submitted to the Volksraad. The latter body appointed a committee of three members whose duty it was to investigate the accounts of the past year, remark on any irregularities, consider the proposed budget and make such recommendations as they thought fit. The Treasurer- and Auditor-General were to give them full information on all points desired e.g. in 1894 the Committee reported that it had been given an insight into the expenditure of Secret Service and was satisfied. The report of this Committee was then submitted

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1. Cd628 of 190, pp.14, 23.

to the Raad, with the Budget, which was then discussed item by item and the Raad could alter any item it thought fit. Owing to the fact that as laid down by the Constitution, the Raad only met in May, and though the Budget Committee was appointed immediately it usually submitted its report towards the end of the session so that eight or nine months of the year had elapsed before the budget had been approved of. The Budget Committee of 1896 therefore recommended that the Raad should meet on the first Monday in February, and choose a Budget Committee before the close of the session. During the recess this Committee would then consider the Budget as submitted by the Treasurer-General and report on it at the beginning of the next session. This recommendation was adopted by the Raad.¹ In the next year the Raad accordingly met on the 2nd February and proceeded to deal with the Budget at once.

(iii) BANKING AND RAILWAYS.

Political significance of concessions - National Bank - construction of railways - State hold over Railway Company.

Both Railways and what was a quasi-State Bank were the outcome of concessions and both showed that the concession policy in the Transvaal was not merely an economic consideration, but a political one. This attitude was especially clear in the Dynamite Monopoly. The Volksraad Commission of 1897 in reply to the economic fallacy of the latter proposition stated that it must be taken into consideration "that the establishment in this country of a dynamite industry has not been accomplished so much with the purpose of benefitting the Exchequer, as to make the State² independent in respect of the industry and trade in explosives." Soon after the retrocession it already became the policy of the Republic to seek economic independence of British influence by the development of local industries with foreign capital, so that

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1. See Almanac for 1899, p.56-57; E.V.R. Not. of 1894, p.459 ff of 1895, art.16; pp.610 ff. of 1896, art. 1806.
2. C9345 of 1899, p.19.

the newly gained independence was not financially undermined. A clear proof of this was the fact that when the Volksraad in 1881 received acceptable tenders for the building of a line to Delagoa Bay, it dropped the matter like a hot coal when it was found that British capital was to be employed.

Already also in 1883 this policy was attacked by Rhodes in the Cape House who pointed out to the colonists that their Transvaal trade was ruined by being shut out through foreign monopolies. At the same time he added "I have my own views as to the future of South Africa and I believe in an United States of South Africa, but as a part of the British Empire" - an early statement of his imperialism which merely made the Republic persevere in its policy. Prior to 1886 concessions were necessary to encourage foreign capitalists to invest in local industries. After 1886 when the British community was immeasurably strengthened from within, and Rhodes looked to commercial intercourse to pave the way to his Union, the concessions became to the Republic a means to see that its industrial life did not fall in the firm grip of British influence. This was especially the case with a State Bank and Railways which were regarded as the foundation of the independence of the Republic. When by 1895 the concession policy was abandoned the object had been achieved.

Soon after retrocession the President began to agitate for the establishment of a State Bank and mint. A Volksraad Commission investigated this matter in 1883, but condemned the setting up of such an institution by means of a concession, as it would not mean the establishment of a National Bank in the true sense of the word. The Colonial Banks such as the Cape of

Good/

1. Van Oordt, p.379 ff.
2. Vindex, Political Speeches, p.51 ff.
3. *ibid.* p.133
4. C3241 of 1884, pp.44 ff.

Good Hope Bank, the Bank of Africa, the Natal Bank and the Standard Bank, all banks working with British capital continued to conduct the financial business of the Republic, the Standard Bank serving as banker to the Government. Such a state of affairs was most unsatisfactory to the Republic, and in 1888 the Volksraad empowered the Government to make provision for the establishment of a State Bank and Mint by means of a concession.

The concession was granted in 1890 to a group of Dutch and German capitalists, approved of by the Volksraad, and on the 15th April 1891 the National Bank opened business. The Government subscribed towards the first issue of shares and became the holder of £125,00 worth of shares. The Bank enjoyed various privileges: It had the sole right to issue Legal Tender Notes. While the other Banks had to have under the Bank Act of 1892 as security for note issues, a special reserve of $33 \frac{1}{3} \%$ and assets in the Republic for balance, this was reduced in the case of the National Bank to a special reserve of $33 \frac{1}{3} \%$ less any debt due by the Government to the Bank. It was exempted from the £150 licence payable by other Banks, which enabled it to open branches in 31 places within the Republic, the head office being in Pretoria. The Bank did good business and except for 1892 paid annual dividends of 5%, 7% and 10%.

The Government controlled it by appointing on a Board of Commissioners, the majority of whom had to reside in the Republic, two Directors, approving of half the other, of the Managers and supervising its conduct of business through an officer called a ~~Syndicate~~ whose salary the Bank had to pay. Further the Bank had to do the banking business of the Government without charging commission.

At/

1. De Kock, p.374; Amphlett, p.100.
 2. ~~See ed 523 of 1901, pp. 95 ff., ed 625 of 1901, p. 216, p. 208 ff.~~

At the same time in 1891 the Government passed a Mint law, making provision for its own coinage system, though adopting the English one and ceded to the National Bank the exclusive right of minting gold, silver and bronze ^{coins} according to the Law. The Mint was to be built at the expense of the Bank, but its ownership was transferred to the State and then leased back to the Bank. The State hence owned a Mint for which construction it had incurred no expense and whose operations it supervised by Government officials. ¹ That these measures were in conformity with the policy of independence of British interests, appeared at a Mint Conference held in Pretoria in 1893 for the purpose of obtaining legalisation in South African colonies of Transvaal minted coins. When, however, the other states suggested in turn reconstitution of the Transvaal Mint into a sort of inter-State affair under joint control, the proposal proved unacceptable to the Transvaal ² and the Conference broke up.

But what was in fact a "levenskwestie" for the Republic was independent railway communication by means of the Pretoria-Delagoa Bay line. Up to 1886 all attempts had failed, especially those that tried to make it a pure State undertaking by raising a loan. It was true that the deputation to Europe of 1883 had been successful at arriving at an agreement with Portugal by which the latter promised to assist its sections of the building of the line financially and otherwise and had actually granted a concession to an American Macmurdo for its carrying out, that certain Netherlanders had accepted the concession for the Transvaal section of the line ³ and that the Volksraad had ratified this concession on being shown that the railway being ^{granted} by concession/

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1. See cd 623 of 1901 pp.95 ff., cd 625 of 1901, p.216, p.208 ff.
 2. Amphlett, History of Standard Bank, p.116.
 3. Botha, Kruger en Leyds, p.150 ff.

concession would cost the country nothing, and that it would provide markets for the farmer. But it was equally true that the credit of the State was such that when the Dutch concessionaires placed a loan for £1,250,000 only £150,000 was subscribed and a later attempt produced only £100,000 despite the fact that the State raised the guaranteed interest from 5% to 5%².

For a moment the Government pressed by its farmers especially those practically ruined by the Cape tax on their tobacco, was forced to abandon its cherished policy, by suggesting to the Cape Customs Union and extension of the dreaded Kimberley line. The impoverished Republic presented nothing attractive to the Cape, nothing came of the offer, and the Delagoa Bay line escaped by a hairbreadth. For when in 1886 gold had been discovered in the Transvaal, and the Cape approached it for a customs conference the Transvaal refused point blank.³ It became perfectly clear to the Transvaal that if it allowed the extension of any line to the goldfields before the Delagoa Bay line was well on its way, its completion would be immeasurably retarded and the Republic would be bound hand and foot to British interests. It embarked on a policy of thrusting back the other lines, using the Customs as weapon and adhered to it in the face of the indignation of the Cape Afrianders and the clamour on the goldfields to where all materials, foodstuffs etc. in the absence of railway communication had to be transported at enormous costs, but supported by the Volksraad of farmers who meant to keep the valuable Johannesburg market for them⁴ as long as possible.

The Transvaal had its hands full in achieving this aim, for although the Nederlands Zuid Afrikaansche Spoorweg Maatschappij had been ushered into being in 1887 with sufficient capital/

1. Van Cordt, p.427 ff.
 2. Almanac for 1896, p.40.
 3. Hofmeyr, Life of Jan Hendrik Hofmeyr, p.325 ff.
 4. Williams, Life of Rhodes, p.197; Hofmeyr, op.cit. p.330,357.
- Cecil

capital subscribed by Amsterdam and Berlin bankers and had sent out engineers to start measuring up the line at Komatiepoort, Macmurdo controlling the Portuguese section had started quibbling over freights and pending a general agreement the Government forbid the construction of its section of the line. But kept the Company busy ^{by} authorising the construction of a line linking up the goldfields with the so necessary coal fields in Boksburg. ¹ In the meantime the other lines had to be kept back. In October 1887 the Transvaal tried to extract a promise from the Free State that it would not allow any railway extension through the Free State to the Transvaal, without the latter's consent. The Free State refused this time but consented in 1889. At the end of the same year the Transvaal replied to another Cape invitation to a Customs Conference:

"Ik hoop echter dat de Kaap kolonie zal zien dat wanneer vrye handel van onze zijde word toegestaan, het niet meer dan billijk is, met den hog op den Delagoa Baai Spoorweg die zoo hoogst noodig voor de Z. A. Republiek is, dat de Kolonie van hare zijde zal uitstellen eenige verlenging van hare spoorwegen in de richting van de Zuid Afrikaansche Republiek."

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This assurance the Cape refused to give.

In 1889 things began to move swiftly. The Portuguese became impatient with Macmurdo, ~~ceased~~ ^{seized} the line and carried it on themselves. ³ In the Transvaal drought reigned and through lack of proper communication Johannesburg was on the verge of famine. The Government temporarily suspended the duties on foodstuffs, offered prizes to transport riders and in 1890 promised them speedy railway communication. Under the Swaziland Convention the Government undertook to withdraw all opposition to the Natal line which rapidly extended to Charlestown on the borders of the Republic where it was kept till the Delagoa Bay line was about finished. ⁴ In May the Netherlands Company once more started on their line and was then granted the concession to build

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1. Botha, *op.cit.* pp.152 ff.
2. Van Oordt, p.475 ff., p.498. Gedenkschriften pp.117, 124.
3. Van Oordt, pp.508-510. Statham, Paul Kruger, p.192.
4. Van Oordt, pp.524 ff., 562-563.

the Pretoria-Vereeniging line, but faced with a shortage of capital was unable to do so. The Government was obliged to let the Cape in which agreed to advance a loan of 2500,000 to the Company towards the building of the Vaal River - Johannesburg line, and in turn obtained the right to fix the rates on it till December 1894. On the strength of this the Republic was able to raise a sum of 31¹ million from Rothschilds to complete the Delagoa Bay line. In February 1894 an agreement was arrived at with Natal and the Netherlands Railway Company was commissioned to start building the Transvaal section of the line to connect with Charlestown.² On 15th September 1892 the first train from the Cape entered Johannesburg. In November 1894 the Delagoa Bay line was completed and at the end of the same year the agreement with the Cape expired, and the Company obtained control of this line also. The Delagoa Bay line started operations 1st January 1895. On 2nd January 1896 the service on the Natal line was opened.³

By the beginning of 1896 therefore the Company was operating all the important lines in the Republic, had constructed lines to a total mileage of 717 miles and employed a staff of 3,162 of which 1,777 were Hollanders and only 70 full-blooded Transvaalers. What was the position of the State towards this Company that had in its hands the "levensaar" of the Republic?⁴

The view put forward by the mines was as follows: "We witness besides this curious anomaly of a railway company of which the State is by far the largest shareholder and to which it guarantees a high percentage of interest as well as the repayment of the debenture debt and still the head of the administration is thousands of miles away from the place of exploitation; the State the largest shareholder is not represented on the Board of Directors and has practically no voice and no control over the running of the concern."⁵

It was/

1. C8474 of 1897, p.11; Williams, Life of Rhodes, p.243.
2. Almanac for 1896, p.43.
3. Botha op. cit. p.156.
4. cd 623 of 1901, p.19, 21-22.
5. C8345 of 1899, p.34.

It was perfectly true that the railways were not national property, that ^{they} were owned by a foreign Company having its headquarters in one State, Holland, and constructing and working railway lines in another. It had been granted the valuable and exclusive right to build all the important railways in the State, those connecting with foreign railways, with the sea or any lines that might compete with its lines. This was, however, not to apply to such lines the State itself undertook to build. Similarly the State had the right to grant the building of lines feeding the lines of the Company to other concessionaires. The State availed itself of this right e.g. the Ermelo-Carolina line, the Pietersburg-Fretoria line. In most cases, however, with unfortunate results, the concessions usually passing hands for "some consideration", little was done towards the actual construction, the most disastrous being the notorious Selati Railway scheme.¹

It was equally true that the Government held one-third of the share capital, some 5,713 shares to the value of £475,083 out of a total number of 14,000 to the value of £1,166,665, and that yet it had in the original deed of trust only 16 votes out of 112.² But to state that it had no control over the Company in its conduct of business was a misrepresentation. The general policy of the Company was laid down by a Board of Commissioners, half of whom had to be Netherlanders and which was elected by the shareholders. This Board appointed and controlled the two managing directors who saw to the actual working of the undertaking. One of them had to reside in the Transvaal under the eye of the Government.³ The Government was entitled to appoint a commissioner both with the local directorate of the railway, as in Holland. In the latter case he had the

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1. cd 523 of 1901, *passim*.

2. 'Times', History, p.114.

3. Section xviii of concession; cd 523 of 1901, p.119; cd 525 of 1901, p.14.

right to attend the meetings of the Board of Commissioners and record an advisory vote. He exercised unlimited control and supervision over all affairs and actions of the Company, had access to its offices and could examine the books and verify the cash.¹ If he did nothing else he could at least keep the Government informed of every act of the Company. As regards the local running of the concern, the rules and regulations of the Company's service had to be approved of by the Local Commissioner and its works material, working regulations etc. could be examined by Government officials at any time.² By these means the Government obtained at least reasonable supervision over the administration and workings of the undertaking.

And as to its moral influence over the policy of the concern, it was not negligible. The original concession had not fixed the maximum rates the Company could charge, but this defect was remedied in 1890.³ The maximum rates as laid down then were not to be exceeded except by consent of the Government. When for instance in 1895 the Cape lowered the rates on its portion of the line so as to attract more traffic, the Company raised the rates on its section of the Cape line higher than the maximum price, but with the consent of the Government.⁴ When the Industrial Commission upheld the complaints against the high rates of the Company and recommended a reduction in rates to equal a reduction of £500,000 in the profits of the Company, the Volksraad Commission was able to obtain a reduction of £200,000,⁵ showing that the State could take up a fairly *strong position* towards the Company. *A n.*

It was true that the State incurred heavy financial liability in the Company, that it guaranteed not only the interest, but in the case of debentures also redemption of capital, and that in order to lend more solidity to this

guarantee/

1. cd 625 of 1901, pp.17, 15.
2. ibid. p.13, sect. xi
3. Almanac for 1896, p.42.
4. cd 625 of 1901, p.24.
5. C9545 of 1899, pp.9 ff., 19 ff.

guarantee allowed the Company to collect all the customs duties on the Portuguese frontier on goods conveyed by the railway and treat them as receipts: but it was equally true that even with the guarantees, the credit of the State before 1886 was such, that nothing, as has been indicated, would have come of the scheme, not to speak of what would have been the case without this guarantee.

The State being financially so heavily involved, saw to it that it also obtained the major share in the profits of the Company. After deduction from the earnings of the Company, which included the customs collected, of working expenses, 10% for reserve fund, the amount of guaranteed redemption money and interest then of the balance remaining 85% was payable to the State, 5% to the Company's servants and the rest available as extra dividends. Between 1896-1898 extra-dividends of 7%, 7% and $5\frac{3}{4}\%$ were declared.

Fortunately from the beginning the Company did such good business that the State was not called upon to pay anything. In the first year of its operations (1895) the State received £322,327 as its share of the surplus profits, which had mounted to £651,702 in 1898.¹ It was pointed out that since the customs collected was included in the amount which served as a basis for determining the State share of the surplus profit, only 85% of the customs was accruing to the State. The Volksraad Commission therefore recommended modification of the concession in this respect, so that the customs should be in future collected by the State ^{as} State revenue, especially as their ² guarantee was no longer necessary.

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1. cd 623 of 1901, pp.17 ff., cd 625 of 1901, p.13. The figures on p.59 do not include the Customs, which can hardly be regarded as receipts from the railway.
2. cd 628 of 1901, p.12; C9345 of 1899, p.19 ff.

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The State further enjoyed various privileges from the Company. Its telegraphic service was to be at the disposal of the public on payment, and free to the State. In time of war and internal disturbance the railway was to be at the disposal of the Government, with due indemnification of the Company afterwards. Provision was also made for the expropriation of the Company a somewhat onerous condition, and such was urged by the Industrial Commission in 1897 but opposed by the President who pointed to the difficulty of obtaining the necessary competent staff and of raising the £7 or £8 million that would be necessary. On the whole the Company was unpopular not only for its alleged high rates, but that it was a Hollander Syndicate employing officials who were notorious for their arrogance. It was only the fact that the President upheld it as the foundation of the independence of the Republic and the only effective bulwark against British domination, that was very much in evidence at this time, that saw¹ his standpoint once more triumphant in the 1898 elections.

L. Botha, Kruger en Leyds, pp.157-159, pp.162 ff.

CHURCH AND EDUCATION.

Attitude of State towards Church - church and education - Education Department - school committees - conditions attached to state subsidies - state schools - state expenditure - state higher education.

By 1881 the Nederduits Hervormde Kerk as State Church had in effect been abolished. The Volksraad by a resolution of 28th September 1874 had refused the further grant of salaries by the State to ministers of the said church.¹ Similarly membership of the Nederduits Hervormde Kerk as essential qualification for membership of the Volksraad had been done away with.² Religious freedom had been established by resolutions of the Volksraad of the 1st June 1870, and the 11th and 12th September 1876.³

In 1886 when two churches applied for the honour of State Church at the same time, the reply of the Volksraad need well be quoted in full for it indicates the whole position taken up by the State towards the Church:

"De Volksraad is diep doordrongen van het groot gewicht der werkzaamheden van de genoemde Synode en der kerkvergadering voor het heil van den Staat. Hy bid haar van ganscher harte den zegen Gods toe op hare gewichtige taak, diep doordrongen van de overtuiging dat de Zuid Afrikaansche Republiek alleen dan bloeijen kan wanneer zij steunt op de rots van Gods woord. Alles wat in het vermogen van onze Vergadering ligt om de eerwaardige kerken in hare heerlijke taak te ondersteunen en te beschermen, verzekeren wij haar van ganscher harte en blijmoedig te zullen doen; niet slechts de bescherming van onze wetten maar zelfs meer dan dat, de bereidwaardige hulp waar het kan, door verleening van

1 Lok. Wet. 1849-85, p.594.

2 Lok. Wet. 1849-85, p.147, p.525 Volksraadbesluit 11 Junie 1873.

3. Lok. Wet. 1849-85, pp.378,670.

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stoffelijke hulp, noodig voor de oprichting van nieuwe gemeenten, zoo alreeds herhaaldelijk en nog ten vorige jare kostbare erven in verschillende dorpen daartoe door den Volksraad zijn afgestaan. Was in vroegere jaren de band van den Staat tot de Nederduitsch Hervormde Kerk een andere, het is de wensch des volks geweest hierin verandering te brengen en de Volksraad heeft dien wensch moeten eerbiedigen. Staat het derhalve nu niet langer in de macht van der Volksraad aan eene der Kerken het voorrecht te verleen om te zijn "de Kerk van den Staat", onveranderd blijft echter de verplichting van den Staat om alle vroegere aangegane verbindtenissen tegenover personen, zooals salarissen te hand-¹haven."

The intense religious feeling of the Boers as a nation found expression in the stipulation that all those who governed over them were to be members of a Protestant Church. Members of the Volksraad, of the Executive Council, important officials as the President, State Secretary and landdrosts had to satisfy this² qualification.

But in the eyes of nation and State alike education was indissolubly bound up with the Church. According to the views of the President, as expressed on several occasions, it was the duty of the Church to provide for the education of the youth, but if the State had to undertake the education then such³ education had to be based on Christian principles. The former State Church accepted this responsibility, and laid down in its Wette en Bepalinge as follows: "De Nederduits Hervormde Kerk in de Z. A. Republiek acht het zich ten duren plicht zooveel doenlijk in overeenstemming met de Gouvernment alhier, gezond en degelijk onderwijs in de gemeenten te bevorderen waartoe zij leeraaren, kerkeradsleden en lidmaten ten sterkste opwek om door gepaste/

1. Staatscourant, 23rd June 1886, Volksraadbesluit art. 322
26th May 1886.
2. Vide Constitution of 1889 arts 28, 57, 88, 89, 116.
3. Van Oordt pp. 363-364, 383, 486.

gepaste middelen zoo op de dorpen als in de districten, bekwame godvrezende onderwijzers te verkrijgen."

In Law 1 of 1832 the first educational law passed in this period, the State incorporated these ideas. It adopted the principle that it was primarily the duty of parents to care for the education of their children, but thereby urged the church to take the initiative in the founding of schools and the election of school committees. (arts.1,2(e)) The State would supervise these schools to ensure that its future citizens received the necessary Protestant Christian education. There would be the opening and closing of the school with prayer, the reading and the study of the Bible during school hours (art. 2 a,b,c). In 1885 the Raad added knowledge of the church music to the school curriculum.² While this law recognised that the instruction of religion in its doctrinal aspects, belonged to the Church, the Raad by resolution in 1898 allowed catechetical instruction in the school during the hours set aside for Bible history.³ The law insisted that the teachers should be members of a Protestant Church, (art.12), while the first Superintendent appointed was a minister of the Church who was believed to share the President's views on educational matters.⁴

An Education Department was set up consisting of a Superintendent of Education assisted by a Secretary. The Superintendent was appointed by the Government for seven years. He was entrusted with the supervision of schools, the regulation of education and with the care of the regular sending in of school reports. At least once a year he was to make a tour of the schools and report annually on the general state of education.

On his recommendation the grant of a subsidy to a school could be refused, if the school did not comply with the conditions

attached/

1. Lok. Wet. 1849-85, p.494.

2. Raadsbesluit 18th June 1885, art.401; Lok.Wet. 1849-85 p.134.

3. Given by Lugtenburg, Geskiedenis van Onderwys p.286.

4. Van Oordt p.364.

attached to such subsidy. Till 1889 the Superintendent was the sole inspector, with the number of pupils totalling by then some 5,475. Here, however, the Church lived up to its task and on several occasions ministers of the Church assisted with the inspection.² In 1889 three inspectors were appointed. The staff gradually increased till by 1898 it consisted of the Superintendent, six inspectors, sixteen clerks and an assistant secretary. The expense mounted from £2,542 in 1889 to £11,678 in 1898. The number of pupils by 1897 totalled 11,436 in 457 schools.³ Besides the Education Department central authority was vested in a Board of Examiners. As laid down by Law 13 of 1886 it was to consist of nine members, five being nominated by the Executive Council; the Superintendent of Education, the Chief Justice, the State Attorney and Surveyor-General being ex-officio members. It could make its own internal regulations including determining the standards of the different examinations. It conducted the State examinations for teachers, lawyers, apothecaries, doctors, surveyors etc.⁴

Every State-aided school had to be under the local supervision of a school committee. It was to consist of at least three or five members according to the school being a district or a town one, to be elected from and among those entitled to vote. As entitled to vote would be all fathers of families who either had or promised to put children in the school and all male persons contributing to the school funds i.e. a voice in the management of the school was only given to those who had a definite interest in it.⁵ The Committee could draw up its internal regulations/

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1. Law 1 of 1882, arts. 13-15.
 2. Malherbe, History of Education, p.268; Almanac for 1898, p.64.
 3. *ibid.* p.270 C9345 of 1899 p.73.
 4. Vide also Almanac for 1898 p.72.
 5. Law 8 of 1892, arts. 11 (a) and (b), Law No.3 of 1893 art.2.

regulations and appoint teachers on its own terms subject to the approval of the Superintendent. It was to provide a suitable school building, furniture and other necessary accessories, and accommodation for the teacher. When all these measures towards the founding of a school had been approved of by the Superintendent, then only would the Committee be entitled to State support.¹

This support would be by means of financial assistance in the form of subsidies. At first these subsidies were granted by the State on a per-pupil basis. Owing, however, to the obvious abuses to which this system was subject e.g. overcrowding the schools with pupils too young to benefit by education in order to obtain more State aid, it was changed in 1892. By Law 8 of 1892 (art. 17), the State subsidy was made proportionate to the amount raised locally by the parents. By 1894 the State contributed £4 for every £1 raised locally, not to exceed £6 and £8 for every pupil in the primary and intermediate schools respectively.²

Some of the conditions necessary for the earning of these subsidies have been outlined above. The most important, however, was that the medium in such schools was to be Dutch.³ With the entirely inadequate educational staff up to 1889 - in 1888 it consisted only of one person, the acting Superintendent⁴ - proper supervision necessary for the enforcement of this condition was lacking. The Volksraad itself suspected that there were schools⁵ being aided in which the medium was not the Dutch language.

In 1891 the staff of the Education Department had not only been adequately increased, but a new Superintendent had been appointed who was determined upon the strict enforcement of the law.

The result was the closing of many English medium schools, the

number/

1. Law 1 of 1882, arts. 8,9,11,12; Law 8 of 1892, arts. 12,15,20,21.
2. E.V.R. Besluit art.1605, 6th September 1894; Lok.Wet.1894, p.324.
3. Law 8 of 1892 art.24; Law 1 of 1882 art.7.
4. Malherbe, p.270.
5. Eybers, Constitutional Documents, p.476.

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number of pupils in school dropping from 8,170 in 1891 to 5,909¹ in 1893. Conditions in the South African Republic had entirely changed since the educational law of 1882 was passed. Then the English population had been small, now it was threatening to outnumber the burgher element. The strict enforcement of such a language provision was therefore by 1892 a far more serious matter. The Government recognised this and before passing a new educational law which once more reiterated the Dutch medium clause, made provision by means of a besluit of the 1st June 1892 for State aid to schools in which the medium was not Dutch. The State grant ranged from £2 to £3 5/- per pupil according to the standard² attained in Dutch and South African history. This was determined^e by a government inspector. The teaching of Dutch was to be in the hands of a teacher approved of by the Superintendent and in all other respects the school had to comply with the requirements of the general law and the regulations of the Superintendent. In spite of the fact that this subsidy was raised in 1894 to £4 and £5⁴ making it more equal to that paid out in Dutch medium schools, the conditions of the grant proved unacceptable to the English speaking population. It was maintained that the standard of proficiency in Dutch exacted by the inspectors was too high, and as in such schools only pupils of non-Dutch speaking parents were entitled to subsidy (note the intention of this provision), the percentage of children who satisfied the conditions was generally so small that the amount of the subsidy earned was insufficient to pay the salary of the Dutch teacher.⁵ In 1895 there were only five schools working under this/

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1. Malherbe, History of Education, p.275; Almanac for 1898, p.64.
 2. South African history was added in 1893, the subsidy at the same time being increased to range from £2 10/- to £5; see Lok. Wet. 1890-93, p.836.
 3. E.V.R. besluit art.344, 1st June 1892; Lok.Wet. 1890-93, p603.
 4. Lok. Wet. 1894, p.324.
 5. Malherbe, History of Education, p.279; C9345 of 1899, p.77.

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this law, with 153 pupils. The State expenditure on them in the same year amounted to £564 5/- out of a total expenditure on education of £39,813.¹ ^{subsidies}

In these 'besluit' schools, as the schools were called, State interference and control was restricted to a minimum. The school chose its own managing body, drew up its own regulations and curriculum, appointed and paid its own teachers and fixed its own medium.² In 1896 the Government departed from this policy and inaugurated a system of education, restricted, however, to the goldfields, in which the State undertook everything. It provided the school buildings, accommodation for the teachers, appointed and salaried teachers, regulated all details with regard to subjects of instruction, nominated the school committees and when owing to some disagreement the nominated committee resigned, inaugurated the scheme without a committee at all.³ Any popular effort or control was thus eliminated. By the end of 1898, 12 such State schools had been established with 1,499 pupils, at a cost to the State of £20 per pupil. In four of these schools the medium was English and in the rest English for the children of the foreigners and Dutch for the Dutch children.⁴

This overthrow of the fundamental principle of the republican education system viz. particular initiative was, as has been stated, restricted to the goldfields.⁵ Two reasons can be adduced for this. The heterogeneous and exceptionally migratory nature of a mining population rendered any sustained local effort towards the establishment and upkeep of a school difficult. The result was a dire lack of educational facilities on the Rand. It was estimated in 1895 that 2,000 out of 6,500 children of school-going age on the mining area were not attending school.⁶

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1. Lugtenburg, Geskiedenis van Onderwys, p.195; Almanac for 1898, p.64.
 2. Lugtenburg, Geskiedenis van Onderwys, p.198.
 3. Law 15 of 1896; C9345 of 1899, pp.287ff; Almanac for 1899, p.66.
 4. Malherbe, History of Education, p.279; (Gedenkschriften p.137.
 5. Vide art. 1 of Law 15 of 1896.
 6. Malherbe, History of Education p.290.
- C8423 7/1897 p94

The second and perhaps more important reason was a political one. As has been indicated the conditions of the "Besluit Scholen" proved unacceptable to the English population, they relinquished the subsidies and embarked on a system of private schools, a movement that culminated in the formation of a Council of Education on the Witwatersrand. This Council was in effect a rival Education Department with its own Superintendent and administering a fund from which it subsidised schools under its supervision. Regarded in the light of the political events prior to and following on the Raid, the activities of this body seemed to the Government nothing more than a threat to the independence of the State. Rather than seeing local initiative take this form, the State would undertake the whole task of providing education in order to see that it developed along the lines desired by the State.¹ And this was only necessary on the goldfields for here the vast majority of the foreigners was concentrated.

In the face of the hostile English agitation in the Transvaal, the Government began to lay increasing stress on the aim of State education being to ensure the training of citizens imbued with a national spirit. It considerably tightened up the language provisions in the State English medium schools, making Dutch an increasing number till in standard V, Dutch would be the sole medium.² This was evidently based on the idea that a good knowledge of the language of the country, by the children of the foreigners, would disarm much of their hostility and ensure their assimilation as future citizens of the State.

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1. See extract from report of Superintendent of Education, cited in Malherbe p.286.
2. Lugtenburg, Geskiedenis van Onderwys p.198; C9345 of 1899, p.77

State expenditure on subsidies increased from £14,715 in 1888 to £65,656 in 1897; an increase of £3 13/- to £6 12 10¹ per pupil, the number of pupils increasing from 4,016 to 10,777. Fees contributed by parents in 1897 amounted to about $\frac{1}{5}$ of the Government's share. In 1898 the total State expenditure on Education had amounted to £226,416 or about £15 3/- per pupil.² This heavy expenditure can be explained by the fact that the State besides subsidising the schools assisted them by such means as boarding grants, special subsidies for indigent children, subsidies for half the cost of furniture and subsidies to help pay interest on capital expenditure involved in the building of a school or a master's house.³ Financially Republican education was no longer State-aided education, but in effect State education.

Institutions of Higher Education dated from 1892 onwards, however, on a very small scale. They were set up and maintained by the State, each being controlled by a Board of Curators appointed partly by the Government and partly by the Volksraad. A State Gymnasium provided besides an Arts Course, professional and technical training; while in 1897 a school of Mines was set up. Teacher training was provided by a State Girls' school and a State Model school. The State also maintained hostels in connection with them. Further it supported a State Library⁴ and Museum.

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1. Almanac for 1899 p.67.
 2. Malherbe, History of Education, p.285.
 3. Almanac for 1899 p.62.
 4. Malherbe, History of Education, p.280 ff.

NATIVE, COLOURED AND ASIATIC ADMINISTRATION.

Terms of Pretoria Convention - Native Location Commission - practice of indenturing - Law 4 of 1885 - Squatters' and Pass Laws - results of location system - native taxes - differentiation in case of coloureds - agitation against Asiatics - Law 3 of 1885 - dispute as regards enforcement of.

The conditions under which the control of native affairs were handed back to the Transvaal in 1881 were vexations to the new Government. The Pretoria Convention in effect reserved the control of native administration to the British Government, by granting to it the right of veto over legislation specially affecting natives and detailing to the British resident general supervisory duties as reporting cases of ill treatment of natives and taking steps for the protection of the persons and property of natives.¹

The Royal Commissioners had considered it wise not to grant the British Resident powers of interfering with the administration for it predicted "natives would have been tempted to contest the rule of a State that was not suffered to administer its own laws" and it would have "an effect tending to disorder and anarchy."² But with the natives in a semi-independent and often rebellious state, the restrictions imposed on the free and immediate action of the Government were hampering enough to lead to that very state of chaos feared by the Royal Commissioners. Thefts on the border of the Republic increased³ and one chief broke out in open rebellion when an attempt was made to enforce government/

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1. Pretoria Convention arts. III, XVIII.
 2. C3114 of 1882 p.29.
 3. C3947 of 1884 pp.3 ff.

government authority on him. Under such conditions upon the department of the Commandant-General devolved the duty of dealing with the natives, especially since the Transvaal Government made no attempt to set up an effective native administration by legislation, till all vestige of British authority over such legislation had been removed by the London Convention in 1884.¹

Some constructive steps were, however, taken with the beginning of the labours of the Native Location Commission. The location system was the fundamental principle of the Transvaal native administration.² Provision had been made for its establishment by Law 3 of 1876; the Pretoria Convention had adopted it and ensured its carrying out by providing for the constitution of a Native Location Commission, whose duties were clearly outlined by the Royal Commission and communicated to the tribes at a great Pitso, summoned to Pretoria on the 2nd of August 1881. It was firstly to demarcate locations, the object being to secure the natives in the possession of the lands they occupied from encroachments thereon by settlers, as had happened in the past. Such delimitations were to be respected by the Government and the tribes alike and where this was not done the injured tribe was to lay its complaints before the Government. Secondly the Commission was to receive the transfer of land bought by natives in trust for such natives. By this means the provisions of the South African Republic law that did not permit a native to own land by individual title would be countered.³

The Commission was duly constituted with the opening of the Volksraad session in May 1882, consisting of the Vice-President, the British Resident and the Native Commissioner of Pretoria. At first the Government refused to allow it to start beaconing off locations, perhaps influenced by the presence of the British on it, but maintaining that it was useless to try to settle natives

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1. Brookes' History of Native Policy, p.128 ff.

2. Van Oordt, p.385.

3. C3114 of 1882, p.29; C3098 of 1882, pp.73 ff.

within the Republic with unrest and intrigues reigning within¹ and on the borders of the State. This was only too true. When in October the Commission attempted to beacon off the boundaries of the Mapoch tribe, the chief refused to have anything to do with them and coupled with his refusal to deliver up the murderer of Secocoeni and pay his taxes, the Government was obliged to send a commando against him. An exhaustive war, last-²ing for eight months, was fought.

The procedure of the Transvaal Government in dealing with such a rebellious tribe is instructive, more so since it followed a precedent established by the British Government during the annexation period. The tribe was broken up and indentured, the indenture being "as far as possible, voluntarily effected!" By providing that members of a family - indentured for five years - were not to be separated, nor indentures transferred, the Transvaal Government believed to have provided against slavery. On expiration of the indenture the families were to be placed in locations. The Native Commissioners were to see that the conditions of indenture were strictly complied with. In 1894 similar treatment was meted out to the tribe of the recalcitrant³ Malaboch. As the British Resident observed, with eight to ten thousand prisoners in the hands of the Government, "I do not see what other course is reasonably open to the Government, alike in the interests of humanity and for the safety of public peace and⁴ order."

To obtain an adequate supply of labour was a harassing problem to the Transvaal farmer even before the mines drew away what little there was. Every farming household was dependent on the members of its family for all its domestic and outdoor operations; almost the only native labour and assistance obtained was/

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1. C3381 of 1882, p.140.
 2. C3419 of 1882, pp.104, 107; C3486 of 1883, pp.4,5,24; Van Oordt, pp.390 ff.
 3. C3381 of 1882, p.7 ff.; C3841 of 1884, p.35 ff.; E.V.R. Not. 1894, 4th September, art. 1580.
 4. C.3841 of 1884, p.35 ff.

was in herding stock. The practice of indenturing seemed to be some attempt by the Government to meet this need, but failed entirely for the simple reason that natives stayed in servitude as long as it was agreeable to them and the Government had not the means to enforce fulfilment of the conditions of apprenticeship.¹

To return to the Native Location Commission; after the London Convention it consisted of the Commandant-General and Superintendent of Natives, plus the Commandant and Native Commissioner of the district in which locations were to be beacons off and a secretary. The close co-ordination between military and native affairs will be observed. The administration of native affairs especially in the unruly Zoutpansberg region was often chiefly a question of maintaining peace and order among the tribes by enforcing government authority. In fact the post of Commandant-General and Superintendent of Natives was only separated in 1896.² In all some 32 locations were marked off by 1898, 16 being in the Zoutpansberg region.³

How were the natives in these locations governed? An Ordinance passed in July 1881 with the approval of the Royal Commissioners pointed the way. This law had created the Governor of the Transvaal Province Supreme Chief and the Landdrosts administrators of Native Law.⁴ Law 4 of 1885 set up on the lines of this Ordinance an effective native administrative machinery. The primary importance of this act was that it recognised that the natives were still too uncivilised to fall under the ordinary laws of the land. Hence the native administration that it established was to take cognisance of the laws, habits and customs observed among the natives and enforce them in so far as they were not/

1. C3841, pp.61, 101 ff.
2. E.V.R. Not. 1896, art. 1358.
3. Almanac for 1899, p.54.
4. C3114 of 1882, p.155 ff.

not inconsistent with the general principles of humanity recognised in the civilised world (art. 2). The Commissioners, or Sub-Commissioners or Native Chiefs appointed by the President over the natives in those districts where the Volksraad considered necessary, - in others the Landdrost served - were to carry out the instructions of the Government, and to have jurisdiction in civil disputes between natives. These they were to decide according to the native law in force at the time unless it should occasion evident injustice. There was an appeal from the Native Commissioner to the Superintendent of Natives, whose judgment was subject to the approval of the Government (arts. 4,5). Petty crimes could also be tried by the Commissioner, but any serious crime between natives was to be tried by the ordinary courts "in the same manner as if such crimes had been committed by persons of European descent." (Arts. 6,11). In case of a dispute between a white person and a native belonging to a tribe, the Native Commissioner was also to act according to the law of the land (art. 4).

At the head of the system stood the President as Paramount Chief over all the natives within the Republic and exercising such powers which according to native law belonged to a Paramount Chief. He could dismiss chiefs guilty of an act by which the peace of the Republic was endangered and appoint others in their places. With the Executive Council he could review all decisions in civil and criminal cases and could fine a tribe guilty of any disorderly conduct (arts. 13, 7, 10). Below him and departmental head of Native Affairs stood the Superintendent of Natives. He was appointed by the Government, but unlike other departmental heads, his position was regarded as of such importance that he held a seat on the Executive Council till 1897.

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The general effect of the law was to allow the natives to live in their locations under their tribal regime, according to their laws and customs, enjoying government protection yet free from government interference provided they remained peaceful, paid their taxes and respected government authority. The Native Commissioners, while they kept an eye on the tribes, were not so much administrative officials as judicial officers.

Outside the locations natives were subject to the Pass Laws and the Squatters' Law. The Squatters' Law first passed in 1887 and enlarged in 1895 was a definite attempt by thus scattering the natives to ensure that every farmer would be able to obtain sufficient labour. Outside locations not more than five native families might live together on private properties and such natives were to be inhabitants, tenants or hired servants under white persons who were to be responsible for them and to supervise their health and safety. The Native Commissioners were to remove natives residing on a farm without a permit of the owner to locations. The interests of the natives were also protected in that the owner had to give them three months notice of leave and allow them to gather their crops.¹

The object of the Pass Laws was to prevent vagabondage, and as the preamble to a Pass law, applicable to the goldfields has it "Ten doel hebbende het vergemakkelijken en bevorderen van den toevoer van Naturellen arbeid op de publieke delverijen dezer Republiek, en voor de betere controleering en regeling der in dienst zijnde Naturellen."² The mines were experiencing the same difficulties as the farmers. Not only was there a lack of native labour supply, but also continual desertion of natives in service. To meet the latter need the Government in 1895 and 1896 passed two stringent Pass Laws.

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1. Law 11 of 1887 and 21 of 1895; C5588 of 1888, p.6 ff.
2. Law 23 of 1895.

The attempts made to encourage the natives to work, shed some interesting light on the effects of the location system. A Volksraad Commission appointed in 1893 to inquire into the existing scarcity of labourers found that "hundreds and thousands of young, strong Kaffirs at the present moment lead a lazy, inactive, even immoral life in the many Kaffir kraals at the Mission stations and the locations." The Commission held that this state of affairs could only be remedied if the Chiefs of locations and the Native Commissioners used their influence with the natives in order to encourage them to work.¹ Yet this seems to have had small effect for a Commission in 1896 found a similar condition of things and likewise urged, in a government circular, the Native Commissioners to use their moral influence with the Kaffir Chiefs to get them to encourage their people in active industry. For thus encouraging his people to work on the mines a tempting annual reward in the form of a uniform was held out to the chief, a money reward being given in the case of young recruits for farm labour.²

The Industrial Commission of 1897 held that the mines should draw their chief supply of native labour from the Portuguese East Coast and expressed itself on locations as follows: "Experience has taught that the establishment of locations does not improve the Kaffirs in any way, but only tends to their deterioration. As soon as a Kaffir with his family lives in a location, his highest aim in life is to see his wife and children work and himself look on."³

For the protection afforded by the Government to the natives within locations and without, they had to contribute their share towards the expenses of administration. This was in the form

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1. C9345 of 1899, p.22 ff.
 2. *ibid.* p.23 ff.
 3. C9345 of 1899 p.5.

of a hut tax, being a tax of 10/- per annum payable by every native inhabiting a straw hut or dwelling, and a road tax of ¹ 2/6 per annum payable by male natives above 16 years. In 1895 in addition to the above taxes a poll tax of £2 per year was imposed on male natives over 21 years of age. In exempting those residing among white persons as servants, the aim of the law is self-evident. Similarly the non-levying of the hut and poll taxes on natives working on the mines and the exemption from the hut tax of natives who did not reside in straw dwellings were all measures with the intention ² of inducing the natives to adopt the habits of settled industry. The collection of these taxes through the practically independent state of the natives in the north was difficult. Receipts in 1897, and in 1898 only ³ totalled £120,905 and £122,659 respectively.

The coloured population in the Transvaal was insignificant ⁴ and hailed chiefly from the Cape. The greater majority of them resided on the Rand where they found employment on the mines, and as artisans, coachmen, servants etc. The British Resident described them as being of a class, sober, industrious and law-abiding and in no way to be confused with the raw Kaffirs working ⁵ on the mines. Under the constitution no equality between whites and coloureds was possible, and being small in number no legislation was introduced to differentiate between them and natives. The chief native laws applicable to them were the Pass Laws. In Johannesburg, however, under the supplementary ⁴ regulations/

1. Law 6 of 1880; Almanac for 1898, p.323; Volksraad Resolution, art. 522, 20th September 1884.
2. Law 24 of 1895; Cd628 of 1901, p.9.
3. Cd628 of 1901, p.9; Greenbook No. 12 of 1899.
4. The British Agent in 1895 estimated that there were between 3,000-4,000 half-castes, other coloured people, Kaffirs from the Cape Colony and Asiatics in the Transvaal - C7633 of 1895 p.5.
5. Greenbook No. 8 of 1899, p.1.

regulations of the Sanitary Board, they were exempted from the stringent Pass Laws of the Board's in force there provided they practised a definite trade or profession.¹ In 1895 and 1896 the Government itself passed two strict Pass Laws applicable to the goldfields and although they provided that the regulations of the Johannesburg Sanitary Board were to remain in force,² the British Resident maintained that many coloureds had been prosecuted under them. He pointed out that such obligations as having to wear a brass plate of identity, to have a baas, and to take out a travelling pass, while useful to prevent Kaffirs deserting were hampering to people engaged in the ordinary avocations of life.³ To his friendly representations for differentiation between natives and coloureds, the Government consented. It obtained the Volksraad's approval to a resolution of the Executive Council to the effect that all natives and coloureds "die, een hooger grad van beskawing bereikt hebben, een ambacht, beroep of bedryf uitoefenen, zullen zijn en zijn vrijgesteld van de voorschriften van Wet No. 31, 1896", (i.e. the Pass Law) on condition they obtained a certificate of registration for which £3 per year had to be paid.⁴ It will be observed that civilised and self-supporting natives could also claim such exemption.

The interpretation given by the Government to this resolution was that it was of a facultative, and not imperative nature.⁰ Natives and coloureds who did not avail themselves of it or complied with its conditions remained under the existing and in future to be made alternative regulations.⁵ A circular sent to the pass officials in November 1897 embodied the above resolution and interpretation. Exemption was only to be granted to natives and coloureds who applied for it. The declaration of a native/

1. Staatscourant, 8th November 1893, p.1149; art. 15 of regulations
 2. Greenbook No. 8 of 1899, p.6.
 3. Greenbook No. 8 of 1899, p.1 ff., p.3.
 4. E.V.R. Not. 1897, arts. 831, 838, 843.
 5. Greenbook No. 8 of 1899, p.5.

native or coloured to the effect that he exercised a trade, profession or calling was to be accepted by the pass official as the refusal to grant a registration certificate to a native, who claimed to be entitled to it, would hardly be justified in a court. In case, however, the official exercised his discretion and refused such certificate, he was to report such case to the Government.¹ And the Government was prepared to give as wide an interpretation as possible to the terms "ambacht, beroep of bedryf."²

In the next year there was a sequel to the above regulations. A night raid was made by the police on the homes of some coloureds on the Rand and some forty of them were arrested for non-compliance with the pass regulations. A month later affidavits of ill-treatment experienced by these people at the hands of the police were obtained by members of the South African League and handed to the British agent, who forwarded them to the Transvaal Government. The latter appointed a Commission of Inquiry. Two facts became clear. Firstly the coloureds had not troubled to avail themselves of the stipulations made in their favour by the Volksraad. None were in possession of the £3 certificate of exemption and many had even evaded the 2/- monthly pass payable under the ordinary pass regulations. Secondly the coloureds were not so orderly and law-abiding as stated by the British agent. While it was to be admitted that the police were over zealous in their duty, that the coloureds had experienced a considerable amount of rough usage at the hands of the police, yet "no police in the world however long suffering and well-disciplined, could put up with the provocations of these persons, who usually belong to the lowest moral class of society."³

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1. Greenbook No. 8 of 1899, p.7.

2. *ibid.* p.5.

3. C9345 of 1899 p.83, 92, 100, 106; Greenbook 8 of 1899, p.15.

At the time the Pretoria Convention was signed the number of Asiatic immigrants was still so small that it was not considered necessary to exclude them from the equal civic rights granted to all except natives by article XXVI of that Convention.¹ They could trade, reside and move freely within the Transvaal. In the same year, however, as the London Convention was signed an agitation was set afoot in the Republic against "the threatened invasion of Asiatics". Petitions were presented to the Volksraad urging that the influx of such people should be restricted by law. It was maintained that the Asiatics were chiefly shopkeepers and that the existing system under which they were allowed to settle in any part of the town even in the principal streets, should be abolished. The detrimental effect of their being allowed to trade in competition with the whites and the danger to the health of the Republic resulting from the neglect of proper sanitary measures in the homes of these people were brought forward as reasons. The Arabs presented a counter petition to the Raad pointing out the difference between them and coolies, Chinese etc.²

The Volksraad was not averse to meeting the wishes of the memorialists, but in view of art. 14 of the London Convention, considered it necessary to obtain the concurrence of the British Government to any steps to be taken. Copies of the memorials were sent to the British Government and the latter replied that "Her Majesty's Government will not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired direction."³ The Volksraad forthwith by a resolution of the 1st June 1885 passed Law 3 of 1885. The/

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1. C7911, p.17.
 2. Greenbook No. 1 of 1894, p.1 ff; 12 ff; 16 ff; C7911, p.15-16.
 3. Greenbook No. 1 of 1894 p.21, 29, 32, 34.

The provisions were drastic and were to comprehend the so-called Coolies, Arabs, Malays and Mahomedan subjects of the Turkish Empire. They could not acquire the rights of citizenship in the South African Republic, neither could they own landed property. These stipulations were, however, not to be retrospective. They were to pay a registration fee of £25 and the Government was empowered to allocate to them streets, wards and ¹ locations where they were to reside.

Immediately the British Government tried to intercede for the Arab merchant by stating that "it was expressly understood by the Secretary of State that the proposed legislation was not to apply to Arab traders or merchants, but to Indian or Chinese Coolie immigrants." The Transvaal State Secretary in reply explained the aim of the law as follows: "It was for the sake of the general sanitary conditions, with a view to the experience gained in other countries and colonies, and also already in this country, very desirable and necessary to take measures of a sanitary nature in respect of those foreign Orientals who have settled themselves here in increasing numbers . . . and selected their residences everywhere in the midst of the white population." He pointed out that the memorialists were chiefly British sub-²jects.

To bring out this object more clearly, the law was amended and consented to by the British Government. Its amended form was promulgated in the Staatscourant of the 26th January 1887. Asiatics, including Arabs, would be allowed to own landed property in the areas assigned to them for habitation by the Government. The registration fee was reduced to £3.³ The high registration fee of the previous law, plus its denial of the right/

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1. C7911 of 1895, p.54-57.
 2. *ibid.* p.19 ff.
 3. Greenbook No. 1 of 1894, p. 49 ff.

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right to own landed property at all, made it a far more effective deterrent to Asiatic immigration than the new one. This was soon evident. In June of 1887 the Volksraad received memorials praying that steps be taken to stop the immigration of Coolies. The Volksraad instructed the Government to draw up such a law, but the State Attorney pointed out that such legislation would be a breach of the London Convention and that "toegeven in die mate van de zijde van Engeland" was not likely.¹

Meanwhile a dispute arose between the British Government and the South African Republic as to the interpretation of the existing law. The law only mentioned the allocation of areas to Asiatics for habitation (bewoning). The Transvaal Government maintained that it applied to places of trade as well and refused to issue licences to Indian merchants to conduct trade outside of such allocated areas. In a test case made of this in 1888 the High Court seemingly upheld this point of view by refusing the application of Arab merchants to grant an order compelling the landdrost to issue them a licence for trading purposes in a certain town.² The Transvaal on its side set the issue beyond all doubt by publishing in a circular of December 1893 a resolution of the Executive Council to the effect that the provisions of Law 3 of 1885 as amended should be strictly applied both in respect of habitation and trade.³

The British Government maintained that the law did not apply to places of trade, that the court's decision admitted of this interpretation and finally claimed the right to define the interpretation of the law which was intended and contemplated when they assented to deviation from the Convention.⁴ The dispute was settled by arbitration in April 1895.

The validity of Law 3 of 1885 as amended was upheld. Its

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1. Greenbook No. 2 of 1894, p.1 ff.
 2. Greenbook No. 1 of 1899, p.37 ff.
 3. Greenbook No. 2 of 1894, p.79.
 4. C7911 of 1895, p.22-23.

interpretation was to be solely and exclusively by the tribunals of the South African Republic, and since the resolution of the Executive Council of 8th September 1895 was giving a legislative interpretation to the law it was to be repealed, which was done. What is important is that the arbitrator considered that under article 14 of the London Convention the South African Republic was not entitled to enact exceptional legislation in restriction of the liberty of Indian and Arab traders and that Law 3 of 1885 was only valid because² it had been consented to by the British Government.

The position of the Asiatics therefore became an entirely rigid one. Any alteration of the existing status quo would require the consent of the British Government which was extremely unlikely.³

The enforcement of the law was, however, very lax. Countless petitions emanating mostly from the British commercial community were presented to the Volksraad which time after time⁴ passed resolutions insisting on its enforcement. As late as November 1898 the Government issued instructions that Coolies and Asiatics who were not yet residing and carrying on business in the locations appointed for that purpose, but were doing so in towns or stand townships in contravention of the law, were to be given notice by the Landdrost or Mining Commissioner to go and reside and carry on business in the location appointed for that purpose.⁵ The reason for this seems to be that the Coolies either evaded the law by opening stores and trading in towns in the names of whites⁶ or that its application was opposed by the poorer burghers.⁷ To them the competition of the Indian reduced the price of the necessaries of life in a country where the cost of living was extremely high.

1. cf. C7911 of 1895, p. 14, 30; C7946 of 1896, p.3-4.
2. C7911 of 1895, p.25, 28.
3. cf. C7911 of 1895, pp.48-49.
4. Greenbook 2 of 1894, pp.4,62,65 ff.
5. Staatscourant, 23rd November 1898, p.1723.
6. C7911 of 1895 p.33; E.V.R. besluit, art. 1072, 5th August 1892.
7. e.g. E.V.R. Notule, 1897 art. 511. See also C5588 of 1888, p.6.

Right of public meeting - freedom of the Press -
expulsion of dangerous aliens - regulation of
immigration.

The right to freedom of association was freely exercised in the Republic up to 1894. In the Constitution the nation had demanded the fullest social freedom possible.¹ If this general clause did not contain a guarantee of the right of association and public meeting, there was at least no statutory provision against the exercise of such right.

The need for some restriction in this respect became increasingly evident as the political atmosphere on the Rand became more and more tense. Matters came to a head in June 1894 when the Uitlanders received the British High Commissioner with an exceptionally loyal demonstration. The ire of the neighbouring farmers was aroused and Pretoria began to fill with armed Boers in a great state of excitement.² Conflict was only averted by the diplomatic action of the High Commissioner who consented not to visit Johannesburg in that excited state and counselled the Uitlanders to obey law and order.

The Government took immediate action to prevent a similar future occurrence and on the 16th July submitted to the Volksraad a Public Meetings' Bill, which the latter treated and passed without delay the following day.³ The law started off by recognising the right of association and public meeting, but declared that such right might be restricted in the interests of public order. Consequently meetings and associations having as object a breach of the public order, were prohibited. The police were empowered to order the dispersal of such a meeting

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1. Art. 8.
 2. No. 311 of 1897, p.135 especially 22475.
 3. E.V.R. Not. 1894, arts. 243, 244-256, 282.

and obtain it by force if necessary. Meetings in the open air were prohibited unless the consent of the Government was obtained beforehand. To all meetings in buildings the Government could grant the police access especially "wanneer zij vermoeden kan, dat zulke vergadering tot nadeel van de onafhankelijkheid kunnen strekken." As a meeting would be considered any gathering of more than six persons.

The restriction imposed on open-air meetings, was really the only serious limitation of public liberty, contained in this law. The power of dispersal given to the police was not exceptional. And as to its enforcement, Chamberlain, writing after the Raid states, "I feel bound to admit that as far as the recent history of Johannesburg is concerned, these restrictions do not appear to have been very strictly interpreted." In fact the law was only applied on three occasions. Twice the Government prohibited open-air demonstrations organised in its support. On the third occasion an open-air meeting convened by the South African League, without consent of the Government, to protest against the procedure adopted in the Edgar case was prohibited. Some assembly of people, however, took place and it is noteworthy that the leaders arrested under the Public Meetings' Act, were subsequently discharged.

Article 19 of the Constitution guaranteed the liberty of the Press subject to the law of libel. Penalties for a breach of the latter law had been imposed by a resolution of the Volksraad in 1871. The Statute book was devoid of any further Press legislation till 1893. In this year memorials were submitted to the Volksraad asking that the rights of the Press should be curtailed. The Volksraad considered the matter of such urgency and necessity that it passed such a law although it had not been

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1. Law 6 of 1894.
2. C7933 of 1896, p.39.
3. Rose, The Truth about the Transvaal, pp.52, 147-148.

published for three months.¹ The chief stipulations were that the names of the responsible editor, publishers and owner of a newspaper had to be submitted to the Government by sworn statement. The effect of this provision would be, that in case of a breach of the law, the Government would be able to lay hands on the offender. The printer (s) and publisher (s) of any printed matter containing sedition and slander would be held responsible for such articles and be subject to a punishment of twelve months. This penalty, by not allowing the option of a fine, was unnecessarily severe. The law, however, could in no way be regarded as a serious limitation of the liberty of the Press. It conferred no powers of suppression on the Government and the Press could always defend its case in the courts. In fact through a judgment given by the High Court, the law was proved to be ineffective and remained a dead letter throughout.⁵

The Press continued unfettered on its career and contributed in no mean way to the state of feeling that culminated in the Raid. Before this event the Volksraad had already approved in principle of a new Press law to supersede the old one.⁴ In February 1896 the Government published a draft law in the Staatscourant and in September of the same year the Volksraad passed it.⁵ This law added to the provisions of the previous one that all printed matter was to contain the name and residence of the printer and publisher, that the responsible editor would be punishable for any illegal act perpetrated by his paper or periodical, that there would be the option of a fine and that all articles of a political and personal nature were to be signed with the full and true name of the writer.⁶ This latter vague and impossible provision was observed by the Press as follows: "At the end of this paper stands the imprint bearing the names of the Printers and Publishers and of the Responsible Editor/

1. E.V.R. Not. 1893 art. 253, pp.127-129, arts.279.
2. Law 11 of 1893, arts. 1 and 3.
3. C8423 of 1897, p.21.
4. E.V.R. Not. 1895, art.332; vide also preamble to Law 26 of 1896.
5. C8423 of 1897, p.82.
6. Law 26 of 1896.

Editor. These must be considered as fulfilling the terms of the law. No malicious attack upon any person will be permitted to appear under a pseudonym. The Editor by the mere act of placing them in his paper, takes the responsibility of all articles before the law." Yet this would see the object of the law achieved viz. that there would be no doubt about the responsibility and identity of the writer of a punishable article.

It was Article five that contained a threat to the liberty of the Press. It laid down that, "the State President shall at all times have the right, on the advice and with the consent of the Executive Council, to prohibit entirely, or for a time, the circulation of printed or published matter, the contents of which are in his judgment contrary to good morals, or a danger to the peace and order in the Republic." The extent of this arbitrary power conferred on an individual to curtail the free expression of public opinion was soon put to the test. On the 19th December of the same year the President issued a proclamation prohibiting the circulation of the "Critic" for six months "by reason of the contents being in my opinion dangerous to the peace and order of the Republic."² Unfortunately the law officers of this journal made no attempt at arguing their case before the courts of the country, but appealed to the British Colonial Secretary for intervention on their behalf, on the ground that the law was a breach of the London Convention - a questionable argument that need not detain us here. Although it may be stated that the Colonial Secretary took up the case and actually claimed compensation for Hess the proprietor of the "Critic"; the reply of the Transvaal Government naturally³ was to refer Hess to the courts of the country. One of the

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1. Extract from 'Standard and Diggers' News', cited in C9345 of 1899, p.64.
2. C8423 of 1897, p.83.
3. C8423 of 1897, pp.104 ff., C9345 of 1899, pp.58,60.

points brought forward by them in their case as presented to the British Government was that Article five conferred upon the President only the power of stopping the dissemination of already published matter. He could not prohibit future publications ^{as} ~~and~~ he could not have seen them in order to judge whether they were dangerous to the public ¹ peace.

In March 1897 the President similarly suppressed the "Star" for three months - a paper that had come very near to seditious utterance against the Government. ² This Company likewise addressed itself to the British Agent as follows, "My Company, composed of British subjects, claim protection from loss under Convention which secured access to courts Press Law deprives us of, and invoke intervention of High Commissioner", yet added practically in the same breath "appeal to Her Majesty's Government will be deferred pending result of application to High Court." ³ The Court upheld the very argument employed by the law officers of the "Critic" and set ⁴ aside the order of the President.

The Court's interpretation practically nullified the President's power of suppression. To stop the circulation of a published paper by a special order issued day after day, would not stand the strain of public outcry. When in 1898 some amendments were made to the law nothing was done to improve the efficacy of Article five. In accordance, however, with the general aim of the Press legislation to ensure that an offender was within reach of the law it was laid down that the responsible editor had to be a person resident in the Republic. ⁵ Further in adding that the publisher and printer would also be liable to punishment for any illegal act committed by their paper, it

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1. C8423 of 1897, pp.81 ff.
2. No. 311 of 1897, p.252, 24414.
3. C8423 of 1897, p.135.
4. C9345 of 1899, p.53 ff.
5. Law 14 of 1898, art.1. In the 'Critic' case it had appeared that the responsible person resided in London.

it was stipulated that in case they were a company, the local representatives would be held responsible. To sum up, the Press legislation imposed no restrictions on the free expression of opinions, but only sought to bring home responsibility in case ~~of~~ a punishable offence was committed; and as for the power of suppression, if exercised, being effective in subduing the Press, it may be stated that the suppressed 'Critic' promptly reappeared as the 'Transvaal Critic' and that the directors of the 'Star' appointed another editor, re-christened their paper the 'Comet', and so these papers continued on their career.

In the course of the latter half of 1895 rumours of serious trouble, in fact of revolution in Johannesburg became the general topic of conversation. The burghers became anxious and sent petitions to the Volksraad asking for a law to provide for the expulsion of all persons "die oproer trachten te stichten of gevoelens verkondigen die voor de inwendige rust van den Staat gevaarlijk worden geacht." The Raad approved and instructed the Government to publish such a law in time for the next session. During the upheaval caused by the Raid this was not done, but the very event convinced the Raad of the dire necessity and urgency of such a measure⁴ which it passed on the 28th September 1896.

This law provided that any alien who was considered dangerous to the public peace and order might be expelled by the President acting on the advice and with the consent of the Executive Council, after the opinion of the State Attorney had been heard. In case he claimed to be a burgher he could, but solely on that ground petition the High Court and he could not be expelled beyond the borders of the State. Of any action taken under this law

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1. Walker, History of South Africa, p.465.
 2. No. 311 of 1897, p.136, 22500. Bryce states that in November revolution was common talk. Impressions, p.530.
 3. E.V.R. Not. 1895, arts. 831, 832.
 4. E.V.R. Not. 1896, art. 1780.

the President was to account for in the following session¹ of the Volksraad.

Clearly a differentiation was made between the burgher and Uitlander. Under article 14 of the London Convention the latter enjoyed equal civil privileges with the burgher provided he conformed himself to the laws of the land. This Act by denying to the Uitlander access to the courts, deprived him of the opportunity to show whether he had conformed to the laws. On this ground the British Government held that the law was a breach of the Convention and reserved to itself the right to object to any proceeding under the law². The Transvaal Government maintained that the necessity of such a measure in the interests of the country and its peaceable inhabitants had been proved and that it was an outcome of the police right of the State.³ The Volksraad, however, of its own accord resolved to remove this differentiation. In July 1897 it passed a motion to the effect that no person could be banished before having been found guilty by the Law Courts of the Republic and instructed the Government to act accordingly.⁴ Nevertheless the Government did not act accordingly when it submitted the revised law in 1898 which merely stipulated that the alien would be given an opportunity to lay his case before the Executive Council.⁵

In the course of the debate the real object of the law was revealed. It was pointed out that it was a measure intended to deal with political offences, offences which although not exactly punishable were yet dangerous to the peace and independence of the country. The aim of the law would therefore be defeated if access to the courts was given. It was merely similar to the procedure adopted in other countries in dealing/

1. Law 25 of 1896.
2. C8423 of 1897, p.67.
3. C8423 of 1897, pp.52, 88 ff.
4. C8721 of 1898, p.16 ff.
5. Law No. 5 of 1898, arts. 1 and 2.

dealing with political offenders.¹ The only occasion, however, on which this law was enforced, was in the case of Von Feltheim the murderer of Woolf Joel, confirming the Government's statement to the British Agent that it would be used to rid the country of dangerous criminals.²

In Article six of the Rustenburg Constitution the nation set open its territory to every stranger who submitted himself to the laws thereof. Likewise the nation readily consented to Article 14 of the London Convention which gave to all persons except natives full liberty, with their families, to enter, travel, or reside in any part of the Republic. For in the early days of its existence the Republic was a wilderness and the coming of immigrants who developed the country, filled the scant Treasury and provided markets for the desperate farmer, was most welcome. The President when on a visit in London in 1884 had even gone so far as to invite prospective immigrants of the dangerous "British subject" type. Under these conditions no restrictions whatever were placed on immigration. The immigrant was only required to register himself with the Fieldcornet of the district in which he settled.⁴

The gold discoveries set a new face on the conditions of things. A stream of immigrants, threatening to swamp the State, flowed into the Republic. And as it poured through the ports Schreiner for one observed that it contained many undesirable elements.⁵ In 1896 the British Agent reaffirmed this opinion when he noted that, "it cannot be denied by any one who has seen the swarming population of the Rand, that there are many elements in the conglomeration that could well be

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1. CG345 of 1899, p.59, 62 ff.
2. Walker, History of South Africa, p.463 ff., CG423 of 1897, p.95
3. Cooke, Rights and Wrongs, p.262.
4. Law 2 of 1885, art. 9.
5. No. 311 of 1897, p.130, 3335.

with."¹ Such a class presented a serious problem when by 1895 the industry on the Rand became stable and society assumed a permanent and settled character. The "immigrant, with no visible means of support" would no longer be absorbed by the industry and would lead to the formation of a class of destitutes and vagabonds who fused with the community of discontented and excitable Uitlanders, would be a constant source of worry and even danger to the Government.

Here too the events of the Raid evidently added to the conviction of the Government that it was high time immigration of this type, which it suspected of being created partly by design, was put under some control.² The article in the Constitution presented no difficulty and in November 1896 the Volksraad passed the desired law to come in force from the 1st January 1897. Every alien entering the Republic, with or without passport, would only be admitted if he could show that he had sufficient means of subsistence or could obtain such by his work. He would then be provided with a travelling and residing passport renewable every three months or annually if he resided permanently. Renewal could be refused for non-fulfilment of the conditions of entry, and for non-obedience to the laws of the State.³ These stipulations would see the object of the law achieved viz. to prevent the influx of undesirable persons from overseas such as Polish Jews, vagabonds of no profession and devoid of means of subsistence.⁴ It was soon evident, however, that the provisions of the London Convention were not so easily circumvented. Article seven of the law, contained the provision that the law would not apply to aliens already residing in the Republic provided they had registered themselves with the

Fieldcornet/

1. C8423 of 1897, p.95.
2. C8721 of 1898, p.9.
3. Law 30 of 1896.
4. C8423 of 1897, p.95.

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Fieldcornet or did so within one month. Now the vast majority of Uitlanders had never bothered to register themselves and they immediately raised a cry of protest against the enforcement of such provision. The measure was described as "White Pass Laws" and as lowering them in the eyes of the natives. They condemned the law wholesale, prepared not to obey it and appealed to the High Commissioner on the ground that it was a breach of the Convention. The High Commissioner bade them conform to the laws of the State, while the British Colonial Office took up the case. ¹ The protest from the Colonial Office was sent practically before the complaints of the Uitlanders reached it, but the Transvaal Government refused to repeal or modify the Act on the ground that the London Convention in no way excluded the application of police laws for the public peace. ²

The British Agent was ordered to watch the working of the law. The latter reported that the law was being daily enforced, that whereas previously registrations numbered about 1,000 a year, they now totalled 2,000 a month. He regularly reported instances of enforcement against British subjects, that he was making representations and as regularly announced their admission. ³ In the meanwhile the British Government continued in its protests and in the same year (1897) the Volksraad revoked the law ~~and~~ on the ground that it led to friction with the neighbouring states and colonies. Citizens of these states were not only unnecessarily inconvenienced, but saddled with the undesirables turned back on the borders of the Transvaal. Pending therefore a general agreement with these states as to what steps should be taken, ⁴ there was a return to the old order of things in the Republic, of free and unrestricted immigration.

Reviewing/

1. C8423 of 1897, p. 95-177ff.
2. *ibid.* pp. 67, 88, 106.
3. C8423 of 1897, pp. 92, 96, 113, 140.
4. Greenbook No. 2 of 1898, p. 25 ff., C8721 of 1898, p. 9.

Reviewing these laws it seems clear that they conferred no extraordinary powers of suppression on the Government, that were for instance not possessed by a British Home Secretary. As everywhere else they were to serve by their imperativeness as a deterrent to violent and irresponsible action likely to endanger public peace. The necessity of such measures went without saying in the Transvaal where the feeling between Boer and Uitlander was apt to run high and the action of hot-heads might have brought about a conflict, that would place the Government before the dilemma of averting civil strife from within and foreign aggression from without. For the British Government showed an inclination to intervene on the least provocation. On the one hand there was the hot-head who challenged the Uitlander to come and fight for his rights and on the other hand the class who insisted on "the supremacy of the Empire in this part of the world,"¹ which as Milner wrote to Chamberlain "exercises a peculiarly maddening effect upon the Boers."² And added to this a Press that constantly "kept the pot boiling."

Unfortunately the laws had exactly the opposite effect. The Uitlanders merely added them to their list of grievances and continued their campaign in open contempt of a Government whom they believed was unable to enforce its laws.³ Article 14 of the London Convention became to the foreigners not only a "Bill of Rights", but a means by which they could obtain external support in their opposition against the civil government. What the/

1. C8423 of 1897, p.74.
2. Extract from "Milner Papers" quoted by prof. Wild in the 'Burger', 26th September 1932.
3. The 'Star' in referring to the Expulsion Law said that as far as Englishmen were concerned it "cannot under any circumstances be enforced that the first attempt to enforce it will bring down upon the head of the Transvaal Government a prompt and unequivocal ultimatum from Her Majesty's Secretary of State for the Colonies." ; 'Star', December 30th 1898.

the Royal Commissioners had predicted in 1881 of the results of foreign interference in the native administration of the State becomes applicable here; a State that was not suffered to administer its own laws or support its own officers in independence, would lead to a condition of things that "would have been a growing sore demanding at no distant time a forcible remedy."¹

1. C3114 of 1882, p.29.