

SIR WILLIAM H. BEAUMONT AND THE NATIVES LAND
COMMISSION, 1913-1916.

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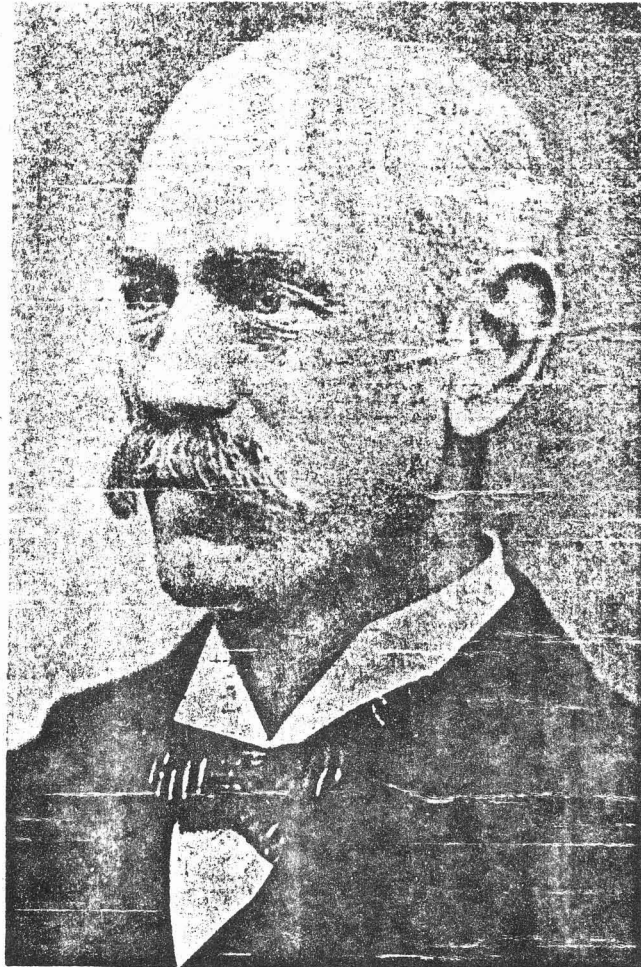
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SIR WILLIAM HENRY BEAUMONT,

Whose decoration with the dignity of knighthood was announced in King George's first list of birthday honours. Sir William is 59 years of age and came to Natal nearly 40 years ago. He has been on the Bench of the Supreme Court for eight years, and Senior Puisne Judge for six years. In 1907, he performed the functions of Acting Chief Justice and Administrator of the Colony. Recently he served as one of the South African Delimitation Commissioners under the Act of Union. Sir William is now retiring from the judicial position he has adorned.

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1. INTRODUCTION

During the major part of the 19th century, dealings between White colonial or Boer governments and the African peoples of Southern African had been largely a 'frontier problem'. By the end of the century, however, large numbers of Africans had been included in areas controlled by white governments. The result was the attempt to formulate long-term and consistent policies in the sub-continent; this being one of the factors which had prompted South African unification in 1910.¹

In 1913 the first government of the Union of South Africa introduced legislation aimed at resolving the 'native problem'.² The solution seemed to lie in defining the relations which should exist between Europeans and Africans in South Africa, and in segregating European and African landowners. A Commission, known as the Natives Land Commission,³ was appointed in 1913 to delimit areas to be reserved exclusively for European and areas to be reserved exclusively for African ownership.

An assessment of the importance of the role of this

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1. See L.M. Thompson, The Unification of South Africa, p. 106
 2. Natives Land Act No. 27 of 1913.
 3. Also known as the Beaumont Commission after its chairman, Sir W.H. Beaumont.

Commission in the context of Black/White relations in South Africa is the main subject of this thesis. Other motivation derives from the relative obscurity both of certain members of the Commission, and of the recommendations of the Commission itself. An attempt has also been made to assess the influence of the Commission's Report on the legislation which was subsequently mooted to implement the principles of the Natives Land Act of 1913.

Several historians have written specifically on the topic of Native policy in South Africa. Of the earlier writers probably Prof. E.H. Brookes⁴ and Dr. van Biljon,⁵ have been most influential. Their discussion of the Beaumont Commission and of its report was, however, very brief. Brookes, while mentioning the appointment of the Commission, makes no comment on its report or on the reception which it received.⁶ Van Biljon's narrative treatment is fuller but he also has not attempted an evaluation of the Report, other than to point to the fact that European retention of mineral rights in reserved areas for natives, practically made a 'dead letter' of the restriction in the 1913 Natives Land Act that Europeans should not have interests in native territories.⁷ This

4. E.H. Brookes, The History of Native Policy in S.A. from 1830 to the Present day. A revised edition of this work has recently appeared entitled: White Rule in S.A. 1830-1910.

5. P. Van Biljon, Grensbakens tussen Blank en Swart, (1947).

6. Brookes, op. cit., pp. 342-3.

7. Van Biljon, op. cit., pp. 442-449.

was also true of the concessions which the Report recommended for traders in native territories.⁸

Several studies of Black/White relations in the post Union period have been written. These include those of H. Rogers,⁹ W.M. MacMillan¹⁰ I.L. Evans¹¹ and J.Y. Gibson.¹² None of these writers considered the report of the Beaumont Commission in any detail, nor attempted a serious analysis of the opposition to the Commission's recommendations when its report was tabled in 1916. However Gibson, writing as a contemporary, did record Natal's reaction to the publication of the Commission's report.¹³

B. Sacks¹⁴ has considered South Africa's handling of its non-white population from an Imperial point of view. As his emphasis has been on the period 1902-1914, he has dealt, briefly, with the appointment of the Beaumont Commission,¹⁵ but has not commented on the work of the Commission, or its reception by public and parliament alike.

An unpublished M.A. thesis by S.M.M. Lekhela¹⁶ offers

8. Ibid.

9. H. Rogers, Native Administration in the Union of S.A., (1933).

10. W.M. MacMillan, Complex South Africa, (1930).

11. I.L. Evans, Native Policy in Southern Africa, (1934).

12. J.Y. Gibson, The Evolution of South African Native Policy, (1919).

13. Ibid., pp. 53-61. (His work was published in 1919).

14. B. Sacks, South Africa : An Imperial Dilemma.

15. Ibid., pp. 195-198.

16. S.M.M. Lekhela, 'An Historical Survey of Native Land Settlement in S.A. from 1902 to the passing of the Natives trust and Land Act of 1936.'

some comment on the Natives Land Commission. The limitations of Lekhela's work, as least as far as the Beaumont Commission is concerned, is illustrated by the fact that he does not distinguish between the Minute of the chairman of the commission, which he delivered in a personal capacity, and the official report of the Commission.¹⁷

This deficiency of information about the activities of the Beaumont Commission has not been remedied by those historian who have written more generally on South African history. Major studies such as those by F.A. Van Jaarsveld,¹⁸ M. Wilson and L. Thompson,¹⁹ D. Kruger²⁰ and also J. Selby,²¹ make no mention of the Beaumont Commission at all. C.F.J. Muller,²² C.W. de Kiewiet²³ and the Cambridge History

17. For instance see pp. 110-111 of his thesis. He quotes from U.G. 25 - 1916, Beaumont Minute, and yet refers to it as the work of the Commission. This is a grave misinterpretation of the Commission's Report. A similar error was made where he says 'the Local Native's Land Committee confirmed the Beaumont Report that the Locations and Reserves were adequate for the Zulus.' p. 116.
18. F.A. Van Jaarsveld, Van Van Riebeeck tot Verwoerd, (1971).
19. M. Wilson and L. Thompson, Oxford History of South Africa, Vol. II, (1972).
20. D.W. Kruger, The Making of a Nation, (1969).
21. J. Selby, A Short History of South Africa, (1973).
22. C.F.J. Muller (ed.), 500 Years; A History of South Africa, p. 344-, (1969).
23. C.W. de Kiewiet, A History of South Africa, Social Economic, p. 200-202, (1941).

of the British Empire²⁴ merely mention the appointment of the Commission, while Walker's only amplification on this is to describe the Commission's report as being 'not a hopeful document'.²⁵ G.H. Calpin²⁶ has cryptically commented that 'the opposition brought about the appointment of the Beaumont Commission.'²⁷

Two fairly recent publications show a greater awareness of the influence of the Beaumont Commission. In his study of native policy since Union, C.M. Tatz²⁸ has devoted part of a chapter to a consideration of the Beaumont Commission.²⁹ Tatz was chiefly interested in the interaction between the land and franchise issue. He has made reference to Beaumont's opinions on this subject, which were presented in the Beaumont Minute³⁰ which Beaumont added to the Commission's report. Despite this selective approach which means that only a small area of Beaumont's Minute and of the Commission's work as a whole, has been considered, this is the most comprehensive survey of the activities of the Beaumont Commission which has been published.

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24. Cambridge History of the British Empire, Vol. VIII, South Africa, Ed. E.A. Walker, p. 679, (1963).
 25. E. Walker, A History of Southern Africa, p. 584, (1964).
 26. G.H. Calpin, There are no South Africans, (1941).
 27. Ibid., p. 158.
 28. C.M. Tatz, Shadow and Substance in South Africa, (1962).
 29. Ibid., chap. III, p. 27-29.
 30. U.G. 25-1916, Beaumont's Minute.

P. Walshe,³¹ in a recent publication on the rise of African Nationalism in South Africa has also paid a considerable amount of attention to the influence of this Commission. But Walshe's interest in the reaction of the South African Native National Congress to the Commission's recommendations has also of necessity meant that he has only considered a limited aspect of the Commission's influence.

The Beaumont Commission must be seen as part and parcel of a movement, post 1902, to settle the question of land ownership and in this regard, Prof. D. Denoon³² has challenging observations to make. He ascribes the passage of the Native Land Act of 1913 to the fact that the white community found it necessary to pass this defensive measure because of strong competition from African agricultural landowners and tenants, particularly in the period after 1902 when there were numbers of white 'bijwoners' who did not own land and who could not be as productively employed on white-owned farms as tenants could. He claims that, despite the increase in technological equipment and knowledge, fostered by using 'the profits of industry' to assist the white farmers in their struggle with Africans over ownership and utilization of the land,

31. P. Walshe, The Rise of the African National Congress, (1970).

32. D. Denoon, Southern Africa since 1800, (1972).

'the threat of African land acquisition remained.³³ A detailed examination of the Beaumont Commission and particularly of the evidence which was presented to it will, it is hoped, throw some light on the veracity of Denoon's contention.

Finally, no survey of the literature on the topic of natives and the land would be complete without mention of the recent publication of a selection of documents by Professor T.R.H. Davenport and Dr. K. Hunt.³⁴ The work of the Natives Land Commission is quoted in several instances and there are extracts quoted from the evidence which the Commission collected in its tour of the Union.

Despite the publication of this work, it is felt that there remains a need for a specialised study which concentrates upon the Natives Land Commission against the background of contemporary politics and in the perspective of the evaluation of South African 'native policy.' To what extent were the Commission's members selected because they were reliable Botha supporters? To what extent did they accept the principles which had been laid down in the Natives Land Act?

Such questions cannot be answered without reference to the individuals who were members of the Natives Land

33. Ibid., p. 132, See chap. 13, The Struggle for land.

34. T.R.H. Davenport and K. Hunt, The Right to the Land, (1974).

Commission, and particularly with regard to Beaumont himself. Information about this is, however, difficult to come by. E. Rosenthal's Southern African Dictionary of National Biography³⁵ only traces the career of the chairman, Sir W. Beaumont, to 1902, while no mention is made of C.H. Wessels. The other members, S. Burgers and W.E.M. Stanford and W.R. Collins are featured, but for reasons other than their participation on the Commission.

The Dictionary of South African Biography³⁶ makes no mention of Beaumont, Collins or Wessels. The most recent publication of this nature, the Standard Encyclopaedia of Southern Africa,³⁷ provides a short text on Beaumont but does not give biographies of all the members of the Commission, nor does it provide information on the Commission itself.

35. (1966).

36. W.J. de Kock and D.W. Kruger (ed.), 2 Vols., (1972).

37. D.J. Potgieter (Ed-in-chief), (1970).

2. THE CIRCUMSTANCES WHICH LED TO
THE APPOINTMENT OF THE NATIVES
LAND COMMISSION

The first legislative attempt by the Union government to deal with the 'Native Problem' was made in 1913 when the Natives Land Act was passed. The primary object of the Act was to bring about an effective territorial segregation of the races.¹ It was also anticipated that it would afford relief to the 'poor white' farm labourers who were competing for employment on farms with black labourers, particularly native² tenant farmers.³ Thus the legislation was introduced partly as a result of pressure from the Orange Free State and Transvaal, where poor whitism amongst the rural population was most acute.⁴ The Natives Land Act therefore had the dual objective of prohibiting further acquisition of land by natives in white areas and of limiting 'squattling.' Although existing contracts between natives

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1. Statutes of the Union of South Africa : The Natives Land Act No. 27 of 1913.
 2. Although the more current term 'African' has at times been used in this thesis, 'native' has not been discarded where the context has suggested its use.
 3. Lekhela, op. cit., p. 105. Also R. Hyam, The failure of South African Expansion, p. 72.
 4. MacMillan, op. cit., p. 314. See also Denoon, op. cit., p. 130f. See also South African House of Assembly Debates, 1913, col. 2463.

and farmers were permitted to remain in force and could be renewed, 'new' contracts could not be negotiated.⁵ A squatter could loosely be defined as a native tenant, or, more precisely, one who paid for his tenancy either in money or by sharing part of his produce with the farmer.⁶ This meant that the effect of the new Act was to eliminate black tenants and to replace them in white areas by black servants or labourers who would no longer be allowed to lease land in white areas.

One of the more curious aspects of this Act was that it was passed before it was decided which land was to be reserved for black, and which for white, occupation. Until such a decision had been made, the status quo was to be maintained by prohibiting blacks from acquiring land outside certain areas which were known as 'scheduled areas'. These were those areas which had 'traditionally' been occupied by blacks but were considerably smaller than the areas effectively occupied by blacks in 1913.⁷

5. Natives Land Act No. 27 of 1913. Section 1(1a). See also below p. 37.

6. 'Squatter' was not defined in the Natives Land Act but this term was in common usage, and in South Africa seems to have referred to Africans specifically. See, for example, S. Plaatje, Native Life in South Africa who describes a 'squatter' as 'a native who owns some live-stock and having no land of his own, hires a farm or grazing rights from a landowner', p. 17. See also the House of Assembly Debates, 1913, col. 2270-2298. For a concise summary of legislation re squatting, see Davenport and Hunt, op. cit., p. 33.

7. 10, 422, 935 morgen were scheduled while 17, 803, 475 morgen were occupied by Natives. U.G. 19-1916 Report of the Natives Land Commission, Appendix III.

The task of the Natives Land Commission, usually referred to as the Beaumont Commission, which was set up under this Act, was to define the areas for black and white occupancy. Thereafter a further Act was envisaged, whereby final provision on the basis of the Commission's recommendations would be made for territorial segregation.⁸ It was understood that the restriction of natives to the scheduled areas as provided for by the Natives Land Act, was only a temporary measure and that the next apportionment of land would be more generous to the natives.⁹ It was also understood that this further Act would be passed within 2 to 3 years of 1913.¹⁰ It is important to bear in mind that the Natives Land Act was regarded by all, black and white alike, as a temporary measure. However, despite the temporary nature of the Natives Land Act, 23 years were to elapse before the promised legislation was promulgated.¹¹

Much of the mistrust with which the Natives Land Act was viewed by its critics resulted from the fact that the

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8. House of Assembly Debates, 1913, col. 2271.
 9. House of Assembly Debates, 1913, col. 2271. The Minister of Native Affairs, J.W. Sauer said that the Commission would have to report on the 'setting apart of additional native areas'. Also Sauer, col. 2280, 'there must be additional native areas'.
 10. The Natives Land Act of 1913 specified that the Commission was to submit its report within 2 years of the Act, see Clause 2(2).
 11. This was the Natives Trust and Land Act No. 18 of 1936.

principle of the act was approved, and restrictions were placed on the purchase of land before the native areas were actually defined.¹² The explanation for this procedure lies in the fact that, when the government introduced the legislation in 1913, it was confident that it would meet no major obstacle in the form of political disagreement on the principles embodied in the Bill, but feared that it would be more difficult to reach agreement on the delimitation of African areas.

There were numerous historical precedents by 1913 which made the Government feel confident that the Natives Land Act would find approval. Although this legislation was the first major policy decision made by the Union Parliament on Native Affairs, the colonies, prior to Union, had moved along similar lines. In all the provinces, native locations or native reserves had been demarcated, and the nomenclature alone of these areas is suggestive of a segregation of the races. However in the Transvaal, Natal and Cape Province, despite the existence of native areas, natives could still acquire land freely, whereas in the Orange Free State legislation confined them to demarcated areas.¹³

Natives in the Cape Colony were not restricted by legislation from acquiring land freely but by far the greater majority lived in four large tracts of land which

12. Evidence, particularly of Natives given before the Natives Land Commission amply supports this statement. See chap. 5 below p. 87. Also Davenport and Hunt, *op. cit.*, p. 60, Brookes, White Rule in South Africa 1830-1910, pp. 203-4.

13. Davenport and Hunt, *op. cit.*, p. 37.

were regarded as native areas and which had a predominantly, but not exclusively, native population.¹⁴ These areas were the Ciskei, comprising disconnected native areas extending from the Great Fish river to the Great Kei river; the Transkei, extending along the East Coast from the Great Kei river to the Southern boundary of Natal and inland to the Drakensberg Mountains; the territory previously known as British Bechuanaland, comprising the districts of Kuruman, Mafeking, Taungs, Vryburg and Gordonie, and Griqualand West, comprising native areas in the districts of Barkly West, Postmasburg and Kimberley.¹⁵ In the Transkeian Territories legislation was by Governor's Proclamation, except where an Act of the Cape Parliament by express provision extended its application beyond the Kei.

These native areas were regarded as Crown Lands and consequently the natives' retention of them was dependent on their good behaviour. It is interesting to note that when British Bechuanaland passed into the hands of the Cape Colony in 1895, the Act of annexation¹⁶ made special provision that no lands reserved for the use of natives in the Territory were to be alienated.¹⁷

14. U.G. 61-1955, The Commission for the Socio Economic Development of the Bantu areas within the Union of South Africa, (Here after referred to as the Tomlinson Report), chap. 11, p. 3.

15. Ibid.

16. Cape Act No. 41 of 1895. Ibid.

17. Tomlinson Report, chap. 11, p. 21.

Native occupation of land in the Cape Province prior to 1913 fell into several categories. Natives resided either in reserves or in urban locations which were specifically set aside for their occupation. Others were given accommodation on farms in white areas by virtue of the fact that they were servants in the continuous employment of landowners. In certain districts they were holders of individual titles in freehold or leasehold or under quitrent tenure.

Apart from these, a phenomenon peculiar to the Cape were 'private locations', upon which many natives lived.¹⁸ Any European farmer could apply to the Governor for the issue of a licence to establish such a location. Natives who were not in bona fide or continuous employment were settled on these private locations on terms and conditions which were left entirely to private arrangement between the landlord and tenant. The owner of the land was responsible for licence fees amounting to £1 p.a. for each male adult, as well as a hut tax of 10s per hut.¹⁹

The other respect in which the Cape differed markedly from the other provinces was in the attempts which it made to implement individual, as opposed to communal, holdings of land. The best known of these measures was the Glen Grey Act (No. 25 of 1894). Although introduced, in the

18. South African Native Affairs Commission (1903-5) Report, p. 14. Hereafter abbreviated as S.A.N.A.C.

19. S.A.N.A.C. Report, p. 18.

first instance, in the district of Glen Grey in the Ciskei, it was almost immediately extended to the Transkeian districts of Butterworth, Idutywa, Nqamakwe and Tsomo by Proclamation No. 352 of 1894.²⁰ These measures were based upon earlier experiments such as that which had been tried in the Victoria East district when the Smith-Calderwood Location was established in 1849. Occupiers were granted individual titles to their plots on the annual payment of £1 quitrent.²¹ Sir George Cathcart extended this to mission stations in general, and his successor, Sir George Grey, introduced quitrent tenure to the Mfengu (Fingo) Crown Reserve.²² Quitrent tenure subsequently received general authorization under the Natives Locations Act of 1879.²³

Although the granting of individual allotments was central to the Glen Grey scheme, the occupier did not have full ownership rights as he had to fulfil certain statutory conditions. His land could not be alienated without the Governor's consent, and could not be mortgaged. His land was subject to forfeiture for non-payment of survey expenses or quitrent, for rebellion, stock theft and failure to occupy the land beneficially.²⁴ Quitrent tenure was not recognised as a qualification for the franchise in the Cape Province.²⁵

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20. Brookes, The History of Native Policy in South Africa from 1830 to the Present Day, p. 144.
21. Davenport and Hunt, op. cit., p. 31.
22. Ibid.
23. Ibid.
24. S.A.N.A.C. Report, p. 17. See Davenport and Hunt, op. cit., pp. 36-37 for a copy of the Glen Grey Act of 1894.
25. Walker, op. cit., p. 432.

In the Orange Free State the problem of native tenure was of much smaller dimensions. At the time of Union there were only three small Native Reserves in this Province, namely Witzieshoek (50,000 morgen); Thaba Nchu (6,631 morgen) and Seliba (17,658 morgen).²⁶ Legislation unambiguously stopped natives from acquiring land elsewhere²⁷ and, even in these Reserves, it was clearly understood that no inalienable freehold rights could be acquired, except in the Thaba Nchu district, where the rights of the natives had been guaranteed in the annexation Proclamation of 1884.²⁸ Farmers were also restricted by legislation to the employment of not more than 5 native families per farm although the number could by special permission be increased to not more than 15.²⁹

Whereas the Orange Free State was a predominantly white state, geographically demarcated from Basutoland, Bechuanaland and other smaller native areas, the Colony of Natal grew from white settlement in the midst of a large black population. The policy of the trekkers was, according to Brookes, 'to mark off an area for predominantly white occupation, to retain sufficient natives therein for agricultural labour purposes, to secure an equitable distribution

26. Tomlinson Report, chap. 11, p. 29.

27. Under the articles of chap. XXXIV, Orange River Colony Law Book.

28. S.A.N.A.C. Report, p. 21.

29. Law No. 4 of 1895 of the Orange Free State, cited by Davenport and Hunt, op. cit., p. 56.

of this labour supply, to segregate the remaining part of the native population, and to rule such natives as remained in the white area paternally, justly and kindly, but retaining them in a position of entire subordination - social, religious, political and economic.³⁰ An attempt was made in 1841 to dispose of the surplus native population by placing it on a tract of land between the Umtamvuma and Umzimbuvu Rivers, to the South of the Republic.³¹

British intervention forestalled this policy and, when in 1845 the new government began functioning,³² it found that, in the interim period, many more thousands of natives had poured into Natal,³³ so that by 1848 Natal had once again become largely a native territory. As a result,

30. Brookes, op. cit., p. 23. See also Agar-Hamilton, The Native Policy of the Voortrekkers pp. 34-47. He summarises this policy as follows: 'The Boers left the condition of the natives beyond their borders unchanged... The refugees on the other hand, came directly under the control of the Republic... Here 2 policies alternately found favour, the one advocating the transfer of all the refugees to a tract of land South of the Republic,... the other suggesting that they should be scattered in locations throughout the country, where they would form convenient sources of farm labour', p. 47. S. Marks, Reluctant Rebellion also points to a desire to retain natives in a position of sub-ordination - see chap. I, particularly p. 22.
31. J. Bird, Annals of Natal, p. 644-5. Also Welsch, op. cit., p. 8.
32. Welsch, op. cit., p. 10.
33. Marks, op. cit., pp. 4-5, also Welsch, op. cit., pp. 4-11, and Agar-Hamilton, op. cit., p. 36.

a Land Commission (1846)³⁴ was appointed to demarcate locations for the natives. Theophilus Shepstone the Commissioner of Native Affairs moved some 80,000 natives to 'Locations' in different parts of the country³⁵ because the British Government refused to implement the more drastically segregationalist policy of the Volksraad.³⁶

Subsequent Government Commissions (namely, the Land Commission of 1848 and the Commission of 1852-1853) were of the opinion that the extent of land recommended by the 1846-1847 Commission was excessive.³⁷ Notwithstanding, in April 1864, the Natal Native Trust was created,³⁸ the Crown placing under its control all the unalienated Location land in Natal, to be held in trust for the native population as a whole.³⁹ The Trustees were simply the Executive Council of Natal acting in this capacity.⁴⁰ Its work was criticised by the

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34. Extracts from the instructions to the Commissioners (William Stanger, Theophilus Shepstone, Rev. Dr. Adams) are to be found - Davenport and Hunt, op. cit., p. 14.
35. For a fascimile of Shepstone's Locations see map. Davenport and Hunt, op. cit., p. 15.
36. Welsh, op. cit., p. 11.
37. Tomlinson Commission Report, chap. 11, p. 25.
38. 2¼m acres of land set aside for purely native occupation. Marks, op. cit., p. 4.
39. For a fascimile of the letters patent appointing the Trust for Native Lands in Natal, see Davenport and Hunt, op. cit., p. 39.
40. Brookes, op. cit., p. 58.

Natal Native Affairs Commission of 1906-1907, which was appointed to investigate the Bambata Rebellion.⁴¹ It pointed out that since it had been constituted, little had been done to improve the land.

Within the native reserves, no large-scale attempts were made to interfere with or change the tradition of communal holdings,⁴² although this was attempted on a small scale by missionaries on land granted to them by the government.⁴³

After Zululand had been annexed to Natal in 1897, a Delimitation Commission (1902-1904) divided that country into native reserves and crown lands.⁴⁴ Despite the fact that specific areas were recognised as native reserves, natives exercised the right to purchase land outside their defined locations.⁴⁵ Further mixing of black and white

41. For a detailed study of this rebellion see Marks S., Reluctant Rebellion.

42. Ibid., p. 15.

43. Ibid., p. 61.

44. Ibid., p. 127.

45. Legally, in terms of the Rules and Regulations for the disposal of crown lands, published in the Gazette on 14 August 1906, (Davenport and Hunt, op. cit., p. 29), natives were prevented from either purchasing or renting such land. In view of the fact that the Zululand Delimitation Commission had stated in their Second Ad Interim Report that 'the Commission presumes that natives... will be allowed to purchase if they wish to do so', (Davenport and Hunt, op. cit., p. 29), it seems that the government was prepared to turn a blind eye to the evasion of this prohibition. See also Marks, op. cit., p. 127.

areas took place as a result of the activities of land companies which bought large tracts of land on speculation and then let them to native tenants.⁴⁶ This practice was resented by European farmers and gave rise to the agitation against squatting. In 1914-1915 when the Natives Land Commission investigated conditions in Natal, it was to find that Native-owned and European-owned lands were greatly inter-mixed, a fact which made their task of delimitation very difficult.⁴⁷ At the time of Union, only about one-third of the black population in Natal lived on lands especially set aside for them. The remaining two-thirds resided on European-owned lands.⁴⁸

In the Transvaal, or South African Republic as it then was, Resolution 159 of 18 June 1855 precluded anybody who was not a burgher from owning land and also precluded natives from burgher rights.⁴⁹ However a Volksraad resolution of November 1853 enabled District Commandants to grant land for occupation by natives, conditional on their good behaviour.⁵⁰ There was at first no distinct definition of the boundaries⁵¹ and there was an almost total lack of planning. European

46. Ibid., p. 131.

47. U.G. 25 - 16, Beaumont's Minute, p. 41.

48. Lekhela, op. cit., p. 61.

49. Davenport and Hunt, op. cit., p. 40.

50. Agar-Hamilton, op. cit., p. 61.

51. Tomlinson Report, chap. 11, p. 30.

farmers were in many cases allowed to buy farms on land adjacent to native settlements. Natives were in several cases allowed to settle on land already in the possession of European farmers.⁵² There were instances in which the Government of the Republic bought land for the occupation of various natives, but the ownership remained vested in the State because of the prohibition on native land ownership.⁵³

In his study of native land settlement in South Africa, Lekhela expresses the opinion that three observations might be made in connection with land grants to native tribes in the South African Republic. In the first instance there was no individual title. The natives had to use the land communally. Secondly, the chief was the trustee of his tribe. Thirdly, the land remained the possession of the white Government.⁵⁴

After the British occupation of the South African Republic in 1877 a Commission was appointed to investigate native land ownership.⁵⁵ It recommended that, while natives

52. Lekhela, op. cit., p. 48.

53. Brookes, op. cit., p. 122.

54. Lekhela, op. cit., p. 48.

55. The first 3 members of this Commission, which was set up in terms of Article XXI of the Pretoria Convention, were S.J.P. Kruger, Vice-President of the Transvaal State, George Hudson, British Resident, and H.J. Schoeman Native Commissioner for Pretoria and Heidelberg, (Davenport and Hunt, op. cit., p. 40).

should be permitted to 'buy land or acquire it in any manner', the transfer should be registered in their behalf in the name of a Native Location Commission.⁵⁶ Practically, therefore, native ownership of land was admitted but theoretically the prohibition against such ownership was still maintained.

Under Crown Colony Government, the right of Natives to own land in the Transvaal was tested in the Transvaal Supreme Court on 4 April 1905, when Tsewu, a native who had bought land in the Kliprivierskloof township near Johannesburg, successfully applied for a court order to compel the Registrar of Deeds to pass transfer.⁵⁷ The judgement established the principle that in the Transvaal a native could obtain direct title to the land.⁵⁸

Squatting, both on crown lands and on private properties, was also regulated. In 1891 squatting on crown lands was prohibited by Volksraad Resolution no. 359.⁵⁹ This legislation, like most legislation of the 'Transvaal Republic'

56. Ibid. After 4 January 1886, land purchased by Natives was registered in the name of the Superintendent of Natives and subsequently, after the Anglo-Boer war, in the name of the Commissioner for Native Affairs and then in the name of the Minister for Native Affairs. Tomlinson Report, p. 32.

57. See Davenport and Hunt, op. cit., p. 40.

58. Ibid.

59. S. C. 3-1910, Report of the Select Committee on Native Affairs, Appendix A, p. 1.

government, was not rigorously enforced because of the practical difficulties involved. It was also found to be impossible to evict the natives as there were too many of them squatting on crown lands, and there was nowhere for them to go.⁶⁰ Hence in 1904 under Crown Colony Government it was decided to impose an annual rental of £1 on every male adult native who was deemed to be squatting.⁶¹ By June 1909 the native population living on crown lands in the Transvaal Colony was 15.1% of the total native population.⁶²

Law No. 21 of 1895 prohibited farmers from employing more than 5 native householders on one farm except with the government's permission.⁶³ This legislation also proved to be ineffective and was transgressed particularly by the Land Companies.⁶⁴

The termination of the independence of the Boer Republics by the treaty of Vereeniging, May 1902, gave impetus to the objective of a self-governing British federation in South Africa.⁶⁵ The establishment of the Inter-Colonial Council

60. Ibid.

61. Ibid.

62. Ibid., p. ii.

63. Ibid. This law amended Law II of 1887, (Davenport and Hunt, op. cit., p. 33).

64. S.C. 3-1910, op. cit., p. 3.

65. Thompson, op. cit., p. 8.

in 1903 was, therefore, envisaged as the base upon which this federation would grow.⁶⁶ Closer union also raised other questions such as a common Customs policy and a common Native policy. It was obvious that the diversity in the patterns of land tenure and franchise in each of the colonies, as outlined above, would be a drawback to the implementation of a uniform Native policy. Consequently it was decided at the South African Customs Union Conference held at Bloemfontein in March 1903 to appoint a Commission with the object of 'offering recommendations' in view of 'the coming Federation of South African Colonies, so that a common understanding on questions of Native policy might be reached.'⁶⁷ The terms of reference of this Commission, appointed on the 22 September 1903, under the chairmanship of Sir Godfrey Lagden,⁶⁸ were very wide. These included investigations of the 'status and condition of the natives; the lines on which their natural advancement should proceed; their education, industrial training and labour'.⁶⁹

66. Ibid., p. 13.

67. S.A.N.A.C. Report, p. 1.

68. A former Resident Commissioner of Basutoland and a man of wide experience in Native Affairs. Other members nominated by the respective Colonial Governments were: W.E. Stanford and F.R. Thompson (Cape Colony); S.O. Samuelson and Marshall Campbell (Natal); J.N.O. Quayle Dickson and J.B. de la Harpe (Orange River Colony); J.C. Krogh and J.A. Hamilton (Transvaal); Thomas C. Scanlen (Rhodesia) and H.C. Sloley (Basutoland), S.A.N.A.C. Report, p. 1.

69. Ibid.

They also encompassed native land tenure, native law and administration and native marriages, particularly with regard to the extent and effect of polygamy. The prohibition on the sale of liquor to natives was also considered.⁷⁰

Of particular interest were the findings of the Commission regarding native land tenure.

With regard to Communal occupation of land, the Commissioners pointed out that, in all the colonies, 'tracts of land had been recognised, set aside and reserved to natives for communal occupation' and that 'the native population as a whole instinctively clings to this system'.⁷¹ However they applauded the attempts which some natives had made to 'gain independence and assert individualism'⁷² and were of the opinion that this trend, rather than the old communal spirit, should be encouraged. They therefore, recommended that, 'recognising the attachment of the Natives to and the present advantages of their own communal or tribal system of land tenure, there should not be any general compulsory measure of sub-division and individual holding of the lands now set apart for their occupation, but where the Natives exhibit in sufficient numbers a desire to secure and a capacity to hold..individual rights.., provision should be

70. Ibid.

71. S.A.N.A.C. Report, p. 26.

72. Ibid.

made accordingly under well-defined conditions'.⁷³

Although individual tenure was advocated for the reason that it emulated the European rather than the Native form of land ownership, the majority of the Commissioners recommended that the right of permanent occupation should be assured, subject to certain reservations which were obviously not applied to European holdings. Natives, for example, were to forfeit their holdings if they were convicted of rebellion, treason or sedition; if they failed to occupy their land beneficially; or if they failed to pay rent or tax punctually; or were convicted for a second time of stock theft.⁷⁴ It was also recommended that, unless there were special circumstances, the maximum holding should be approximately four morgen (8.4 acres) and that no mortgaging would be permitted. Further, no transfer or alienation of the land was to be allowed without government approval.⁷⁵

Three of the Commissioners, Stanford,⁷⁶ Sloley⁷⁷ and

73. Ibid.

74. Ibid., p. 28.

75. Ibid., p. 29.

76. Col. W.E.M. Stanford, Former superintendent of Native Affairs in the Cape Colony. Served as Secretary for Native Affairs 1904-1908. See below, chap. 4 pp.

77. Sir Herbert Ceil Sloley, 1855-1937, began his career in a London Bank. At age of 22 he came to South Africa to join the Cape Mounted Rifles. He transferred to the Cape Police in 1883, and then to the Basutoland Mounted Police, of which he became Assistant Commissioner in 1889. He was Government Secretary of Basutoland in 1898 and from 1916 Resident Commission there. He was recognized as an expert of Native Affairs. (Rosenthal E. Encyclopaedia of Southern Africa, p. 472).

Dickson⁷⁸ disassociated themselves from these reservations. They urged that the conditions of tenure recommended by the majority of the Commission were inadequate and recorded their belief that Natives had 'a just claim to a greater fixity of tenure'.⁷⁹

The definition which the Lagden Commission gave of squatting is also interesting. Apart from including natives residing on crown lands not formally set apart for native occupation, it further included 'natives on private property who are not in the continuous service of the owner or occupier of such property'.⁸⁰ Hence, any Native who leased land from a European without working for him, would be legally defined as a squatter. This interpretation of squatting was to be incorporated in the Union Government's 1913 legislation.⁸¹

Having thus widened the definition of the term 'squatter', the Commission went on to argue that 'the unrestrained squatting of natives on private farms, whether as tenants or other-

78. Captain John Quayle Dickson came to South Africa in 1880 from the Isle of Man. He farmed for many years in the Cape Colony, and served with the Intelligence Department during the Anglo-Boer War, 1899-1902. He became Native Affairs adviser to the Orange River Colony Government in July, 1902. (The South African Who's Who, 1908).

79. S.A.N.A.C. Report, p. 30.

80. Ibid., p. 30.

81. Natives Land Act No. 27 of 1913.

wise, is an evil and against the best interests of the country'.⁸² It recommended that 'no native other than bona fide servants of the owner or occupier, with their families, should be permitted to live on private lands, except under government sanction and control, and further, that such sanction should only be given on proof that it is necessary or desirable...'⁸³

The Commission's recommendations concerning the purchasing and leasing of land were of great significance in determining future native policy. In its preamble it argued that certain areas in each of the colonies had been specifically reserved for use by Natives, and that Europeans were debarred from acquiring land therein. It pointed out that, with the exception of the Orange River Colony, the converse was not true: Natives were able to buy land outside the reserves. Hence the Commission argued that it had become necessary to safeguard the interests of the Europeans to prevent the 'amount of land in Native occupation from being undesirably extended'.⁸⁴ The principle of segregation itself was not questioned - it was presented as an a priori truth that the 'absolutely necessary'⁸⁵ political and social distinctions should be maintained. Unless the growth of a mixed rural population was discouraged, it would be difficult to do so.⁸⁶

82. S.A.N.A.C. Report, p. 32.

83. Ibid., p. 33.

84. Ibid., p. 35.

85. Ibid.

86. Ibid.

Consequently, the Commission felt that 'certain restrictions upon the purchase of land by natives are necessary' and recommended 'that purchase by natives should in future be limited to certain areas to be defined by legislative enactment'.⁸⁷ Such restrictions governing the purchase of land by natives were also to apply to the leasing of land.⁸⁸

Stanford, one of the Cape Colony's representatives on the Commission, dissented from the majority on this question of restricting the right of individual natives to purchase land to certain specified areas.⁸⁹ The Natal representatives, Samuelson⁹⁰ and Campbell⁹¹ supported his objection. The reasons for this opposition will be discussed in the next chapter.⁹²

87. Ibid.

88. Ibid., p. 36.

89. Ibid., p. 30.

90. O. Samuelson, Under - Secretary for Native Affairs in Natal 1893-1909. Believed in separate development or 'progress along parallel lines'. Although he had an excellent knowledge of the Zulu language and a certain understanding of African Customary law, he seldom expressed an original thought on the problems of African Administration. (Marks, op. cit., p. 25).

91. Sir Marshall Campbell, a sugar pioneer who managed the Natal Estates Ltd. He served in the Natal Legislative Council as a government nominee for the Natal coastal districts prior to 1893, and after responsible government he represented the Victoria Constituency in the Natal Legislative Assembly. After Union he represented Natal in the Senate. Ed. de Kock and Kruger, Dictionary of South African Biography, Vol. 2, p. 121.

92. See below, chap. 4, p. 62-63.

The Commission also considered the desirability of vesting native lands in a separate South African trust such as had existed in Natal. It decided against this and recommended in favour of native lands being administered by their respective governments.⁹³

Having dealt with the question of land tenure, it then went on to consider the desirability of extending the reserves and of setting aside land exclusively for native occupation. As these recommendations have acquired authority by constant repetition, they are worth quoting in full:

- '(1) The time has arrived when the lands dedicated and set apart, or to be dedicated and set apart, as locations, reserves, or otherwise, should be defined, delimited and reserved for the natives by legislative enactment.⁹⁴
- (2) This should be done with a view to finality in the provision of land for the native population and thereafter no more land should be reserved for native occupation.
- (3) The creation, subject to adequate control, of native locations for residential purposes near labour centres or elsewhere, on proof that they are needed.
- (4) The right of occupation of the lands so defined and set apart shall be subject to a condition of forfeiture in case of rebellion'.⁹⁵

93. S.A.N.A.C. Report, p. 9

94. Ibid., p. 39.

95. Ibid.

The recommendations of the 1903 South African Native Affairs Commission have been discussed in some detail because the Commission's report was a milestone in the history of South African native policy. In his study of post-Union native policy, Tatz stressed this when he observed that 'the native policies of successive South African governments since Union have remained unchanged in principle and that the guiding principles of Union Native policy were formulated specifically and in precise terms immediately prior to Union'.⁹⁶ Certainly the Beaumont Commission was to stress its debt to this Commission. It regarded its own work as being 'merely supplemental to the Report of the South African Native Affairs Commission of 1903-1905, to whose recommendations the Natives Land Act may be said to owe its origin'.⁹⁷ Although the Report of the South African Native Affairs Commission was of overriding significance in laying down the guidelines of the native policy of the first Union government, mention should also be made of the several Commissions which were appointed in the period following the submission of the report and prior to the passing of the Natives Land Act of 1913.

In 1907 the Cape Colony appointed a Departmental Commission to investigate land settlement on unreserved land, with a view to eliminating squatting and applying existing

96. Tatz, op. cit., p. 6.

97. U.G. 19-1916, Report of the Natives Land Commission, Vol. 1, p. 1.

location laws.⁹⁸ The Report of the Commission revealed the urgent need to investigate the entire land position in the Colony and resulted in the appointment of a further Commission (December 1909)⁹⁹ specifically to try and resolve the problem prior to Union. By the time Union became effective in May 1910, however, the question was not settled, a fact which was underlined by the Commission's own opinion that the land available for native occupation was inadequate, for which reason it recommended that pastoral farming be discouraged in favour of agricultural farming.¹⁰⁰

In Natal, the Natal Native Affairs Commission 1906-1907 was largely concerned with the control and administration of Native Affairs.¹⁰¹ Appointed to investigate the circumstances which had led to the Bambatha uprising,¹⁰² the Commissioners found that native lands were overcrowded and inefficiently occupied. The Report recommended the appointment of Location Inspectors whose duty it would be to encourage closer settlement in native areas and to encourage natives to adopt improved methods of agriculture. The purpose of these recommendations was to prepare Native Reserves and Locations to carry larger communities.¹⁰³

98. Van Biljon, op. cit., p. 428.

99. G. 26-1910, Cape Colony, Reports of the Native Affairs Commission.

100. Ibid., pp. 15-16.

101. Lekhela, op. cit., p. 80.

102. See Marks, op. cit. Also J.A. Stuart, A History of the Zulu Rebellion of 1906.

103. Lekhela, op. cit., p. 80.

A Commission on Natives and Native Affairs in the Orange River Colony issued its Report in 1909. Here the condition of 'Coloureds' (all non-whites, including natives) was acute because they could not own property outside the reserves and could be turned off white farms at any time. Nonetheless, the Commission rejected the idea of creating further reserves on the grounds that this would lead to natives crowding into the new reserves and would thereby accentuate the shortage of labour. Further, there was no land available for this purpose in the Orange River Colony.¹⁰⁴ The Commission's main concern was with measures which aimed at strengthening control over the natives within the Colony's borders. To this end, it recommended that ploughing on shares¹⁰⁵ should be condemned and expressed the opinion that provisions of the Masters and Servants Ordinance should be strictly enforced. Lekhela adequately sums up the Native policy of the Orange River Colony saying: 'The problem of Native Land Settlement seems to have been beyond the compass of the Orange Free State government. Its primary aim appears to have been to maintain the status quo'.¹⁰⁶

Although the Botha government in the Transvaal considered appointing a Commission to investigate native policy in 1908,

104. Ibid., p. 82.

105. See Davenport and Hunt, op. cit., p. 5, for a definition of 'share-cropping'.

106. Lekhela, op. cit., p. 83.

it decided against it in view of the decision of the Transvaal government, early in 1908, to promote federation.¹⁰⁷

During the Closer Union period 1908-1909, the question of native land ownership was overshadowed by the franchise question. To some extent these two topics were related because, in the Cape Province where natives held franchise rights, these rights were linked to property qualifications. Thus any legislation which interfered with a native's ability to procure property freely, would impose a restriction on his ability to exercise his franchise right. One of the most contentious issues of this period was whether the franchise rights of natives would be abolished in the Cape Province or whether these rights would be extended to the other provinces.¹⁰⁸ Eventually a compromise was achieved, largely as a result of agreement between Smuts and Merriman.¹⁰⁹ They, with the cooperation of Steyn, agreed that the settlement of so controversial an issue should be left to a united Union government.¹¹⁰ In the interim, the status quo with regard to the exercising of franchise rights would be maintained in each of the provinces.¹¹¹

107. Van Biljon, op. cit., p. 432.

108. Hancock, Smuts - The Sanguine Years 1870-1919, p. 220.

109. Ibid., pp. 218-226.

110. Ibid., p. 254.

111. Ibid.

After Union, the question of natives and the land was taken up promptly. In November 1910 Parliament appointed a Select Committee with the Minister of Native Affairs, Burton,¹¹² as chairman. It was instructed to investigate native land settlement, with particular reference to the 'squatting' problem.¹¹³ The Select Committee produced a preliminary Bill embodying its conclusions, but these were not taken up until 1913 when the Natives Land Bill was introduced. The work of the Burton Select Committee lacked originality and its only significance is that it re-enforced and reasserted the findings of the South African Native Affairs Commission. It quoted paragraph 207 of the South African Native Affairs Commission Report: 'The time has come when the lands dedicated and set apart.. as locations, reserves, or otherwise should be defined and delimited and reserved for the Natives by legislative enactment'.¹¹⁴ With regard to squatting, the Commission felt that the squatting laws then in existence in the Orange Free State, Transvaal and Natal were unsatisfactory

112. Henry Burton, 1866-1935, was admitted to the Bar in 1892 and began practising in Kimberley. Because of the Jameson Raid he became a strong supporter of the Afrikaner Bond for which he was elected to Parliament in 1902. J.X. Merriman took him into his cabinet in 1908 as attorney-General, and after Union he became first Minister of Native Affairs and later of Railways. He transferred to the Ministry of Finance in 1920 and retired from Parliament in 1924, (Rosenthal E. op. cit., p. 79).

113. S.C. 3-1910, Report of the Select Committee on Native Affairs, p. 3.

114. Ibid., p. 5.

and 'recommended legislation broadly on the lines of the resolutions arrived at by the South African Native Affairs Commission'.¹¹⁵ They also advised that 'wherever practicable' the existing squatters law of the Transvaal should be carried out.¹¹⁶

The recommendations of the various Commissions which had enquired into the question of native land ownership in the colonies before 1910, and of the Burton Select Committee of 1910, taken in conjunction with the trend of legislation in the colonies in the pre-Union period, point to the emergence of a definite pattern of policy with regard to natives and the land. The 1913 Natives Land Act was merely the climax to these earlier moves. This legislation deserves more detailed consideration.

We have noted that the object of the Natives Land Act¹¹⁷ was primarily an attempt to confine Native ownership of land to specified areas and thus to bring about territorial segregation¹¹⁸ of the races. Certain clearly defined native areas were set aside as 'scheduled areas' and only natives could own land in these areas. Natives were immediately precluded

115. Ibid., p. 4.

116. Ibid., p. 6.

117. See Appendix 1 for the text of this Act.

118. A 'possessory segregation' rather than a 'residential segregation'. See P. Walshe, op. cit., p. 44. This terminology was first used by Brookes, Native Policy in South Africa.

from purchasing land outside these scheduled areas, unless with the Governor-General's approval.¹¹⁹ The secondary object of the Act was to promulgate legislation which would limit 'squatting' by natives in white-owned areas.

Although the intention was to formulate a coherent policy for the whole of the Union, the Natives Land Act failed to overcome the major obstacles presented by the different policies which were already being followed in the Orange Free State and the Cape Province. In the case of the Orange Free State, the provision regarding land ownership outside the scheduled areas did not apply.¹²⁰ This meant that no native ownership of land was possible outside the scheduled areas. In addition, the existing legislation prohibiting squatting, leasing and 'ploughing on shares', as well as enforcing labour restrictions, was reasserted, the effect being to make any contract, other than a purely labour contract, between European and Native in the Orange

119. The Governor-General's approval was rarely granted. Over 20 years the reserves were increased by only 1% as a result of such concessions. Walshe, op cit., p. 45.

120. Natives Land Act No. 27 of 1913, clause 7.

Free State immediately invalid.¹²¹

By contrast, in the Transvaal and in Natal, all agreements in existence at the time of promulgation were to be honoured and could be renewed 'until Parliament, acting upon the report of the ..Commission, has made other provision'.¹²² However no new agreements involving the hiring or leasing of land to natives could be entered into. Those natives who were not protected by a registered contract when the Act came into operation, were compelled to work as labourers.¹²³ To qualify as a bona fide farm labourer the native had to render a minimum of ninety days service per annum.¹²⁴

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121. Natives Land Act No 27 of 1913, see Section 7, (1)(2)(3). Davenport and Hunt, op. cit., do not agree that existing contracts were immediately invalidated arguing that 'Section 8(1)(a) explicitly stated that existing agreements for the hire of land could remain in force until such time as Parliament had made provision for the release of further land for African use'. But they do say that 'a reading of Section 6(c) of the Act in conjunction with sections 7 and 8 (2) led many Free State farmers to conclude that they... were obliged to force African farming partners either to leave the farm with their stock or to sell their stock as a condition of remaining on as labourers' p. 42. Brookes, op. cit., argues though that 'there was no element of doubt in the Act. It certainly reads as if existing contracts in the Orange Free State terminated automatically on the passing of the Act'. (p. 337) Walshe, op. cit., supports this view, pointing that evictions occurred at ten day's notice, (p. 45). This was also confirmed in the Report of the Natives Land Commission, (U.G. 19-1916, p. 3.)
122. Ibid., Section 8 1(a).
123. Ibid.
124. Ibid., Section 10 1(b).

The Cape Province was specifically excluded from the provision restricting land acquisition¹²⁵ because the ownership of property was a qualification for the franchise in that province.

A further limitation of the Act was that it applied only to native land in rural areas. Tenure and occupation of land within the limits in which a municipal council, town council, town board, village management board, health board or other local authority exercised jurisdiction, was excluded.¹²⁶

The extent of land scheduled by the Act was very limited,¹²⁷ it being implied that further legislation would be implemented when the Commission, which was constituted under the provisions of the Act, had reported.¹²⁸

There were not as many critics of this Act as there might have been had the Act not purported to be simply a temporary measure. Furthermore, as the Act met with little opposition, Parliamentary opponents of the Act¹²⁹ were not numerous, and one must conclude that the principle of terri-

125. Ibid., Section 8 (2).

126. Ibid., 8 1(g).

127. 10, 422, 935 morgen out of 142, 996, 958 morgen. U.G. 19-1916, op. cit., Appendix 3.

128. See above p. 11.

129. Notably J.X. Merriman and T.L. Schreiner, (House of Assembly Debates, 1913, cols. 2439-2447; 2461-2468).

torial segregation found wide acceptance.¹³⁰ Although introduced by Sauer, the legislation was believed to be Hertzog's work,¹³¹ and he spoke strongly in its favour.¹³² In one respect Hertzog's speeches deserve commendation because, as Tatz says.. 'Hertzog was the only protagonist of segregation and abolition of the Cape franchise who openly discussed dishonesty, injustice and deprivation in dealing with Africans'.¹³³

Far more opposition was voiced by Natives than by Europeans. In July 1913 the South African National Congress (later the African National Congress)¹³⁴ discussed the legislation and sent a deputation to Pretoria.¹³⁵ It was hoped to effect the repeal of the Natives Land Act; failing that at least to get the clause rescinded which prevented evicted native tenants from entering into agreements other than as servants.¹³⁶

130. A division was not called after the 3rd reading of the Bill. See House of Assembly Debates, col. 3374.

131. O. Pirrow, J.B. Hertzog, p. 198, says that Hertzog had begun the preparation of this bill in 1912 while still Minister of Justice before his resignation in 1912. See also Calpin, There are no South Africans, p. 158 and Kruger, The making of a Nation, p. 60, and Davenport and Hunt, op. cit., p. 57.

132. House of Assembly Debates, 1913, cols. 2494-2502.

133. Tatz, op. cit., p. 20.

134. For a detailed study of this movement see Walshe, The Rise of African Nationalism in South Africa. Also Plaatje, Native Life in South Africa.

135. Walshe, op. cit., pp. 48-49.

136. Ibid.

The deputation met the Acting Minister of Native Affairs, F.S. Malan.¹³⁷ It was advised by him to await the report of the Natives Land Commission. Rejecting this advice the S.A.N.C. appealed directly to the Imperial Parliament to rescind the legislation.¹³⁸ Its delegation, consisting of John L. Dube, Dr. W.B. Rubusana, S.T. Plaatje, S. Msane and T.M. Mapikele failed to persuade the Imperial government to intervene. Among the reasons for failure was the argument which they encountered to the effect that .. 'The Act is not a sudden inspiration of the Botha government. It is the outcome and result of a Commission appointed some years ago, presided over by Sir Godfrey Lagden.. This Act is practically doing no more than carrying out its recommendations'.¹³⁹

137. Ibid., p. 49.

138. Ibid.

139. Tatz, op. cit., p. 24.

3. SIR WILLIAM H. BEAUMONT

The Natives Land Act of 1913 had specified the appointment of a Commission to determine the areas of the Union which should be reserved for white, and those areas which should be reserved for black, ownership. The Act also stipulated that the Commission should consist of not less than 5 persons, and that it was to submit its report within two years.¹

When the Commission was appointed, Sir William H. Beaumont was chosen as its chairman. His legal training, combined with his long experience of native affairs, qualified him for the post.

Not much is known of Beaumont's early career. The son of a Lieutenant Colonel of the 23rd Madras Light Infantry, he was born in India on February 24, 1851.² He was educated at Sherbourne and Sandhurst Military College, where he passed out second in his class.³ He evidently intended following his father's career and joined the 75th (Stirlingshire) Regiment, being commissioned to the rank of Ensign in 1870 and Lieutenant in 1871.⁴ In the same year he came to Natal

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1. Natives Land Act No. 27 of 1913, Section 2(a), 1-2.
 2. Beaumont Papers. See also the Natal Civil Service List, 1902, p. 190.
 3. Beaumont Papers.
 4. Ibid.

with his regiment and in 1873 he became private secretary to the Administrator of Natal,⁵ Lt.-Col. T. Milles⁶ and continued in this post after the appointment of Sir Benjamin Pine as Lt. Governor. Later in that year he became clerk of the Executive Council.⁷ He accompanied the Langa-libalele expedition in 1873,⁸ but left the Army in 1875, after a brief period in Ireland.⁹ He returned to Natal to take up the position of clerk to the Governor's office, coupled with that of clerk to the Executive Council.¹⁰

During the Zulu War Beaumont was District Commandant of the Division of Klip River. He became aware of the planned attack on Chelmsford's men at Isandlwana, and sent a message of warning to him. It is not known whether Chelmsford received this message.¹¹ Beaumont raised three native contingents and a corps of mounted infantry for the defence of the border. He was decorated for his contributions and thanked by the Lt. Governor and the Assembly in January 1879.¹²

5. Ibid.

6. Milles was Administrator for part of 1872, prior to the appointment of Lt. Governor A. Musgrave. When he left Milles again became Administrator (early 1873) until the arrival of B. Pine as Lt. Governor. (Natal Civil List, 1895).

7. Natal Blue Book, 1873, p. M.II.

8. See his own account of this expedition, housed in the Killie Campbell Library, Durban.

9. Beaumont Papers.

10. He held these position during 1875, 1876, 1877. Natal Blue Books, 1875, 1876, 1877.

11. This is reported in a series of articles entitled 'Reminiscences of the Zulu War', published by the Natal Mercury, 22 January 1929. H.C. Lugg, A Natal Family Looks back also refers to Beaumont's message to Chelmsford, p. 84.

12. Beaumont Papers.

During the Anglo-Boer War, Beaumont was leader of the United Rifle Association in Pietermaritzburg.¹³ He organized and trained 1,000 men for defence and was again thanked by the government on the 25th June 1900, for his contribution to the war effort.¹⁴ Similarly, on the 11 February, 1907, he was commended for having organized the Pietermaritzburg Reserves under the Militia Act.¹⁵

Although Beaumont acted briefly as magistrate for the Umlazi division towards the end of 1874,¹⁶ his judicial career effectively began with his appointment as Magistrate of the Newcastle division in 1878.¹⁷ During the First Anglo-Boer War he was instructed by the Colonial office to warn Commandant General Piet Joubert that he was encroaching on Natal soil. However, Beaumont exceeded these instructions by telling Joubert that ..'the quarrel of the Transvaal Boers is with the Imperial Government, and that the Natal Government has from the beginning wished, and believed also that the Transvaal Boers wished, that the Government and people of Natal should have nothing to do with the quarrel, and should hold a neutral position'. He was reprimanded by the Governor and instructed to tell Joubert that this paragraph has been 'cancelled'.¹⁹

13. Ibid.

14. Ibid.

15. Ibid.

16. The Natal Civil Service List, 1902, p. 190.

17. The Natal Blue Book, 1878.

18. C.O. 1/1881.

19. Ibid.

In 1894 Beaumont was admitted as an Advocate of the Supreme Court,²⁰ and in 1898 he acted as a Puisne Judge of the Supreme Court.²¹ In 1902 he was appointed a judge of the Natal Supreme Court.²² For a brief spell between the departure of Governor Sir Henry McCallum in June 1907, and the arrival of Sir Mathew Nathan in September 1907, he held office as Administrator.²³ He also acted as chief magistrate, and chief justice of Natal in 1909.²⁴

Throughout his career Beaumont was very active on government committees of inquiry. In February 1874 he sat on the Commission to report on the chief offices (Civil Service) in Pietermaritzburg.²⁶ In 1882 he was one of the members of a sub-Commission appointed to settle claims for compensation after the war.²⁶ He conducted investigations into the Umsinga Magistracy in 1884 and the Stanger Magistracy in 1890 and he sat on the Board for the revision of Magistrates Court Rules in 1890.²⁷ Other Boards on which he sat included the Board to frame Rules and Regulations for the Inferior Courts

20. Beaumont Papers. See also the Natal Civil List, 1909, p. 177.

21. C.O. 103/98.

22. Beaumont Papers.

23. Marks, op. cit., p. 41.

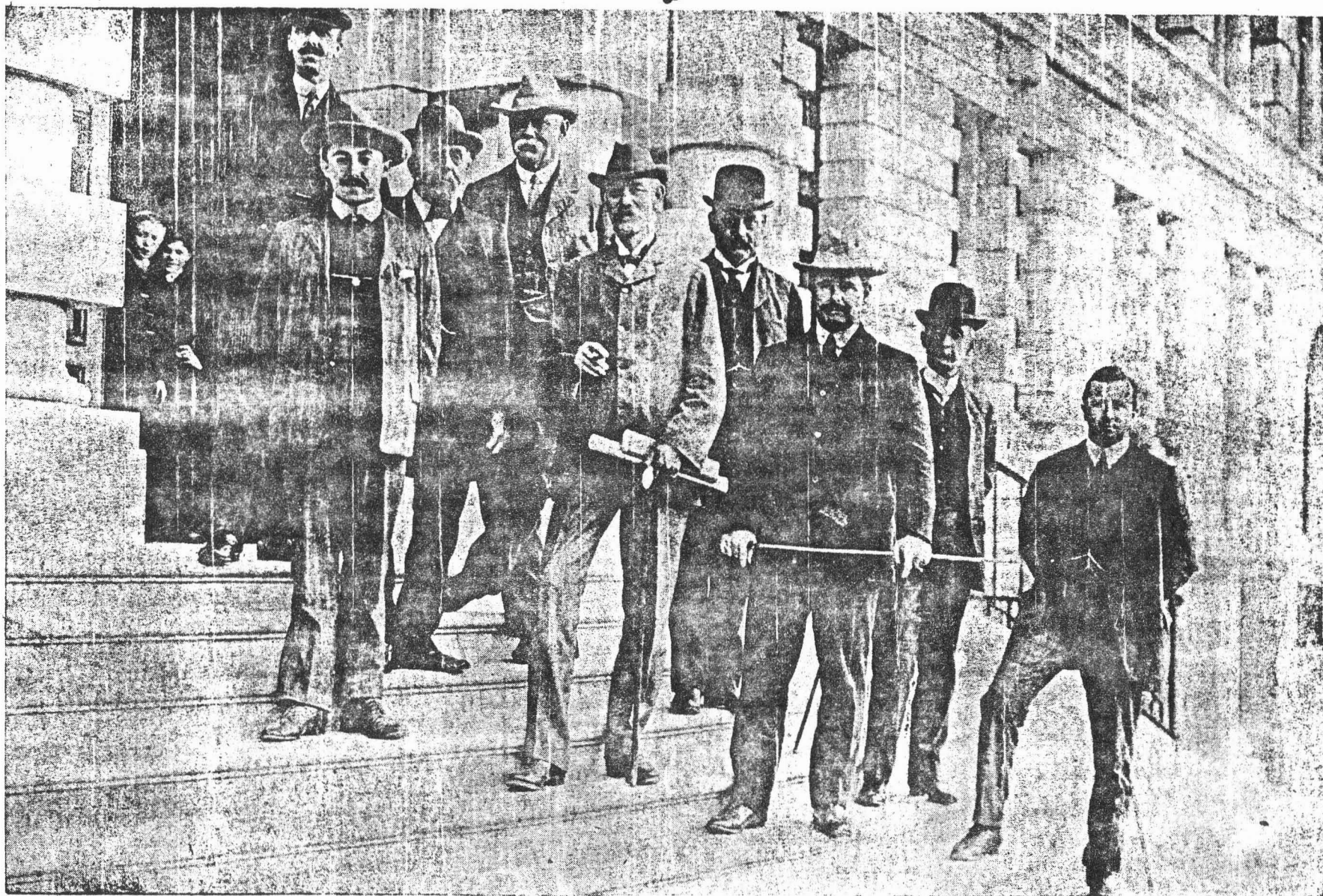
24. Beaumont Papers.

25. Ibid.

26. Ibid.

27. Ibid.

... NATAL RAILWAY BOARD OF INQUIRY. ...



The Board were appointed to inquire into the grievances alleged by the railwaymen in connection with the recent strike, and their report is expected immediately. The names are, from left to right: Mr. Edwin Smith, Mr. Thos. Boydell, Sir Benjamin Greenacre, J. P., Lieut.-Col. G. Leuchars, C.M.G., D.S.O., Hon. Mr. Justice Beaumont (Chairman), Mr. G. B. Laffan, M.I.C.E., Capt. B. H. O. Armstrong, R.E., and the Secretaries, Mr. Wm. May and Mr. Alex. Pettigrew.

Photo by H. Leigh

(1894); Board to frame Rules and Regulations for Licensing Board (1896); Civil Service Board (1896) and the Board of Inquiry into Grievances of Railway Employees (1909).²⁸

In 1906 he was appointed to hold an inquiry into 'charges made by the Bishop of Zululand against Royston's Horse in connection with the shooting of certain 5 natives'.²⁹ The Bishop alleged that soldiers under Col. Royston had shot 5 natives in cold blood, while Royston claimed that they were prisoners who were shot while trying to escape.

In 1909 Beaumont served on a delimitation commission to delimit the electoral constituencies for the first Union parliament.³⁰

After his retirement from the Bench in 1910, Beaumont remained interested in public matters and soon emerged as one of Natal's more prominent supporters of General Botha with whom it was later said, he had formed a 'fast and enduring friendship... shortly after the Peace of Vereeniging'.³¹ This association assumed particular importance in the immediate post-Union period. Botha had fought the 1910 election without

28. Ibid.

29. C.O. 84/1906 His Report was published in the Gazette of 18 September 1906. Beaumont concluded that the Bishop's charges were unsubstantiated.

30. Beaumont Papers.

31. The Natal Mercury, 10 January 1930.

NOTABILITIES IN NATAL



SIR WILLIAM BEAUMONT.

"I have never sought to be elected a member of Parliament, and have no intention of seeking such an honour in the future, for I have no axe to grind. I am in a very happy position, for I am an old pensioner, and prefer to go along as I am doing."—*Speech at Greytown.*

forming a Union-wide political party.³² He had done this primarily to placate English-speaking South Africans. After his victory in 1910, the formation of a new party could no longer be postponed, and this immediately raised the question of English-speaking support. Botha naturally looked to Natal for support.

In November 1911, motivated no doubt by the forthcoming Bloemfontein Congress, at which the constitution of the South African National Party, which had been drafted earlier in the year,³³ was to be considered, Beaumont wrote to the Natal Mercury urging the electorate to give their support to Botha. The theme of his argument was that Botha's government represented a sincere attempt to 'soften and ameliorate' racial reelings which 'if allowed to grow, must end disastrously for the country'.³⁴

This tentative move into the political arena was soon followed by more active participation. He was one of the representatives from Natal who were invited to attend the

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32. He had led an amalgamation of 3 pro-Botha parties from the Cape, Transvaal and Orange Free State. They were the Bond, the S.A.N.P. (an amalgamation of Het Volk and the Transvaal National Association in 1910 before the election) and De Unie.
33. Early in 1911 representatives of the Kindred provincial parties had met in Cape Town to draft the constitution of the South African National Party. (Kruger, op. cit., p. 53).
34. The Natal Mercury, 16 November 1911.

Congress in Bloemfontein³⁵ which resulted in the formal creation of the South African National Party.

Beaumont's activities at the Congress received considerable publicity in the Natal newspapers. His speeches were quoted at length, and in all the recurrent theme was the need for a non-racial policy as represented by Botha's party. He also played specifically on the sentiments of Natal: 'I can only say that if General Botha is driven by the Opposition or by the differences of his own party to resign, the Unionists will not get into power, but a party that will be far more racial in its tendencies, and a party that will have far less consideration for the interests of Natal. Natal has no wish to be governed by a party dominated by Cape interests, or by a party led by Capitalists'.³⁶

At the Congress Beaumont was elected to a Sub-Committee which was appointed to consider and report upon the draft constitution of the South African National Party. After the Congress he became chairman of a provisional committee which established the party in Natal. In September 1912 he presided at a meeting in Pietermaritzburg which resulted in the formation of two branches of the Party - one for Pietermaritzburg North and one for Pietermaritzburg South.³⁷ A few days later, the

35. 70 delegates from Natal accepted invitations to attend the Congress. Their names are to be found in the Natal Mercury, 25 November 1911.

36. The Times of Natal, 27 November 1911.

37. The Natal Mercury, 11 September 1912.

Umvoti Country Division of the South African National Party invited him to address the electors on the constitution of the Party.³⁸ The following year he was instrumental in the formation of a branch of this party in Durban.³⁹

Despite the fact that most Natalians were distrustful of the influence which the Transvaal was exerting, and of Hertzog's anti-Imperialistic sentiments, Beaumont supported the S.A.N.P. because he felt that the predominantly Dutch party was less racially antagonistic than the Opposition, which contained an ultra-English element which was 'forever parading its patriotism and flagwagging'.⁴⁰ Essentially though Beaumont felt that the party system was inappropriate in South Africa at that stage as it encouraged division on racial lines. He said that the party system had 'already had the effect of making the racial question the test for parliamentary representation in almost every constituency in the country with the result that the members of the House of Assembly are ranged into two racial camps'.⁴¹

Beaumont was also in agreement with the education policy of the Botha government. He felt that it was 'not only highly

38. The Times of Natal, 13 September 1912.

39. The Natal Mercury, 27 February 1913.

40. Ibid., 25 November 1912.

41. Ibid., 16 November 1911.

desirable, but wise and proper, that the children of South Africa should become acquainted with both languages'.⁴² He also agreed with the provisions for bilingualism in the Civil Service and felt that it was simply prejudice which blinded the ultra-English section to the logic of its implementation. Particularly in the early years of Union, when there was much criticism in Natal of the speeches of Hertzog and his supporters, Beaumont believed that Hertzog was sincere in wanting to conciliate English speaking colonists, and cited Hertzog's willingness to accept the majority report of the Education Committee as evidence of a conciliatory attitude.⁴³ However, following Hertzog's de Wildt speech and the ensuing rift between Botha and Hertzog, Beaumont came to feel that 'however well-intentioned Mr. Hertzog might be, it is not compatible that he should be a member of the Ministry'.⁴⁴

Beaumont was invited by the Natal Mercury to set out and explain the policies and principles of the S.A.N.P. He conceded that 'neither the policy nor the principles of the South African Party can be claimed to be the exclusive property of that Party, for as a matter of fact they are almost identical with the political programme of the Unionists..'⁴⁵ However he felt that there was 'a vast difference between the mere agreement of parties on general principles and their

42. Ibid.

43. The Times of Natal, 27 November 1911.

44. The Natal Mercury, 27 February 1913.

45. Ibid.

ideas as to the methods by which these principles can best be given effect to'.⁴⁶ He felt that the 'essential difference' between the parties was that it was 'the policy of the South African Party .. to proceed slowly and surely, while that of the Unionists is to make undue haste'.⁴⁷ Part of the explanation for this difference, he felt, lay in the differences in national temperament between English and Dutch - the one sector 'not satisfied unless we progress at express rate' while the other finds it necessary, sometimes, to mark time while the non-progressive section of their party is being educated up to the mark'.⁴⁸

Beaumont's activities in post-Union party politics also involved him in debate on the other race problem, then overshadowed by Anglo-Dutch relations. His thoughts on native policy were well known when in 1913, he was appointed to head the Natives Land Commission. In May, 1904 he had testified before the South African Native Affairs Commission, under the chairmanship of Sir Godfrey Lagden.⁴⁹ Questioned on whether or not he felt that existing native reserves were adequate, Beaumont expressed the opinion that, if they were utilized more efficiently, they would be. He advocated a more intensive system of agricultural rather than pastoral farming,

46. Ibid.

47. Ibid.

48. Ibid.

49. S.A.N.A.C. op. cit., Vol. 3, Appendix C, p. 17f.

because far less acreage would then be necessary for the support of the same population.⁵⁰ These economic considerations were reinforced by moral disapproval of a system where 'every young Native who goes out and herds cattle, is simply idling, and absolutely getting into the way of leading an idle life; it is being ingrained into him at the very time when that boy ought to be taught that it is good to work and we are losing a valuable amount of labour in consequence'.⁵¹

With regard to the tribal system, Beaumont said that he favoured its retention, providing that the tribes were 'neither too big not too small'. Tribes should form a convenient administrative unit, under the chief, whose powers should be curbed to the extent that they would no longer be able to 'meddle' in the administration of the tribe.⁵²

In the light of the views which Beaumont was later to hold on the delimitation of Natal and Zululand, it is interesting to note that in 1904 he was 'perhaps singular in his opinion that Natal would never be a white man's country'.⁵³ His argument was that 'if you once recognized the fact that you have your Europeans increasing at a small percentage, and that you have your Natives, on the other hand, protected in every favourable way from everything that used to kill them

50. Ibid., p. 21.

51. Ibid.

52. Ibid., p. 18.

53. Ibid., p. 22.

off in the old days, and that you have them multiplying at an enormous rate - what is going to be the end of it? If you once recognize the fact that this is going to be a black man's country, you need not be afraid of it. I say that if you will only educate these natives and train them to be an agricultural people, you will have the whole country cultivated in time, by these people, and that they will produce ten times the wealth out of the country that they are doing now; and not only that, but you will support 3 or 4 times the white population that would be supported under any other circumstances. This country has to be developed by the black man under European supervision, if it is going to be made anything of at all... One of the principle reasons why you cannot have a white population in Natal ..(is that) .. up to the present time you have not discovered any staple article of export. You cannot grow a great quantity of anything, because you are limited to your local market.⁵⁴

With regard to franchise rights for Natives, Beaumont dismissed the idea of any form of parliamentary representation being accorded to the natives. In his own words: 'I hold only one view, and that is I would tell the Natives that there is no hope of their getting the franchise, absolutely none. I would not lead the native to believe that he could hope for that, because I can see it is absolutely impossible...

54. Ibid., p. 23.

I cannot conceive such conditions in this country - unless you abandon it altogether - under which you could entitle the native to exercise the franchise with any benefit to himself or to anybody else'.⁵⁵

In the same spirit, Beaumont was chary of allowing native opinion to be voiced as he felt it was 'dangerous' and would give them 'the opportunity of combining and concocting and scheming and working together'.⁵⁶ Any meetings held to determine Native views 'should have no power to do anything themselves, but should serve merely as a means.. of the Government arriving at.. the real opinion of the people'.⁵⁷ He felt that Native representation should be by nominated - not elected-men and, that at least one person, be he Secretary for Native Affairs, Permanent Under-Secretary or Prime Minister, should have very wide powers to deal with Native Affairs, and that this person should not be answerable for his actions under the normal conditions prevailing under the party system.⁵⁸

Associated with the franchise question, Beaumont held firm convictions on the question of exempted natives in Natal, and the rights which they should be accorded. He felt that

55. Ibid., pp. 25-26.

56. Ibid.

57. Ibid.

58. Ibid.

it was much too easy for natives to become exempted,⁵⁹ and did not fully approve of these natives exercising the franchise. He felt that they should be subjected to the prohibition laws and that they should continue to fall under the Native Code, rather than that they be accorded equal status with whites in the eyes of the law.⁶⁰

From the evidence of 1904 a picture emerges of Beaumont's unambiguous attitude towards native policy which aimed at civilizing the native to the extent that, if he could not be persuaded to becoming part of the white man's labour force, then at least he should be encouraged to give up the 'lazy life' of the pastoralist and become a small-scale agriculturalist. This 'civilizing process' was aimed solely at changing the native's labour values. Even Missionary activity did not find much favour with Beaumont in 1904. He said that they had not 'done much' and that their efforts towards introducing individual allotments had also not been a success. 'It is not the same thing as putting the matter under the government and under properly paid officers to supervise'.⁶¹

Beaumont's views on native policy were again made public when he was acting administrator of Natal in 1907, at which

59. An exempted native was not automatically given franchise rights. He had to be a resident of Natal for 12 years, the holder of letters of exemption for 7 years and to produce a certificate of recommendation signed by 3 duly qualified European residents and endorsed by a magistrate or justice of the peace. The grant of the franchise was not automatic but lay in the discretion of the Governor which was frequently exercised adversely. In 1904, after 39 years, only 3 natives in Natal and Zululand had the vote. (Brookes, op. cit., p. 60).

60. S.A.N.A.C., op. cit., p. 27.

61. Ibid., p. 24.

time the Natal Native Commission of 1906-1907 presented its report. He then quashed the Commission's proposal that the office of Minister for Native Affairs be abolished and that the Prime Minister should be the political head of the Native Affairs Department. He gave it as his opinion that this measure was not 'practicable'.⁶² He felt that the natives would better understand a system whereby a supreme 'chief' exercised control and made decisions, rather than if a vague and impersonal government did so. He said that 'there must be a continuity and uniformity of policy based on definite principle throughout the land, and to ensure that there must be a clearly defined chain of authority from the lowest to the highest'. He made the proposal which was incorporated in the Act of 1909 that the Secretary for Native Affairs, should be chairman, not Secretary for the Council for Native Affairs.⁶³

While Beaumont had the necessary training and experience for his appointment to the Natives Land Commission, he also had a pleasant personality and this might have contributed towards the decision to appoint him to the chairmanship of the Commission. Contemporaries and colleagues referred to his 'dignified geniality, friendliness and habitual courtesy'.⁶⁴

62. Brookes, op. cit., p. 79.

63. Ibid.

64. The Natal Mercury, 10 January 1930.

and to his 'unfailing courtesey and tact'.⁶⁵ His speeches were described as 'quiet, practical and convincing' and they 'drove home the doctrine of moderation... with the ease of the expert analyst',⁶⁶ while the Times of Natal acclaimed him for his 'sincerity, moderation and dignity',⁶⁷ and his 'earnestness and forcible logic'.⁶⁸ Such considerations aside, it was also not improbable that Botha chose him not only because Beaumont was regarded as a 'reliable' Natalian, but also because he was English-speaking. In this way Botha could hope to answer accusations that the recommendations of the Commission were the work of Boer racialists. Naturally the Botha government was anxious to avoid confrontation with the Imperial government on this issue, and hoped at the same time to carry Natal's approval of the Commission's proposals. Beaumont enjoyed considerable prestige in Natal where Botha experienced some difficulty in finding able men, and where the votes of its 8 independent members were of considerable significance to him. These considerations possibly explain why Schalk Burgers, a man who had risen higher as a public figure, was put into a subordinate position on the Commission.

65. U.G. 22-1916, Minutes of the Commission, Appendix 13, p. 53.

66. The Times of Natal, 13 September 1912.

67. Ibid., 10 September 1912.

68. Ibid., 27 November 1911.

4. THE OTHER MEMBERS OF THE COMMISSION

The Orange Free State member of the Commission was Sir Cornelius H. Wessels.¹ He had been both a member and chairman of the Volksraad (1885-1899). He was a member of the first Boer deputation to Europe during the South African War and, after the introduction of responsible government in 1907, was Commissioner of Public Works, Lands and Mines of the Orange River Colony from 1907-1910. He was later to become administrator of the Orange Free State, a position which he held from 1915 to 1924.²

His political affiliations are clear from the fact that he was a foundation executive member of the Orange Unie,³ the party formed by the Dutch ex-Republican leaders in the Orange River Colony during the Crown Colony period.⁴ This party came into power in the 1907 election and remained in office until Union, when it merged with the South African National Party.

Wessel's attitude towards native policy differed little from Beaumont's in its essentials,⁵ although Wessels tended

1. Born April 1851. (Standard Encyclopedia of S.A., op. cit.)

2. Ibid.

3. Ibid.

4. Some other foundation members were J.B.M. Hertzog, Christiaan de Wet and Abraham Fischer.

5. He also gave evidence before the S.A.N.A. Commission in 1904. See Vol. 4, pp. 352-364.

to express himself more trenchantly when interviewed by the S.A.N.A. Commission. He had a profound disbelief in the natives' ability to behave other than 'as children'.⁶

Hence he had an equally strong belief in the desirability of treating them 'as children'.⁷ He was totally opposed to granting them any form of representation at all other than that by a white 'appointed by the government to look after the interests of the natives'.⁸ He argued that 'you will get the whole of the native vote by giving them Kaffir beer, or any other consideration'.⁹

Wessels did not favour a policy of educating the natives as he felt that it detracted from their value as farm labourers. The only 'religious' training which he favoured for native was one in which they would be 'educated to understand that work is a part of religion and that they have to work to live honestly'.¹⁰

As regards separation of the races, in 1904 Wessels had expressed the opinion that they must be kept on 'separate lines'. 'You cannot mix the races; he declared, you cannot mix them in church or in State'.¹¹

6. Ibid., p. 352.

7. Ibid., also p. 364.

8. Ibid., p. 353.

9. Ibid., p. 352.

10. Ibid., p. 357.

11. Ibid., p. 358.

Surprisingly, Wessels maintained that he had no objection to an educated native buying land in the open market. The whole inference of his evidence was that very few, if any, natives would ever be capable of becoming 'educated'. Here of course 'educated' means by European standards, because it would be impossible for a native to be described as educated if 'he stuck to the old customs' 'because these two things do not go together'.¹²

The most experienced man on the Commission with regard to Native Affairs was Col. W.E.M. Stanford.¹³ As the representative of the Cape Province, he was also regarded as being truly representative of the liberal tradition of that province.¹⁴ He was one of the delegates at the National Convention who had endeavoured to obtain franchise rights for natives when he had proposed the motion that 'All subjects of His Majesty resident in South Africa shall be entitled to franchise rights irrespective of race or colour upon such qualifications as may be determined by this convention'.¹⁵ His reputation as a friend of the native was slightly tarnished, though, by his support of the Natives Land Act in the Senate,¹⁶ particularly as this was a con-

12. Ibid., p. 361.

13. Walter Ernest Mortimer Stanford, Born August 1850 at Alice in Cape Colony and educated at Lovedale. South Africa Who's Who, 1908.

14. Tatz, op. cit., p. 20.

15. Walton, The Inner History of the National Convention, p. 118.

16. Tatz, op. cit., p. 20.

tradiction of his earlier opposition to territorial segregation.¹⁷

Like Beaumont, Stanford had acquired experience in native affairs by serving in various magisterial capacities.¹⁸ He joined the native affairs department of the Cape in 1863 and in 1897 became Superintendent of Native Affairs and served as Secretary for Native Affairs from 1904-1908. He was closely associated with the formulation of the Transkeian Native Policy and with the Glen Grey System,¹⁹ and played an important role in the negotiations with the Pondos, which resulted in the annexation of Pondoland.²⁰

As a member of the 1903-1905 South African Natives Affairs Commission, he dissented from the majority viewpoint on two important issues. With Sloley and Dickson he felt that natives were entitled to greater security and fixity of tenure than was envisaged by the Commission in its proposals for extending individual rather than communal occupation of land.²¹ On the other issue, namely that of 'restricting to certain areas only the right of the individual native to hold land', Stanford

17. Expressed in South African Native Affairs Commission (1903-1905) Report, p. 34.

18. Clerk to Tambookie Agent 1863; Clerk to Resident Magistrate Queenstown 1871; East London 1874; Resident Magistrate Engcobo 1882; Chief Magistrate East Griqualand 1885-1897. South African Who's Who, 1908.

19. See Brookes, op. cit., p. 109.

20. He was employed on a special service relations project with the Pondos in 1884. South African Who's Who, 1908.

21. S.A.N.A. Commission Report, p. 30. Also see above, chap. 2. p. 29.

stood alone in defending native rights although the Natal delegates also dissented from the report for reasons of their own. Stanford's reasons for dissenting were varied. In the first instance he felt that 'sufficient cause had not been shown for the curtailment of privileges enjoyed for many years in the British Colonies'. He also felt that the ability of natives to 'acquire vested individual interests in the land was a powerful incentive to loyalty'.²² He rejected the Commission's argument that, as natives had certain areas reserved exclusively for their use, Europeans should also have exclusively white areas demarcated.²³ In his opinion Europeans were making greater inroads into native territories as missionaries and traders and were also acquiring land in the townships springing up at the seats of magistracies. He did not believe that natives were buying land as freely outside the reserves. He also opposed the creation of specifically native areas on the grounds that they would be 'selected partly for their unhealthiness and unsuitability for irrigation and cultivation and other kindred reasons'.²⁴

These opinions would probably have disqualified Stanford from membership of the Natives Land Commission, but by 1913 he had come to favour territorial segregation. During the Senate debate on the Natives Land Bill he spoke in its favour

22. Ibid., pp. 35-36.

23. Ibid., p. 36.

24. Ibid., p. 36.

contending that natives would not be able to hold their own against white resources and capital in the future and that, unless protected, they would disappear as a land-owning class.²⁵

Stanford was decorated for distinguished service in the Native Territories and knighted in 1919. He was a Union Senator until 1929.²⁶

The best known public figure on the Commission was Gen. Schalk Burger. He had had considerable military experience, having been a Commandant in the Anglo-Boer conflicts of 1880-1881, and 1899-1902.²⁷ He was elected to the Transvaal Volksraad in 1886 and became its chairman in 1895. In 1896 he became a member of the Executive Council and in 1898 he stood for the presidency of the South African Republic, campaigning against Kruger and Joubert.²⁸ He was unsuccessful in this election but he became vice-President in the Transvaal after the death of Joubert in 1900. He acted as President after the departure of Kruger for Europe in September 1900, and in this capacity signed the Treaty of Vereeniging.²⁹

Burger was vice-chairman of Het Volk in the Transvaal when it was established in 1905. He was returned unopposed

25. Tatz, op. cit., p. 20.

26. Standard Encyclopaedia of Southern Africa, op. cit.

27. Dictionary of South African Biography, op. cit., Vol. 2,

28. Standard Encyclopaedia of Southern Africa, op. cit.

29. Dictionary of South African Biography, op. cit., Vol. 2.

as a member of the Legislative Council in the election of 1907.³⁰ He was a Transvaal delegate to the National Convention and after Union, acted as chairman of the Transvaal branch of the South African National Party. He was elected a Senator in 1913³¹ and died in 1918.

The most obscure member of the Commission was William R. Collins. He was born in Lydenburg, Transvaal and was educated in Pretoria.³² He became a solicitor.³³ After serving as a Boer commandant during the South African War, he was elected to the first Transvaal parliament under responsible government, in 1907.³⁴ During the first world war he served with the South African forces.³⁵ As the result of a bye-election he became a member of parliament for the Ermelo constituency in 1917.³⁶ In 1939 he became Minister of Agriculture and Forestry in the Smuts Cabinet.³⁷

30. Ibid.

31. The Dictionary of South African Biography, op. cit. The Standard Encyclopaedia of Southern Africa, op. cit., says 1914.

32. William Richard Collins (1876-1944) South African Dictionary of National Biography, op. cit.

33. South African Who's Who 1921-1922.

34. South African Dictionary of National Biography, op. cit.

35. Ibid.

36. Cape Times, verbatim Report of the House of Assembly Debates, 1917.

37. South African Dictionary of National Biography, op. cit.

In 1917, when Botha introduced the Natives Administration Bill in parliament, Collins spoke in its favour.³⁸ His defence of the Bill and its principles is a clear exposition of his native policy. As this is discussed later,³⁹ mention will only be made here of the fact that he favoured the application of the principle of territorial segregation. In the evidence which he gave before the Select Committee created to consider the Natives Administration Bill,⁴⁰ he summed up his native policy. 'If you want any sound native policy, in my opinion you must treat the natives to a very large extent as children today'.⁴¹

38. Cape Times, op. cit., April 5, 1917, p. 144.

39. See below, chap. 7.

40. S.C. 6-1917.

41. S.C. 6-1917, Report of Evidence given before the Select Committee, p. 323.

5. THE DELIBERATIONS AND
RECOMMENDATIONS OF THE
COMMISSION

I. THE WORKINGS OF THE COMMISSION

The Natives Land Commission was appointed on the 27th August 1913. Its first meeting in Pretoria on the 8th September 1913 was attended by all the members of the Commission and also by F.S. Malan, the acting minister of Native Affairs. Leading officials in the Native Affairs Department such as E.E. Dower, Secretary for Native Affairs, and the Under-Secretary, A.B. Barrett, as well as K.P. Apthorp, were also in attendance.¹

The Commission began by calling on the magistrates of each district in the Union to furnish them with comprehensive reports describing conditions prevailing in their districts. It also requested magistrates to put forward any proposals which they felt might be of assistance to the Commission in its deliberations.²

These magisterial reports were eventually to form the backbone of the Commission's work, as the Commission pointed to the difficulty of investigating the details of each district with the limited time at its disposal.³ For this

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1. U.G. 22-1916, Report of the Natives Land Commission, Appendix XIII, p. 22.
 2. Ibid.
 3. U.G. 19-1916, op. cit., p. 2.

reason the Commission was largely guided by the evidence and by the advice of Government officials and of others, who by long residence, had a close and intimate knowledge of the details of each district.⁴

Selected areas of the Union were visited⁵ to interview invited witnesses and to meet any other members of the public who wished to submit evidence. Excursions were also made to parts where it seemed advisable to obtain first-hand knowledge.

In accordance with this strategy, the Commission began by moving its headquarters temporarily to Bloemfontein⁶ and, after hearing evidence there, it travelled to various other districts in the province.⁷ It was kept busy in the Orange Free State from 22nd October to the 8th December 1913 and, in the course of its investigations, 80 Europeans and 26 Natives were interviewed. The great majority of Europeans interviewed were farmers. The evidence of magistrates also received prominence and the opinions of European lawyers and politicians were also considered to be significant.

4. Ibid.

5. See Appendix 2 below, for a list of areas visited by the Commissioners.

6. 22 October 1913, (U.G. 22-1916, op. cit., Appendix XIII, p. 3.).

7. Bethany (Edenburg) Bethlehem, Bloemfontein, Harrismith, Hoopstad, Kroonstad, Thaba Nehu, Witzieshoek, (U.G. 22-1916, op. cit., Appendix XII).

Little evidence was taken from people outside these professions. Amongst natives, evidence from headmen or other people in authority, predominated, and very few native farmers were called on to give evidence.⁸

In January 1914 the Commission moved to the Cape Province and, between January 21 and April 14, 1914, it heard evidence from 175 whites and 107 blacks. At this stage it began to make extensive use of the power of delegation which had been conferred on it⁹ and it was unusual for all the members of the Commission to attend a hearing. During the early part of 1914, Beaumont and an assessor, A.H. Stanford, the chief magistrate of the Transkeian Territories, collected evidence in the Eastern Cape. While they were busy there the other Commissioners visited Cape Town to collect evidence from M.P.'s and Senators.¹⁰

April, May and June were spent travelling and collecting evidence in the Transvaal.¹¹ In July 1914 the Commissioners

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8. For a breakdown of the evidence as it relates to various professions and occupations, see Appendix 3 below.
 9. Act No. 27 of 1913, Clause 3(2), 'The Commission may delegate to any of its members the carrying out of any part of an enquiry which under this Act it is appointed to hold and may appoint persons to assist it or to act as assessors thereto or with any members there of delegated as aforesaid, and may regulate its own procedure'.
 10. U.G. 22-1916, op. cit., Appendix XIII, p. 20.
 11. Ibid., p. 22f.

began collecting evidence in Natal.¹² However, after only three weeks there, further investigations were prevented by the outbreak of war in Europe and by the consequent Rebellion in South Africa.¹³ It was only in May of the following year that work could be resumed. The Commission eventually wound up its evidence-collecting meetings on the 5th June 1915, and tabled its report and recommendations on the 2nd March 1916.¹⁴

II. THE EVIDENCE PRESENTED TO THE COMMISSION

The evidence which the Commission considered provides vivid insight into public opinion at this time. Besides throwing light onto prevailing attitudes towards segregation and land delimitation, it reveals contemporary attitudes towards race-relationships themselves. It is also valuable in that it is possible to discern a variation in attitude, and a concern over different issues, in the four provinces.

An assessment of the evidence collected in the Orange Free State is a relatively simple task because it was almost

12. Ibid., p. 31.

13. Ibid., p. 36. The explanation given in the minutes of Wednesday 19 May 1915 was that 'owing to the outbreak of the European war and the Rebellion in South Africa, the government intimated that the magistrates could not leave their seats of magistracies, and in view of the abnormal conditions existing in August, 1914, the second Natal itinerary scheduled to take place in September had to be abandoned'. For details of the rebellion in South Africa see Davenport, The South African rebellion, 1914, English Historical Review, 78(306), 1963, pp. 73-94.

14. U.G. 22-1916, op. cit., p. 36.

exclusively concerned with only three issues - the restriction of squatting; the limitation of the number of labourers whom a farmer might employ; and the creation of reserves.

There was almost total agreement on the first of these issues, 'squatting'. One after another, witnesses stated their support of the provisions in the Natives Land Act which abolished 'squatting' in the Orange Free State. We have seen that, in terms of the legislation which was already in existence there, the leasing of land to natives had been illegal since 1895,¹⁵ whereas none of the other provinces had legislation which effectively prohibited such transactions between whites and natives. Consequently, the Orange Free State had been specifically excluded from the clause in the 1913 Natives Land Act which provided for the 'continuation or renewal.. of any agreement entered into and in existence at the commencement of the Act, which is a hiring or leasing of land as defined in this Act.'¹⁶

While in theory the Orange Free State had legislated the squatter out of existence, the practice of 'ploughing on shares' or 'share cropping' was still fairly prevalent when the Commission conducted its enquiries. Ploughing on shares was an arrangement whereby Europeans and Natives either shared or divided the crop according to some pre-

15. See above chap. 2, p. 16.

16. Natives Land Act No. 27 of 1913, Clause 8(1a).

arranged fixed proportion.¹⁷ The system had evolved where, particularly after the South African War, poor white farmers lacked the means of providing equipment and labour, without which they could not farm their lands.¹⁸ In such circumstances, they were often prepared to settle native families on their farms, provided that the natives provided the necessary labour and equipment.¹⁹ Sometimes the farmer himself would leave his farm, having concluded such an arrangement, with the result that, by virtue of the fact that the native was not allowed to own land, the farmer benefitted to the extent of getting a half share of the crop.²⁰

Initially this system suited the European farmers,²¹ but as they were gradually enriched by the fruits of the natives' labour, they became less dependent on native stock,

17. See also Davenport and Hunt, op. cit., p. 5.

18. Denoon, op. cit., p. 132.

19. Ibid.

20. Ibid.

21. 'It is true that in a number of cases people could not help themselves after the war, and as the Basutos came back from Basutoland with their cattle, people got them to help with their ploughing.' (U.G. 22-1916, op. cit., p. 17).

'..the farmers not well-to-do,..get their natives' oxen and perhaps cultivate three times as much ground..as they otherwise could'. (Ibid., p. 16.)

'If you look around the country you will see some of our settlers who, were it not for the sowing on shares, could not stand today where they now are..' (Ibid., p. 15).

although not on native labour.²² Eventually, individual farmers began to feel that 'if I hire a native as a servant, I would get more out of him by paying him his wages than by giving him a share of the crops'.²³ This then was one of the reasons why they welcomed this system which provided them with the means of getting rid of the natives stock whilst retaining the natives' labour. 'When I heard about the law,' one of the witnesses remarked, 'I told the boy of the law. I had allowed him to keep 10 head of cattle, oxen and ploughs. He told me after consideration, that he was willing to work and would take the stock away from the farm'.²⁴

The squatting law was subject to many widely differing interpretations²⁵ and as it did not specify a maximum number

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22. As Denoon, op. cit., points out, after the South African War the 'profits of industry were devoted to assist the White farmers in their struggle with Africans over ownership and utilization of land,' p. 131.
23. U.G. 22-1916, op. cit., p. 54.
24. Ibid., p. 37.
25. A circular from the Native Affairs Department interpreted the legislation as follows: With regard to new agreements or contracts the effect of the Act is to render illegal the practice of 'sowing on shares'. No farmer can allow a native to occupy his land, except as a servant for definite wages or a fixed consideration. Provided there is a bona fide contract of service there is nothing to prevent a native being paid in kind, but the payment must be certain and ascertained. Similarly a master may in consideration of service remunerate his servant partly by a wage and partly by the privilege of cultivating for his own use a defined piece of ground, or of running a certain number of stock upon his land. Ibid., p. 31. See also above chap. 2 p. 38.

of cattle which a native was allowed to own, in many instances it was used simply as a pretext to evict 'wealthy' natives.²⁶

Very little sympathy was expressed for the native farmers who were, with their stock, so summarily evicted, in some instances from lands which they had occupied all their lives. The general feeling was that it was a good thing 'that the natives who have become too rich, to put it bluntly, may retire for the time being'.²⁷ Others argued that there was no injustice involved as: 'If a farmer is overstocked and cannot get more ground, he will have to reduce his stock, and the native is in exactly the same position. Although the white man is allowed to buy more ground if he can, he may not be in a position to do so, and then he would be in the same position as the native'.²⁸

Apart from the economic arguments which were produced against share-cropping theoretical arguments were also put forward. By far the overriding contention was that share-

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26. This emerged from the evidence of many of the witnesses, but the following statistics are also available. The magistrate of Heilbron telegraphed the Secretary for Native Affairs on the 1 September 1913 as follows: 'Body of 450 natives appeared before me uninvited representing hardships of Lands Act if Summarily applied. Interpreted provisions in widest sense with most satisfactory results. But 39 of these, owning 858 cattle, 111 horses, 2,000 sheep, have already been turned off farms with nowhere to go, only alternative to sell stock at ruinous prices to pressing speculators'. U.G. 22-1916, op. cit., p. 35.
27. Ibid., p. 2. Also 'Our trouble is that we have some very wealthy natives', (Ibid., p. 37).
28. Ibid., p. 32.

cropping was detrimental to the relationship between master and servant, because it meant that the white man and the native co-operated as partners.²⁹ Many of the farmers had no objections to allowing natives to cultivate land for themselves, or to keeping their own stock, as long as they understood the relationship whereby 'the kaffir must be made to understand that he is a servant on the farm and not to go on the system that we have had in the past where he is really a partner'.³⁰ One witness explained: 'As soon as you draw the line on your farm and say "You can sow this for yourself" that is within the law, he is your servant, and he is fully entitled to sow that for himself with his own plough and oxen'.³¹

The other strong objection to the 'ploughing on shares' system was that it adversely affected the 'progressive farmers' labour supply because 'the native will not work for a wage when he can plough and sow on half shares, and live a semi-vagabond life'.³²

29. 'Natives must understand that they are servants on the farm and not partners'. (Ibid., p. 19).

'I object to the sowing on shares because I do not think that the white man and the native should be in partnership'. (Ibid., p. 17).

'We have all along taken up the position that the native in the Free State should be the servants and they know it. I am certain we are doing the coloured people no injustice whatever'. (Ibid., p. 52).

30. Ibid., p. 19.

31. Ibid., p. 53.

32. Ibid., p. 2.

One may then conclude that European reaction to the squatting provision was favourable and that the legislation met with the approval of the majority of the witnesses. In view of the fact that this legislation was a 'fait accompli', it is surprising that the Commission spent so much time collecting evidence on this aspect.

The second issue which engaged the Commission's attention, the limitation of labour to 5 heads of native families per farm, was a pre-Union statute which had merely been reaffirmed by the 1913 Natives Land Act. As the Act specifically abolished the restriction on the number of labourers employed by any single European in the Transvaal,³³ there were those who felt that the Orange Free State should have had the same concessions. Opinion on this issue was consequently more divergent, although the majority of witnesses approved of it. A minority objected on the grounds, as one witness expressed it, that he 'did not consider it was right to bind the hands of a progressive farmer by limiting the amount of labour which he required for the development of his property, and I consider every facility ought to be given to progressive farmers who wish to place their whole farm, if they like, under cultivation'.³⁴

When asked by the Commission to express opinion on the desirability of creating reserves, particularly in view

33. Act No. 27 of 1913, Section 6a(7).

34. U.G. 22-1916, op. cit., p. 41.

of the fact that such large numbers of natives had been, or were due to be, evicted in terms of the operation of the Natives Land Act, the majority of witnesses were totally opposed to the creation of such locations or reserves, particularly in the Orange Free State. The question evoked such responses as: 'I want to keep the Free State as a white man's country'³⁵; 'Europeans would resent having reserves in their neighbourhood'³⁶; 'I would object if a location were made near me'.³⁷ The following comment by one of the witnesses sums up a wide spectrum of opinion: 'I think we would be in favour of reserves or locations, provided that such was not put in our district; and also provided that it is made compulsory for the natives living in such locations to work when their services are demanded by the farmer'.³⁸ It was stressed that the only possible 'benefit' of reserves would be to provide a steady source and supply of labour but even so many farmers were not convinced that reserves would be desirable as they would become 'thieving nests'³⁹ and their creation would encourage the natives 'to go right through the country and steal and rob'.⁴⁰ One farmer however did suggest that 'if you want to buy land for the natives, give them the Karoo. There

35. Ibid., p.12.

36. Ibid., p. 10.

37. Ibid., p. 37.

38. Ibid., p. 32.

39. Ibid., p. 55.

40. Ibid., p. 55.

are millions of morgen down there not cultivated. I would throw it open to any native'.⁴¹

The evidence given before the Commission in the course of its investigations in the Cape Province does not lend itself to categorization as in the case of the evidence gathered in the Orange Free State. Far more people were interviewed (171 Europeans and 107 non-Europeans as opposed to 80 Europeans and 26 Natives) and their evidence tended to be concerned with the detailed delimitation of each district. The Commission now also seemed to adopt a technique of questioning witnesses,⁴² which encouraged this particularized approach to the problem and discouraged any appraisal of the general principles of the Natives Land Act. This is explicable in view of the fact that large areas in many of the districts were to be affected by the Commissions recommendations, whereas in the Orange Free State, with its relatively small native population, fewer individuals would be affected. The effect of this change in emphasis meant that the only province in which the Commission really assessed public opinion, was the Orange Free State.

Where general attitudes towards the Natives Land Act are discernable in the Cape Province, one finds that there

41. Ibid., p. 10.

42. Evidence was not recorded in the normal question and answer form, but on the grounds of economy, it was presented in a narrative form, and one does not know what questions were asked by the Commissioners.

was a great diversity of opinion among Europeans. At one extreme there was absolute intolerance of natives living amongst Europeans⁴³ but many witnesses adopted a more moderate approach.⁴⁴ Similarly, while many Europeans were vehemently opposed to setting aside more land for natives, there were also considerable numbers who were aware of the necessity for doing so. This suggests that the setting aside of more land for native occupation was not as controversial in the Cape Province as it was in the Free State - possibly because such areas were already in existence. Furthermore, the objective of 'Keeping it a white man's province' was grossly unworkable in the Cape Province.

The only issue on which it is possible to discern a consensus of European opinion is in regard to the letting of farms to Natives in the absence of the European owner. The majority of Whites were opposed to this without necessarily being opposed to all forms of 'squatting'. The system of 'private locations' was generally popular. Senator W.P. Schreiner made a strong appeal for allowing its extension. 'The farmer', he said, 'wants the native on his farm and if he cannot get him under a simple contract of service he will

43. 'It is a very bad thing that natives should live amongst European farmers', Ibid., p. 219.

44. 'We find the natives good neighbours', Ibid., p. 131, and 'There is no objection on the part of Europeans in the district to be living up against the Natives', Ibid., p. 132.

get him in some other way... Encourage the native to come to the farm... adopt a scheme under which you will make the native feel at home on the farm, let him have his plot or allotment and security for his few head of stock, and let his children have a chance'.⁴⁵

Non-European opinion in the Cape, as expressed to the Commission, was remarkably uniform despite the diversity of tribal and racial backgrounds. (Griquas, Hottentots, Coloureds and Natives were interviewed). In all instances, their plea was for more land. Subject to the proviso that they were to be granted sufficient land, none expressed any objection to the principle of territorial segregation. A typical sentiment was that expressed by the Native Congress in the Queens-town district to the effect that 'the act will protect them (the natives) so that their lands may not be taken away from them by white people'.⁴⁶

In the Transvaal, a picture emerges which differs from that of either the Orange Free State or the Cape. The principle of segregation seems to have been widely approved of by both whites and natives. However, both groups were suspicious of setting land aside exclusively for native occupation. Europeans were afraid that this would act as yet another drain on the labour supply. Many farmers appeared to have

45. Ibid., p. 213.

46. Ibid., p. 119.

a mental picture of natives 'idling' or 'loafing' in newly-created reserves. Coupled with this was widespread opposition to the idea of allowing natives to purchase land because, despite the Supreme Court decision of 1905 to the contrary, many felt that Transvaal native policy had moved in the direction of limiting the purchase of land by natives. From the native point of view, setting aside land exclusively for their use was undesirable because it was felt that the reserved area would be too small to serve their needs adequately. Once natives had lost the right to purchase land elsewhere, they would be powerless to better their position. There was considerable cynicism over the contention that the natives would benefit from the Act. As one native commented: 'All these laws that are especially for us, we always suffer under'.⁴⁷ Another, considering the practical implementation of the law remarked: 'I am myself unable to ask the government to move the white people away from the place where I am because it would not help me a bit as they have all the rights, like myself, on that farm, which makes me wonder if the government is going to take the land from me'.⁴⁸

The major pre-occupation of Transvaal farmers was with the scarcity of labour. This they attributed to competition from the mines, 'squatting' on the farms owned by land

47. Ibid., p. 286.

48. Ibid., p. 276.

companies⁴⁹ and, to a lesser extent, to 'squatting' on privately owned farms. Consequently, despite its irrelevance to the Commission's terms of reference, a fair proportion of evidence related to the desirability of encouraging (and legislating for) natives to work on farms rather than on the mines. Not surprisingly, the provisions against squatting contained in the Natives Land Act were generally popular, because they would mean that the natives on the company-owned farms would have to find employment elsewhere.

The other major consideration in the Transvaal was with regard to the locality of native areas. Several European witnesses maintained that the lowveld 'suited' the Natives and that, as 'the natives seem to be fever-proof',⁵⁰ only lowveld areas should be reserved for natives. The natives in their evidence expressed concern that this might happen.

Natal was the only province where both Natives and Europeans expressed sharp disagreement with the principle of segregation which underlay the Natives Land Act. European reasoning was that an adequate, (and many felt,

49. Many companies bought large tracts of land in the Transvaal for their mineral value only, but their agents found that by allowing natives to hire land from them, these farms returned, without any effort, a very large revenue. S.C. 3-1910, op. cit., p. 4.

50. Ibid., p. 257.

excessive) amount of land had already been reserved exclusively for the natives (approximately 33% of the total area of Natal)⁵¹ and that a further extension of reserved land would be severely detrimental to European interests. It was the desire not to 'lose' more land to natives, and not a 'liberal' attitude which was responsible for this reaction.⁵²

Despite such motives of self-interest, there was little antipathy towards native occupation of adjoining land, such as had been prominent in the evidence taken in the Orange Free State and in the Transvaal. Towards the end of their stay in Natal, Beaumont commented, not strictly accurately but nonetheless with a fair degree of truth, 'I cannot recall a single witness in Natal who said that he objected to natives holding land alongside of him'.⁵³

Native opposition to segregation tended to be emotive and was expressed in terms of the allegory that the European

51. See statistics given in Appendix III of the Report of the Natives Land Commission.

52. U.G. 22-1916, op. cit., p. 417. 'The Act as framed does not apply entirely to Natal.. We have quite enough land in Natal held in trust for Natives..' and 'This Act, I think, as far as Natal is concerned, is not workable, Natal is more or less fully occupied, the natives in their locations and the Europeans on their own private lands, and I cannot see how the Government can interfere with private rights and buy up land and give it for native occupation'. Ibid., p. 415.

53. Ibid., p. 560. (This was a comment which Beaumont made to one of the witnesses).

was the 'father' and 'protector' of the native and that he could not set his 'children' aside. For example one of the Chief's said: 'I do not know how we are going to live if we are to be set apart by ourselves; we look to the white man to relieve us and to govern us'.⁵⁴ Such statements may have been couched in these terms because they had become stylised as part of the Shepstone system. It is significant, though, that several educated Zulu witnesses favoured maintaining the option of buying land without restriction, rather than having it set aside exclusively for black occupation.

Although, in general, the solution to squatting as envisaged by the Natives Land Act was rejected by Natal spokesmen, the practice of squatting itself was as vehemently opposed in Natal as it had been in the other provinces. The majority of Europeans felt that the occupation of Company owned farms by natives was undesirable,⁵⁵ but felt that the problem should be dealt with by the provincial rather than the central government.⁵⁶ Squatting problems, according to Senator F.A.R. Johnston resulted mainly from absentee farming in Northern and Western Natal, where Free State farmers used their Natal farms solely for winter

54. Ibid., p. 469.

55. Ibid., p. 415.

56. Ibid., p. 420.

grazing purposes.⁵⁷ In the 'thornveld' area, farmers invested in land solely to supply themselves with labourers from these lands. Generally, this was regarded as legitimate land use,⁵⁸ the only objection being to instances where an excessive number of natives were allowed to occupy a farm. Farmers were, however, opposed to defining a maximum number of labourers who might be employed on each farm, preferring a system of limiting each farmer to employing only bona fide labourers.⁵⁹ The administrative difficulties of deciding individual 'quotas' were obviously immense. For these reasons and, also because of the difficulty of finding accommodation for natives who were put off farms, many, while agreeing in principle that squatting was an evil, were opposed to any interference with existing conditions in Natal.

Natal was also the only province where considerable numbers of Europeans were in favour of allowing Natives to buy land freely. Partly this was because Indians, 'foreigners', were allowed to do so and it was felt that it was unfair to preclude natives from this privilege as they had more 'right' to the land than the Indians.⁶⁰ In Zululand it was felt that, by prohibiting natives from acquiring land freely, an

57. Ibid., p. 432.

58. Ibid., p. 415.

59. Ibid., p. 418.

60. Ibid., p. 415.

agreement with them was being rescinded. Natives had been given to understand that the object of the delimitation of Zululand (1902-1904) was to protect native interests in certain areas. Sir C. Saunder, a member of that Delimitation Commission, remarked in his evidence before the Beaumont Commission that 'If I had been aware of this restriction viz. that the natives would not be allowed to purchase or acquire land in their own right, I personally should not have agreed to the quantity of land being thrown open to European occupation that we did. I was always bearing in mind that there was an understanding that they would have the same rights to acquire the land that was theirs'.⁶¹

When one considers all the evidence, gathered throughout the whole Union, one finds, not surprisingly that there was great contrast between the 'tone' of the evidence presented by Europeans and of that presented by natives. European evidence tended to present a hard, grasping, self-interested attitude based on the supremacy of the white man. Evidence of natives chiefs and others underlined the master/servant relationship, there being little indication that the natives contemplated any change in their status. Most expressed gratitude at being afforded the opportunity of giving evidence before the Commission. A comparison of the evidence from both groups presents forcibly the contrasting attitudes of two entirely different cultures - the one forceful, full of energy and convictions, the other passive

61. Ibid., p. 477.

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61. Ibid., p. 477.

and undemanding. For example, Native: 'I have only to say that we thank you if you will give this old man sitting here (not referring to himself) a place where he can go and live in peace, because he is old and in great trouble'.⁶²

European: 'I am against locations, and I am against their being allowed to buy land. What about our own poor Dutch people? Why should a native go to school and then be put on a farm?

I am against allowing a native to buy a farm. I would trek away if a native bought his farm alongside of me'.⁶³

When one is aware of the ground from which the Europeans were arguing, viz. of consolidating their own interests and rights for all time, and compares it with the position of the Natives, who were already suffering under the application of the law, one must be impressed by the dignity and understatement of the latter. They did not question the principle of the Act - very few spoke in terms of abstractions - but they presented the immediate hardships which its application had caused them, most forcibly. It is with this that most of their evidence is concerned.

When Beaumont asked, 'I want to know what is the cause of the feeling of unrest and dissatisfaction'⁶⁴ the answer was simply 'The law was made before the people were provided

62. Ibid., p. 62.

63. Ibid., p. 61.

64. Ibid., p. 23.

for'⁶⁵ or 'All the trouble lies in this, that we have no land to go to with our stock'.⁶⁶

Thus one sees that the major grievance of the natives was that, as no land had been provided for them, they had nowhere to go with their stock. Their other, associated grievance, was their reluctance to give up a traditional rural way of life, based on the ownership of cattle. 'We would sell if we could use the money to buy land or to lease land, but that is against the law and we cannot do it. If we sell we would have to use the money, and then would be without stock and without money after a while'.⁶⁷ 'What should I do with a thousand pounds if I converted the stock into money? We cannot go to the town location. Perhaps the Commission will try and find some way out of the difficulty'.⁶⁸

III. THE RECOMMENDATIONS OF THE COMMISSION

The Report of the Natives Land Commission consists almost exclusively of a detailed delimitation of areas to be set aside for European and Native occupation. It makes few comments on the principles involved in effecting this segregation. Of significance though, is its unanimous refutation of a general expropriation of land as had been envisaged in the 1913 Act.⁶⁹ It recommended rather that, where isolated

65. Ibid., p. 23.

66. Ibid., p. 58.

67. Ibid., p. 39.

68. Ibid., p. 58.

69. U.G. 19-1916, op. cit., p. 6.

Native areas fell within scheduled European areas, the Natives 'should be protected in their existing rights'⁷⁰ and that, 'where European-owned land falls within a Native area, existing rights should not be interfered with until the government decides to exercise its rights of expropriation or the owner desires to sell'.⁷¹ Further it recommended that, in the event of the owner desiring to sell his land not being able to obtain a Native purchaser, then the Government should either expropriate the land or grant permission for its sale to a White. Similar conditions were to be attached to Native-owned lands falling within European areas.⁷²

In other instances their recommendations further reflected a desire not to tamper too drastically with existing conditions. With regard to Mission stations falling within proposed European areas, the Commission felt that exemptions should be granted to enable the Mission station to allow its land to be used for native occupation, 'so long as mission work is bona fide carried on'.⁷³ Similarly, the Commission recommended that Native townships in European areas should be allowed to remain in existence and that future provision should be made for the further establishment of such townships near towns and industrial centres as they 'serve a very useful purpose'.⁷⁴

70. Ibid.

71. Ibid.

72. Ibid.

73. Ibid., p. 7.

74. Ibid.

With regard to European-owned trading stations falling within native areas it again recommended that no interference take place with regard to existing conditions as there seemed 'little probability'⁷⁵ of natives becoming traders for some time to come.

Despite the fact that land which was set aside for native occupation was intended to be inalienable, the Commission nullified this provision by recommending that the European owners of land which was expropriated for native purposes, should be allowed to retain their mineral rights in these areas.⁷⁶

Apart from attempting to minimise disturbance through population removals, the Commission attempted to consolidate native regions as far as possible. Here it was less successful, largely because these two aims were contradictory, and the policy of disturbing European occupation as little as possible, prevailed.⁷⁷ Consequently native areas were demarcated as follows. The Commission took the scheduled reserves as the basis of each area. Lands adjacent to these reserves were then selected in the order of preference: mission lands, native-owned lands, crown lands, unoccupied European-owned lands, European-owned lands solely occupied by natives and lastly, where they could not be avoided, lands

75. Ibid.

76. Ibid.

77. U.G. 25-1916, op. cit., p. 4. The nature and extent, therefore, of the proposed Native areas have been largely determined by this objection i.e., 'Objections which were raised to the inclusion of European-occupied farms within proposed Native areas'. See below, chap.6, p. 107.

in actual occupation by Europeans.⁷⁸ Where reserves or scheduled areas could not be included in a native area they had to be left as Native areas within European areas.

The final recommendation of the Commission was that an additional 8, 365, 744 morgen of land be set aside exclusively for native occupation.⁷⁹ This, together with the 10, 422, 935 morgen which the 1913 Natives Land Act had already scheduled for natives would give the native population a total of 18, 788, 679 morgen of land.⁸⁰ The area of the Union comprised 142, 996, 958 morgen.⁸¹ 13.14% of the total areas was to be set aside for natives whose population was approximately 4½ million⁸² while that of whites was just over one million.⁸³

One must conclude that one of the most striking features of the Commission's report is its baldness and brevity. The

78. Ibid., p. 11.

79. U.G. 19-1916, op. cit., p. 43. The various statistical returns submitted by the Commission were not consistent. See comments below.

80. See below, chap. 7, p.110 for an analysis of the areas reserved in each of the provinces.

81. U.G. 19-1916, op. cit., Appendix III, p. 9.

82. U.G. 19-1916, op. cit., Appendix IV, p. 9.

83. Union Statistics for Fifty Years, Compiled by the Bureau of Census and Statistics, p. A3.

reason given for this was that the Commissioners did not feel themselves entitled to comment on the principles involved, as Parliament had already decided on a course of action. While this might have been valid, the Commission was not precluded from providing explanation on the delimitation of areas. Some indication of the Commission's reasoning on this subject would have made the report more meaningful. One does not know on what basis the Commission determined the total area of land to be reserved; whether they conceived a notion of what percentage of the Union should be reserved for natives; whether they had some formula for the number of acres required per head, or whether the area was determined solely as a result of their investigations in situ. The other major question which was left unanswered was why certain areas had specifically been reserved. Had the Commissioners been influenced predominantly by historical claims to certain areas; by a desire to disturb existing lines of occupation as little as possible, or by European objections?, as Beaumont said in his Minute. Explanations of the way in which decisions of this nature had been reached would have greatly assisted members of parliament in evaluating the Commission's recommendations. It would also have assisted the government in facing the critics of the Natives Administration Bill, which was introduced in 1917 to give effect to the Commission's recommendations.

A serious flaw in the Commission's Report was that the statistical returns were often contradictory. In the Report itself, the total scheduled area was given as 9, 958, 902

morgen and the proposed new area as 8, 365, 744 morgen. This reflects a total for the Union of 18, 324, 647 morgen, to be reserved for native occupation.⁸⁴ These figures cannot be reconciled with the figures given in Appendix III of the Report which contradict each other. On page 9 of this Appendix the total scheduled area in the Cape Province is given as 6, 217, 037 morgen. On page 4, however, it is given as 10, 305, 187 morgen. Neither of these figures corresponds to the totals given on page 44 of the Report. No wonder a critic was moved to remark: 'The more we consider the matter, the more casual, to put it mildly, does the work of the Commission become'.⁸⁵

84. U.G. 19-1916, op. cit., p. 43.

85. G. Heaton Nicholls, The Natal Mercury, January 10, 1971.

6. BEAUMONT'S MINUTE AND HIS
MINORITY REPORT

On the 2nd March 1916, the Natives Land Commission tabled its Report,¹ together with the Minutes of its meetings and the evidence which it had considered.² Included in the Report was a dissenting minority report by Beaumont, expressing views which were at variance with those of his colleagues.

Under separate cover was also tabled what is known as Beaumont's Minute.³ In this 30 page document he presented his personal views on matters pertaining to native administration and to the implementation of the Natives Land Act of 1913. His object in doing so, he wrote, was to bring to attention 'those matters which appear to me of importance, and which require to be borne in mind when determining on the practical application of the Act, and to suggest how far and in what manner the objects aimed at by the Act may be best attained'.⁴ Beaumont's Minute put forward a personal view and did not necessarily reflect the opinion of the Commission

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1. U.G. 19-1916, Report of the Natives Land Commission.
 2. U.G. 22-1916, Minutes and Evidence of the Natives Land Commission.
 3. U.G. 25-1916, Minute submitted by Sir W.H. Beaumont.
 4. Ibid., p. 1.

as a whole, a fact which is often overlooked. It is not uncommon to find Beaumont's Minute, or his Minority Report, being confused with the Commission's Report.⁵

Beaumont's Minority Report resulted from his disagreement with the other Commissioners as to the delimitation of Natal and Zululand. While the others favoured demarcating the whole of Natal and Zululand into exclusively European and Native areas,⁶ Beaumont favoured leaving certain areas as neutral zones in which both Europeans and Natives could acquire land.⁷ He justified this proposal on the grounds that, unlike other provinces, there had been no demand, in Natal, for the enforcement of a Squatters Act or for any further segregation of the natives.⁸

In addition, Beaumont felt that natives would regard any infringement of their right to purchase land freely as a breach of the terms of the Proclamation issued at the time

5. For instance Lekhela, See above chap. 1, p. 4 and also Walshe, op. cit., p. 56.

6. U.G. 19-1916, The Report of the Natives Land Commission did not provide for any neutral areas in the Union at all, and in Natal and Zululand, land had been delimited into European and Native areas as in the rest of the Union.

7. U.G. 19-1916, Report of Natives Land Commission, Minority Report submitted by W.H. Beaumont, pp. 41-42.

8. Ibid.

Zululand was annexed by Great Britain.⁹ A further consideration was the fact that European-owned and Native-owned lands in Natal were so intermixed 'that any line of demarcation can only be arbitrarily made, and may result in serious hardship or injustice to both European and Native owners'.¹⁰ Beaumont pointed out that more than half the native population resided on European-owned farms - in many instances on farms which were used almost exclusively by their European owners for winter grazing and for obtaining a supply of labourers for farming purposes. 'To include a portion of these farms within proposed Native areas means extending the already large native reserves from which the European is excluded, while, at the same time, they are too small to provide for the removal of squatters from the excluded farms or to give scope for the purchase of land by individual natives: the objects of the Act, would, in fact not be attained'.¹¹

Beaumont also felt that further Crown Lands could not be opened for occupation by natives as if these were not already in native occupation, they were unsuited for such use. Finally Beaumont felt that it would be unjust to debar natives from purchasing land when Indians could do so freely.¹²

9. Ibid., p. 42.

10. Ibid., p. 41.

11. Ibid., p. 41

12. Ibid., p. 41.

Beaumont's opposition to the proposed delimitation of Zululand was based largely on the fact that such a delimitation had been carried out in 1902-1904. Subsequently, Crown lands had been thrown open to European purchasers. Beaumont felt that it was not intended, 'nor did the Zulu's understand, that they were to be deprived of their right to acquire any portion of the reserved crown lands by purchase'.¹³ The Zululand Delimitation Commission of 1902-1904 had anticipated that theirs would be 'as final a settlement as it is possible to effect'¹⁴ and Beaumont was in favour of adhering to its recommendations.

Beaumont's reservations with regard to Zululand did not apply to areas, both in Natal and Zululand, which had formerly been under the control of Boer Republics.¹⁵ As far as these were concerned, he felt that different conditions prevailed which made the implementation of the Natives Land Act feasible.

These arguments for maintaining the status quo represent a departure from Beaumont's opinion in 1904 that Natal would never be a 'white man's country'.¹⁶ Perhaps the reason for

13. Ibid., 42.

14. This is supported by the evidence of Col. Saunders, one of the members of the Zululand Delimitation Commission of 1902-1904. See below, chap. 5, p. 85.

15. In Natal these were the districts of Utrecht, Paulpietersburg, Vryheid and Ngotshe. In Zululand it comprised the area formerly acquired by the Dutch of the New Republic, U.G. 19-1916, op. cit., p. 42.

16. See above chap. 3, p. 53.

his altered opinion was that by 1915 conditions in Natal had changed due to sugar having become the staple article of export. He had earlier expressed doubts as to the suitability of Natal for sugar cultivation.¹⁷

The final conclusions which Beaumont drew in his Minority Report were highly controversial. He argued that it was not necessary to delimit the whole of the Union into European and Native areas, but that certain areas could be left as neutral. This would preclude the total segregation of property holdings envisaged in the Act.¹⁸

The suggestions which Beaumont put forward for Natal were that two areas be left as neutral areas: the areas between the Tugela and Buffalo Rivers, and the area south of the Umkomanzi River to the border of the province. He agreed with the delimitations of the Commission within the Divisions of Utrecht, Vryheid, Paulpietersburg and Ngotshe, but would have liked the whole areas between the Tugela and Umkomanzi Rivers, exclusive of the scheduled areas, to be declared a European area.¹⁹

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17. The first sugar mill was opened in 1903 at Tinley Manor, and in 1905 Sir James Liege Hulett, by agreement with the Natal government, opened up Zululand to sugar production. The first large refinery in South Africa was set up at Rosburgh in 1911 and by 1914 the 100,000 ton mark had been passed. (E. Rosenthal, Encyclopaeda of Southern Africa, pp. 237-512).
18. U.G. 19-1916, op. cit., p. 42.
19. Ibid., p. 42.

He recommended that Zululand be exempted from the operation of the Act except within the division of Emtongjaneni, where he concurred with the Commission's recommendations.²⁰

In addition to his Minority Report, Beaumont tabled a separate Minute. This was justified by him on the following grounds: 'The Commission has taken a great deal of evidence; it had collected statistics, it has visited many localities, and it has come into personal touch with the natives in all parts of the Union. The opportunities it has thus had for obtaining first-hand knowledge of matters having a direct bearing on the Natives' Land Act have been exceptional, and the experience it has gained should, in my opinion, be made available for consideration by Members of Parliament and those who will be called upon to consider the recommendation of the Commission in view of the further legislation which will be necessary to carry out the principles embodied in the Act'.²¹

He stressed that the work of the Commission was to be regarded as supplemental to the work of the South African Native Affairs Commission of 1903-1905²² and in a brief survey of Native policy in the four provinces he showed that segregation had been consciously or unconsciously approved in all.²³ Nonetheless Beaumont did not regard the Natives Land

20. Ibid., p. 42.

21. U.G. 25-1916, op. cit., p. 1.

22. Ibid., p. 1.

23. Ibid., pp. 2-3.

Act as an attempt at segregation of the races. 'A very general impression prevails that the Act contemplates a segregation-partial or complete- of the Native races throughout the Union. The impracticability of such an idea makes it difficult to understand how it came to be entertained'.²⁴ This opinion, as has been noted, was reflected in his dissension from the delimitation in Natal and Zululand.

Apart from an historical survey of native legislation in all the provinces, there are many other topics covered by the Minute. Beaumont offered a number of suggestions on the administration of the native territories, and on what might loosely be termed 'native policy'. In doing so he covered a very wide field, so that it is difficult to provide a comprehensive summary of his statement. Of specific interest as far as the Commission's work and its recommendations are concerned, was his detailed analysis of the types of native lands, and the manner in which they were occupied.

Beaumont referred to the repeated pleas of natives for more land in the reserves but argued that the reserves were overcrowded only because they were uneconomically worked.²⁵ This was largely attributed to the natives attachment to stock farming, and Beaumont recommended, as he had in 1904,²⁶

24. Ibid., p. 3.

25. Ibid., p. 5.

26. See below, chap. 3, p. 52.

that natives be persuaded to adopt new agricultural methods and that industry be encouraged. He pointed to the urgent need for supervision of the reserves and, while he favoured individual tenure as a sound general principle, he maintained that there were instances where tribal or communal tenure was necessary.²⁷

Despite the argument that 'the acreage per unit was excessive'²⁸ in the reserves, Beaumont was not in favour of the immediate eviction of 'squatters' from farms and crown lands. 'What is to become of these (Natives) is a very serious question', he stated. 'It may be said that if they are not willing to accept service on the farms they are free to go into the native areas. But if the defined native areas are examined it will be found that most of them are already largely occupied by natives and that there is not much room for more, while in some areas the lands are so poor or so malarial or so distant that the natives would not go to them'.²⁹

This contradictory statement regarding the availability of native land is not the only inconsistency in the Minute. Another example is his opinion that 'civilized' natives be granted the full rights of European citizenship. He defined a 'civilized native' as the educated native who has raised

27. U.G. 25-1916, op. cit., p. 5.

28. Ibid., p. 5.

29. Ibid., p. 5.

himself by education and industry to the habits of life and level of the ordinary European, and who is, personally, no longer in touch with native customs and tribal traditions.³⁰

He then advocated that 'the place of such a "civilized Native" is surely amongst his own people, using his knowledge and his influence in raising their status, improving their environment and prospects, and assisting the development of local self-government on lines adapted to their traditions and customs'.³¹

Possibly the most consistent advice given by Beaumont, and endorsed by the Commission, was that the Natives Land Act be implemented slowly - that sudden eviction of 'squatters' be avoided, and that there be as little interference as possible with vested rights and existing conditions.³² 'The right of expropriation, as provided for by the Act, should be resorted to only when the necessity arose, and the ejection or removal of natives from the lands which they occupied, should be carried out slowly and considerately'.³³

Other significant recommendations which Beaumont made were that 'Coloureds', 'Griquas', 'Half-castes' and 'Bastards' be excluded from the workings of the Natives Land Act;³⁴ that Government by Proclamation be adopted in native territories;³⁵ that local self-government be introduced within

30. Ibid., p. 16.

31. Ibid.

32. Ibid., p. 13.

33. Ibid., p. 13.

34. Ibid., p. 16.

35. Ibid., p. 14.

native areas and that Local Boards be created to advise the government on all matters relating to Native Affairs.³⁶

These recommendations were all eventually embodied in various pieces of legislation which concerned Native Affairs,³⁷ although not necessarily as a result of Beaumont's suggestions.

The reservation of mineral rights to Europeans, which the Commission had recommended, was strongly advocated by Beaumont in his Minute on the grounds that: 'From an economic point the locking up of highly mineralised land appears unwise. Up to the present the development of mineral propositions has been entirely in the hands of the white man, and in all probability this will be the case for some time to come. To prohibit, in the meantime, the acquisition of mineral rights by Europeans in Native areas would be equivalent to closing an avenue of economic progress'.³⁸

The franchise provision for natives in the Cape Province was of some interest to Beaumont. He pointed out that, despite

36. Ibid., p. 15.

37. The Natives Administration Bill of 1917 made provision for the implementation of these suggestions. Provision for local self government, and for creation of a Native Affairs Commission to advise the Government, was made in the Native Affairs Act of 1920, (Tatz, op. cit., p. 35.) while the Natives Administration Act of 1927 did much towards removing the benefits of parliamentary law from Africans and increasing very markedly the power of officials over them. (Brookes - White Rule in S.A. p. 205) The Natives Trust and Land Act of 1936 applied only to the Bantu population and specifically excluded people of other coloured races from its operation. See Act No. 18 of 1936, Statutes of the Union of South Africa.

38. U.G. 25-1916, op. cit., p. 18.

the fact that both J.W. Sauer (Minister of Native Affairs, 1912-1915 and F.S. Malan (Minister of Education and Mines and Industries) had asked the Commission to express its views on this topic, it had declined to do so as it maintained it was a matter for consideration by Parliament. Beaumont felt, though, that it had a most important bearing on the principle of territorial segregation because before this could be implemented in the Cape Province, it would be 'essential' to legislate to 'modify' the franchise qualifications in that Province.³⁹

As has been noted,⁴⁰ the Cape Province was specifically excluded from the operation of the Act. In this province the natives had franchise rights, and these were linked to a property qualification. He then showed statistically that only a very small percentage of the non-whites in the Cape Province exercised their voting rights. 'The facts lead to the conclusion that, so far as the Natives are concerned, the application of the Act..would affect not more than 9 individuals in every 1,000 natives..The effect on the European population would be far greater'.⁴¹ Although Beaumont maintained that he was not suggesting that non-Europeans be deprived of their franchise right, he concluded that 'It would be a matter for serious regret if the principle of the Lands

39. Ibid., p. 19.

40. See above, chap. 2, p. 39.

41. Ibid., p. 19.

Act cannot be applied to an area comprising more than half the Union'.⁴²

Beaumont was aware of the deficiencies in the plan for a delimitation of the Union, which the Commission had recommended.⁴³ He felt that the Commission had been particularly unsuccessful in consolidating the native territories and in eliminating 'black spots'. He attributed the scattered nature of the native reserves largely to the fact that white farmers had objected to the inclusion of their farms within proposed native territories and that for this reason as little European-owned land as possible had been suggested for native occupation.⁴⁴ The result had been to scatter native territories, which was administratively less desirable than large, compact areas would have been.⁴⁵

This summary of Beaumont's Minute has pointed to many contradictions in Beaumont's thought. At one moment he argued that a native is 'civilised' when he has abandoned tribal customs and adopted a European way of life.⁴⁶ In the same breath he argued that such a person should return to his tribe to 'uplift' them.⁴⁷ He argued in favour of 'neutral' areas where both black and white could acquire land.⁴⁸

42. Ibid., p. 20.

43. U.G. 25-1916, Beaumont's Minute, p. 4.

44. Ibid., p. 4.

45. Ibid., p. 4.

46. Ibid., p. 16.

47. Ibid., p. 17.

48. See the Minority Report, pp. 41-42.

Contradicting this at another stage, he said that it would be a 'matter for serious concern'⁴⁹ if this were allowed to continue in the Cape Province. He said that he was not in favour of disenfranchising the non-Europeans but then argued that not to do so would be detrimental to European interests.⁵⁰ He said that the reserves were more than adequate but pleaded for a slow implementation of the squatting prohibition because there was nowhere for the evicted natives to go.⁵¹

If any explanation is to be found for the many contradictions in the Beaumont Minute it seems that they must be attributed to the attempt to support, and yet mitigate, harsh legislation. Beaumont appears to have approved in principle, of the Natives Land Act, yet his knowledge of the distress of the dispossessed natives, and his sympathy for them, led him to the conclusion that many individual dispensations would have to be granted.

These contradictions partly explain why Beaumont's Minute was so often quoted in the future. Critics and advocates of territorial segregation could quote selected passages from the Minute to prove opposing viewpoints.⁵² In particular, the unashamed admission that European interests had been the deciding factor in the delimitation of native

49. U.G. 25-1916, op. cit., p. 20

50. Ibid., p. 20.

51. Ibid., p. 13.

52. See below, chap. 7, p. 121.

areas, was tactless⁵³ as the government was anxious to win native approval of the delimitation. Also undiplomatic was the raising of the franchise issue.

With all its inherent contradictions, Beaumont's Minute is a humane document which draws attention to certain injustices of the Natives Land Act. While seeing merit in the legislation, he was not indifferent to 'the native who has grown old in the service of his master, or who through no fault of his own has become incapacitated from performing the ordinary duties required of a farm labourer'.⁵⁴ He would have liked to see squatting eliminated but knew that in European-owned areas 'there are in several locations whole tribes living on private lands which they have occupied for generations. They regard these as their ancestral lands, though they have become the property of private owners, to whom they pay, annually, large sums by way of rent. These natives have no fixity of tenure, they are always in fear of the enforcement of the Squatter's law, and they never know when their rents may be raised or the land sold and fresh

53. 'The Commission would have liked to frame its recommendations on broad lines... But it was found impossible to follow consistently this principle on account of the objections which were raised by the inclusion of European occupied farms within proposed native areas. The nature and extent, therefore, of the proposed native areas have been largely determined by this objection'. U.G. 25-1916, op. cit., p. 4.

54. Ibid., p. 11.

conditions of occupation imposed. But so strongly are they attached to such lands and the graves of their ancestors that they would rather submit to any terms than be forced to leave. They know that the rents they have paid cover many times the market value of the land itself and they would welcome any arrangement by which they could purchase the land for themselves or become the tenants of the government with a prospective right of ownership'.⁵⁵

In a final assessment of the Minute, one must conclude that the revelations which it contained had the effect of making people more aware of the implications of the Natives Land Act, and of forcing a re-evaluation of this legislation. The impersonal recommendations of the Commission, untainted by this Minute, would probably have found readier acceptance. However, partly as a result of the reservations which were expressed in both the Minute and in Beaumont's Minority Report, the government deemed the appointment of another sub-committee necessary, to re-investigate conditions in Natal.

55. Ibid., p. 10.

7. PUBLIC AND PARLIAMENTARY
REACTION TO THE BEAUMONT
COMMISSION'S REPORT

When the Beaumont Commission tabled its report in March 1916, its recommendations were not enthusiastically received by the public. Opposition was particularly strongly expressed by two sectors of the population: the natives throughout the Union¹ and the whites in Natal.

Native opinion of the Commission's report was expressed at a meeting of the African National Congress in Pietermaritzburg in October 1916. The report was described as disappointing and unsatisfactory.² 'Far from offering Africans an equality of opportunity in their own areas, land segregation was clearly designed to reduce by gradual process and by artificial means, the Bantu as a people to a status of permanent labourers or subordinates, for all purposes and for all times, with little or no freedom to sell their labour by bargaining on even terms with employers in the open markets of labour, either in agricultural or industrial centres'.³

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1. Walshe, op. cit., has discussed the reaction of the S.A.N.C. to the Commission's Report. See chap. 3.
 2. Walshe, op. cit., p. 56.
 3. Ibid.

Congress asked Parliament to reject the Commission's report. Selope Thema, one of the delegates, pointed out that this negative reaction differed from an earlier acceptance by the S.A.N.C. of the principle of territorial segregation, largely because the Commission's report had now indicated that that principle would not be carried out with justice.⁴

In Natal, opposition to the Beaumont Commission's report centred almost exclusively around the proposed allocation of land. Native landownings were to be increased by 1,861,860 morgen, which would have been an effective increase of 63%⁵ over the amount previously reserved for Natives. Europeans felt that this increase was unwarranted in terms of native needs. They also felt that Natal was being unfairly treated by comparison with the other provinces, as Natal had 'suffered' the largest proportionate amount of land to be given to the natives. Unfavourable comparisons were made with the Orange Free State where only 222,606 morgen had been set aside. In Natal, 45 % of the total land was to be set aside for Natives whereas only 1,5% was to be set aside in the Orange Free State.⁶

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4. He made this statement when reporting the Conference's resolutions to the Anti-Slavery and Aborigines' Protection Society. Walshe, op. cit., p. 56.
 5. Initially 2, 972, 312 morgen were scheduled.
 6. The additional areas recommended by the Beaumont Commission were (in morgen): Cape Province 1,313,055, Natal 1,861,680, Transvaal 5,042,693, Orange Free State 148,316. However these figures must be viewed in conjunction with the areas of the provinces, and with the areas scheduled under the Natives Land Act. Expressed as a percentage of the total area of each province, 9% was being set aside for natives in the Cape Province, 45% in Natal, 1,5% in the Orange Free State and 19% in the Transvaal.

As a result of this agitation in Natal, the government felt itself compelled to re-investigate the question of land allocation in Natal. A sub-committee, consisting of Col. Stanford, M. Evans and T. Chapman was appointed to conduct further on the spot investigations. Stanford's nomination to the sub-committee was unpopular because of his association with the Beaumont Commission,⁷ and he was eventually dropped from the sub-committee. Nonetheless the question of natives and land allocations continued to be contentious. In January 1917 the Natal Mercury carried a leading article in which it asserted that 'the eternal native question' could best be dealt with in 'some federal or piecemeal fashion', taking local conditions into cognizance. It implied that Natal's 'local Conditions' made segregation inadvisable and commented unfavourably on the Beaumont Commission's recommendations: 'Any scheme of land allocation such as is proposed in the ...Commission's recommendations relative to Natal would involve gross injustice from the European point of view, as well as prove unsettling to the natives'.⁸

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7. G. Heaton Nicholls played a leading role in the agitation to have him removed from the sub-committee. See Natal Mercury, January 10, 1917. Heaton Nicholls subsequently became a member of Parliament for Zululand (1902), and was for many years a member of the Native Affairs Commission. (Standard Encyclopaedia of South Africa, op. cit., p. 206.
8. Natal Mercury, January 3, 1917. See also the leading article in the Natal Mercury, January 10, 1917 (before the provisions of the draft legislation were known) which reiterated this opposition to the delimitation of areas and which pointed to Natal 'becoming practically a black reserve in the course of a decade or two'.

Despite this opposition to the Beaumont Commission's report, less than a year after its publication legislation was introduced to implement its recommendations with regard to the delimitation of land. This legislation took the form of the Native Affairs Administration Bill which was published in January 1917. The Bill reiterated the general principle of territorial segregation and proposed that there should be specified areas for natives. The remainder of the Union would be for non-natives.⁹

The administration of the native areas was to be in the hands of a permanent Commission, with the Minister of Native Affairs as chairman. Apart from this administrative function, he was to advise the government on all matters affecting natives. Parliament was also to be empowered to legislate for the native territories, or to repeal proclamations to which it objected.¹⁰ It was envisaged that local self-government would be gradually introduced, under the guidance of trained European officials by means of native councils. In order to promote this local self government, closer settlement, individual tenure and the establishment of villages would be encouraged.¹¹ The administration of justice in Native territories would devolve upon specially created Native Courts and appeals would be limited to the

9. Cape Times verbatim report of the House of Assembly Debate, 3 March 1917, p. 71.

10. Ibid.

11. Ibid.

appellate division of the supreme court.¹²

With regard to natives residing in non-native areas, only those who served white interests would be encouraged to remain. Exemptions could be obtained for aged or infirm natives and for squatters, but the fee which farmers had to pay for squatters was to be progressively increased yearly.¹³ It was hoped that squatting would be eliminated in this way. Further, it would no longer be possible for natives to enter into agreements to lease land in non-native areas.¹⁴ Leases then in existence would be recognised only for the period for which they had previously been contracted. Verbal agreements could only be recognised for a year regardless of prior commitments.¹⁵

When the Native Affairs Administration Bill became public, Natal's two leading newspapers, the Natal Mercury and the Natal Advertiser both expressed strong antipathy towards the proposed legislation: 'The people of this Union have seldom had more justifiable occasion for amazement and indignation than on perusing the astonishing terms of a draft Bill on native affairs... Anything more scandalous and reprehensible than the whole course the government is pursuing in

12. Walshe, op. cit., p. 57.

13. Cape Times, op. cit., 3 March 1917, p. 70.

14. Ibid.

15. Ibid.

regard to these native affairs has never been perpetrated even in this land of extraordinary political doings'.¹⁶

Objections to the Native Affairs Administration Bill were based on many considerations. Aside from dissatisfaction with the provisions contained in the draft legislation, it was felt that it was inappropriate to introduce legislation dealing with native affairs when the country was preoccupied with the war, particularly in view of the fact that the Unionists had undertaken to support the government during the period of war.¹⁷ The Natal Advertiser felt that the government was taking 'reprehensible advantage'¹⁸ of Unionist support in introducing this legislation during the war - a sentiment which was echoed by the Natal Mercury.¹⁹

One of the aspects of the draft legislation which was severely criticized was that it provided for government by proclamation in native territories. The Natal Advertiser was particularly vehement in its opposition to this and urged Natal to 'raise a loud and vehement general cry of "No Dictatorship"'.²⁰ Objections were also made to the new

16. Natal Advertiser, January 9, 1917.

17. Kruger, op. cit., p. 83.

18. The Natal Advertiser, January 9, 1917.

19. The Natal Mercury, January 10, 1917; January 11, 1917; March 13, 1917.

20. The Natal Advertiser, January 10, 1917.

system of administration of justice for the native territories. It was felt that the cost of administration would be doubled or trebled by the duplication of the judicial system whereby natives living in European areas would remain under the jurisdiction of the Natal Native High Court, while a special court would be established for native areas.²¹

With regard to the administration of native affairs, it was felt that the creation of a permanent native commission would lead to disastrous friction between such a body and the Minister of Native Affairs. The Natal Advertiser cited the failure of a similar arrangement which had been made for the administration of the railways.²²

Widespread criticism of any increase in the size of native territories was expressed not only in the editorial columns of the Natal newspapers, but also in the letters written by members of the public. It was suggested that the land should rather be given to the 'bravest of the brave',²³ - the returning soldiers. Public meetings²⁴ were held to protest against the proposed increase in native territories, both before and after the Native Affairs Administration Bill was introduced. At one such meeting Col. Greene accused the

21. Ibid.

22. Ibid.

23. The Natal Mercury, January 9, 1917.

24. For reports on these public meetings, see the Natal Mercury, January 10, 1917; March 13, 1917; March 14, 1917; the Natal Advertiser, January 19, 1917.

Commissioners of 'simply splashing paint on the map of Natal' without making 'the slightest inquiry on the spot as to the nature and condition of the land with which they were dealing'.²⁵

By contrast with the reception which the Natal newspapers gave the Bill, the Star²⁶ expressed mild approval of the proposed legislation and considered it not to be 'revolutionary' at all but simply to be a sequel to the 1913 Natives Land Act. It cautioned against any sudden removal of native tenants, but felt that the main objects of the new measures would be endorsed by a large body of opinion throughout South Africa. It pointed to the success of government by proclamation in the Transkeian Territories and endorsed the principle of territorial separation.

The Cape Times also supported this legislation and was criticized by the Natal Advertiser for doing so.²⁷ The Cape Times was accused of 'following the Judas policy of approving a policy which takes away land from the British Natalian to give to the native...'

During the parliamentary debates on the Natives Administration Bill, the Report of the Natives Land Commission came under sharp attack from both sides of the House.²⁸ Botha, in

25. The Natal Mercury, January 19, 1917.

26. January 22, 1917.

27. Ibid., January 19, 1917.

28. The 1915 elections had returned: South African Party 59 members, Unionists 40 members led by Sir Thomas Smartt, National Party 27 members led by J.B.M. Hertzog, Labour 4 members led by Col. Creswell. Botha formed an administration with the help of the Unionists. Kruger, op. cit., p. 103.

moving the second reading of the Bill,²⁹ made it clear that the government was not entirely satisfied with certain of the recommendations with regard to the delimitation of land. Although he did not specify any objections, he said that 'the government was not wedded to the areas recommended by the Commission'. He also commented on the 'objections' which had been raised in Natal and which had necessitated the appointment of a Sub-Committee to re-investigate the delimitation there.

Despite the shortcomings of the Report of the Natives Land Commission, on which the demarcation of land as proposed in the Bill, was based, Botha hoped that the House would approve the second reading of the Bill. Once approved in principle, the Bill would then go before a Select Committee which would consider the 'details' of the legislation more carefully. Botha implied that this Select Committee would not be bound by the recommendations of the Natives Land Commission.³⁰ It became clear during subsequent debates on the Natives Administration Bill that the government hoped that the Select Committee would revise the schedule of lands set aside for natives in terms of the recommendations of the Natives Land Commission.³¹

29. March 12, 1917 - Cape Times, op. cit., p. 70.

30. Ibid.

31. Botha made statements to this effect again on April 17, 1917 and April 21, 1917 - See Cape Times, op. cit., pp. 159-175.

Taking their cue from Botha, Government supporters who spoke in support of the second reading of the Natives Administration Bill implied that their support was conditional upon a revision of the areas as recommended by the Natives Land Commission. Botha reaffirmed this promise in the speech which he delivered immediately prior to the vote on the second reading of the Bill: 'I have said that I have no objection to another small commission to go into the areas'.³²

W.R. Collins, one of the members of the Natives Land Commission who had been returned in a bye-election as the M.P. for Ermelo in 1917, spoke in favour of the Bill.³³

Amidst Ministerial cheers he said that, if the House did not proceed with legislation to implement the principles of the 1913 Natives Land Act, then that legislation should itself be repealed. He attributed the dissatisfaction with the Report to agitation from Natal, and to the dissension of Beaumont. He argued that Natal had not 'been badly treated' by comparison with the Transvaal, where 'almost twice as much ground was recommended as in the other provinces put together'. If mistakes had been made with regard to Natal this could be attributed to public apathy. 'If the Natal public had taken up the same position as the public, say of the Transvaal', he declared, 'the report would have been of a more complete nature'.

32. Ibid., April 21, 1917.

33. Ibid., April 5, 1917, p. 144.

In dissenting from the Commission's Report, he argued that Beaumont had simply taken the 'line of least resistance'. The other Commissioners could not agree with this 'easy way out of the difficulty', because they had a 'duty' to the principles of the Natives Land Act. Although opposition to the Natives Administration Bill could be expected to diminish greatly if the schedule were amended to make Natal a neutral area, he was opposed to such a concession to public feeling'.³⁴

Hertzog, the leader of the Nationalist Party, supported the Bill³⁵ because the principle had been approved in 1913, but he 'took it that the Prime Minister was not wedded to the recommendations of the Commission'. He objected to having a 'number of small Native islands' all over the Union and wanted native locations as close as possible to each other. As he did not favour the expropriation of land, it is not clear how he hoped to achieve this.

Hertzog's support for the Bill went further than the support merely of territorial segregation. He implied that the question was ultimately one of territorial and political segregation.³⁶ He said that the 'good and educated native

34. Ibid.

35. Ibid., April 3, 1917, p. 137.

36. See also Kallaway, F.S. Malan, The Cape Liberal tradition, and South African politics, 1908-1924, Journal of African History, XV (1) 1974, p. 118, in which he says that Hertzog had a 'dual motive' in mind when supporting this legislation, i.e. territorial and political segregation. Walshe, op cit., p. 57, also argues that the Native Councils were intended not as supplementary institutions for local government but as alternatives to direct African influence in Parliament.

would want to be with his people and would understand that the white man wanted nothing to do with him'.³⁷

The leader of the Opposition Party, Sir Thomas Smartt, urged the appointment of a Select Committee before the second reading. Apart from making the legislation more explicit, this would allow more time for the proposed legislation to be considered. He felt that it was inappropriate to introduce such legislation during a period of war, particularly as he felt that native opinion should be consulted further.³⁸

While opposition to the Bill was attributed in part to the lobbying of large land companies who had been 'farming with natives' in the Transvaal,³⁹ it is apparent that, in a large measure, it also arose from genuine dissatisfaction with the Report of the Natives Land Commission. Several members expressed dissatisfaction with the delimitation of areas,⁴⁰

37. Cape Times, op. cit., April 3, 1917, p. 137.

38. Ibid., March 31, 1917, p. 132. Other members who also pleaded for more time in which to consider the legislation were Duncan (April 3, 1917, p. 137) and Merriman. Ibid.

39. Malan made this assertion. Cape Times, op. cit., April 3, 1917, p. 138. It was also suggested by Berry that the Bill had been motivated by the shortage of labour in the Transvaal (Ibid.), while Stuart said that it had been influenced by the feelings of the Orange Free State farmers. (Ibid., April 5, 1917, p. 148).

40. Leuchars, Ibid., March 31, 1917, p. 132; Crewe, Ibid., April 17, 1917, p. 157; Orr, Ibid., April 17, 1917, p. 158 and Hertzog, see above p. 118.

while others pointed to the lack of unanimity of the Commissioners.⁴¹ The contradictory stand taken on certain issues by the chairman was a further invitation to criticism. There was confusion as to whether or not he favoured the principle of territorial segregation,⁴² and extracts from his Minute were quoted to illustrate totally opposing points of views. Merriman for example, argued that natives were not happy with the Natives Administration Bill because they felt that one of its objects was to reduce the position of the educated natives and drive them back into the Kraals. He quoted Beaumont in pointing to the fact that these people would be subject to the authority of chiefs who were proved to exercise their authority with self-interest and partiality. Merriman pleaded that instead of artificially repressing natives in this way they should be 'elevated' and 'utilized' in such a way as to make of them a valuable asset to the country.⁴³ Burton's⁴⁴ refutation of this plea was also based on the recommendations contained in the Beaumont Minute viz.: Mr. Merriman has quoted para 146 of Sir W. Beaumont's Minute

41. Wessels, Cape Times, op. cit., April 5, 1917, p. 144.

42. Orr, Ibid., April 17, 1917, p. 158.

43. Ibid., April 3, 1917, p. 136.

44. Minister of Finance and of Railways and Harbours.

on the subject, but he apparently forgot the following paragraph which incidentally stated that 'the place of the civilized natives is surely amongst his own people'.⁴⁵

The second reading of the Bill was carried by a vote of 64-42⁴⁶ and it was then referred to a Select Committee.⁴⁷ This committee was not satisfied with the schedule of land delimitation contained in the Bill. However, it felt itself unequal to the task of altering the schedule and the 4th Report of this Committee recommended the appointment of Local Committees to reconsider the partition of the country.⁴⁸

45. Cape Times, op. cit., April 5, 1917, pp. 145-146.

46. Ibid., April 21, 1917, p. 169.

47. S.C. 6-1917. Botha and Malan served on this Select Committee. Other members were: Sir Bisset Berry, Col. Sir. G. Leuchars, General Hertzog, Messrs. Clayton, Blaine, King, Keyter, Madeley, Schweizer, le R. van Niekerk, D.H. Wessels, Stuart and Collins. The Secretary for Native Affairs, E.E. Dower, normally attended committee meetings, but was not a member of the committee, First Report, p. 1.

48. S.C. 6-1917, Fourth Report, p. 9.

8. CONCLUSION

The Beaumont Commission was not successful in doing what it was appointed to do viz. partitioning South Africa into European and Native areas. The lack of confidence in its work was demonstrated by the fact that subsequently other committees were appointed to reassess the recommendations of the Beaumont Commission. These local committees were appointed on a regional scale and 5 such local committees were set up, one for Natal,¹ Cape Province,² Orange Free State,³ and one each for the Eastern⁴ and the Western Transvaal.⁵ They reconsidered the areas recommended by the Beaumont Commission and the overall result was that less land was recommended by these local committees than had been recommended by the Beaumont Commission.⁶ Despite changes in the extent and position of areas to be reserved for native occupation, these local committees were no more successful than the Natives Land Commission had been in setting aside contiguous

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1. U.G. 34-1918, Report of the Natal Local Natives Land Committee.
 2. U.G. 8-1918, Report of the Cape Province Local Natives Land Committee.
 3. U.G. 22-1918, Report of the Orange Free State Local Natives Land Committee.
 4. U.G. 31-1918, Report of the Eastern Transvaal Local Natives Land Committee.
 5. U.G. 23-1918, Report of the Western Transvaal Local Natives Land Committee.
 6. 8, 365, 744 million morgen were reduced to 7, 521, 223 million morgen.

areas as native territories. There were still 'black spots' and neither Europeans nor Natives considered the delimitation to be satisfactory.⁷

The Reports of the Local Committees were tabled during the first 6 months of 1918 but the government dropped the Natives Administration Bill and made no attempt to re-introduce other legislation to implement the promises contained in the Natives Land Act of 1913. The subject of land distribution was not raised again by the government until 1926, when Hertzog gave notice of his intention to introduce legislation which would 'solve' the native land question.⁸

There were several factors which contributed to the government's inability, and reluctance, to enact legislation giving effect to territorial segregation as recommended by the Natives Land Commission. As Beaumont had pointed out in his Minute, the application of land reallocation in the Cape affected franchise rights. The verdict in the case of *Thompson and Sitwell v. Kaman*, in June 1917, at which time the Native's Administration Bill was being considered by the Select Committee, was a major deterrent to the Government's

7. Rogers, op. cit., p. 116.

8. Gazette Extraordinary No. 1570, 23 July 1926. The 4 interdependent Bills were: The Coloured Persons' Rights Bill, The Representation of Natives in Parliament Bill, The Union Native Council Bill and The Natives' Land (1913) Amendment Bill.

aim of securing a uniform native policy. The decision of the court was that any provision which restricted the acquisition of land or interest in land in the Cape Province would be legal only if enacted by means of the procedure described by Section 35 of the South African Act of 1909, because it tampered with entrenched franchise rights. This meant that a 2/3 majority in a joint sitting of both houses of Parliament would have to be obtained.⁹ The Select Committee in its 4th Report,¹⁰ called attention to the fact that if this procedure were not complied with, 'it should be clearly and specifically stated in the Bill that these restrictive provisions will not apply in the Cape Province'.¹¹ In this way, because Section 35 of the South Africa Act guaranteed the native franchise in the Cape Province, the question of legislation and land settlement in the Cape Province became inextricably linked with the question of the franchise. The Cape 'liberals', including F.S. Malan in the cabinet, were sufficiently influential to ensure that the government would not press an issue as contentious as the removal of the franchise rights of natives in the Cape Province.¹²

9. S.C. 6-1917, Fourth Report, pp. X-XI.

10. Ibid., 26 June 1917.

11. Ibid., p. XI.

12. See Kallaway, op. cit., for an indication of the influence which F.S. Malan exerted on native policy in the period 1910-1924.

While the greatest obstacle to the enactment of the Natives Administration Bill was that it could not be made operative in the Province without interfering with the franchise rights of the natives, this was not the only factor which precluded legislation on territorial segregation being enacted between 1913 and 1936. Another factor was the continued native opposition. Native opposition was voiced at an extraordinary meeting of the South African Native National Congress, called in February 1917 to discuss the Natives Administration Bill. One of the fundamental objections to the Bill was what was described as 'the unjust allocation of land'.¹³ Sentiment on the Bill was strong enough to motivate yet another deputation to London in an attempt to get the Imperial Government to intervene. This was unsuccessful as the 1914 delegation had been.¹⁴

Native opposition was understandable but whites were also indignant at the inadequacy of the land settlement. Despite the fact that only 13% of the land was being reserved for 76% of the population, many felt that the land which was being set aside for natives was 'too good',¹⁵ in that much

13. Walshe, op. cit., p. 59.

14. Ibid.

15. Walker, op. cit., 'Many were asking why the natives were to have the good land that the Commission actually proposed to give to them', p. 584. See also Hofmeyer, op. cit., p. 169, Van Biljon, op. cit., p. 449, Brookes, op. cit., White Rule in South Africa, pp. 203-4.

of it was in areas of good rainfall and relative fertility.

Criticism of the way in which the land had been allocated was coupled with criticism of the Report of the Natives Land Commission.¹⁶ The lack of unanimity of the Commissioners on the important principle of whether or not all land was to be segregated, or whether neutral areas were to be permitted, raised the whole issue of segregation again. As the Parliamentary debates on the Bill have shown, opposition, particularly from Natal,¹⁷ was given greater strength by the fact that the chairman, Beaumont, had dissented from his Committee's recommendations. Mention has also been made of the inconsistencies in Beaumont's Minute and the way in which it was misrepresented during the debates. The controversial nature of the chairman's contribution, together with the unpopularity of the Commission's recommendations of land allocation must also be regarded as having been partly responsible for the failure of the Natives Administration Bill to appear on the Statute books.

Further evidence of the general dissatisfaction with the Commission's report can be seen in that the government began, administratively, to implement the recommendations of the Local Committees rather than those of the Natives Land

16. Evans, op. cit., ... the schedule of additional native areas recommended by the Commission met with considerable opposition in detail, p. 28.

17. For a fuller treatment of Natal's reaction to the Commission's Report, see Gibson, op. cit., p. 55f.

Commission. In 1918, Botha laid down that with the Governor-General's approval, natives might be allowed to purchase land in areas which had been recommended both by the Natives Land Commission and by the Local Committees.¹⁸ However, by 1922, Smuts gave the policy directive that 'Local Committee areas were to be regarded as areas in which natives could buy or lease land'.¹⁹

Thus when legislation was eventually passed, in 1936, to make additional land available to blacks, it was not done on the basis of the Beaumont Commission's recommendations but was based substantially on the recommendations of the Local Committees. This meant that the total area of land reserved for native use was considerably reduced.

One must therefore conclude that from the government's point of view, the appointment of the Beaumont Commission had unfortunate repercussions. As we have seen, one of the factors which led to Union in South Africa, had been the desire to establish a consistent native policy. Hence the

18. Lekhela, op. cit., p. 123.

19. Rogers, op. cit., pp. 145-146. However, there does seem to have been some inconsistency in this policy in that, according to Davenport, Smuts told representatives of the South African Native National Congress in 1923 that 'Land was actually being bought by Africans in areas allocated to them by the Beaumont Commission of 1914-1916. Davenport, The Beginnings of Urban Segregation, p. 22.

Botha government felt compelled to tackle the issue of land-ownership which was fundamental to any native policy. It would seem that the government, by appointing Beaumont as chairman, hoped to capitalize politically from the fact that he was an English-speaking Natalian. Unexpectedly though, Beaumont's appointment did not have the desired effect of placating Natal and securing its co-operation in territorial segregation. His dissension on the delimitation of Natal made him one of the most influential spokesmen for the opposition of the application of the principle to Natal. Hence a large degree of the responsibility for the failure of conclusive native legislation devolves on Beaumont himself.

It would seem, that the significance of the Beaumont Commission's Report is not to be found in the promulgation of legislation based on its recommendations, but in the absence of such legislation. Although it was envisaged in 1913 that legislation would be passed within two to three years of that date, legislation to effect land allocation was delayed for 23 years, partly as a result of dissatisfaction with the recommendations of the Natives Land Commission. Thus when legislation was eventually passed in 1936, despite a 64% increase in the black population,²⁰ the land area set aside for blacks was reduced by \pm 6% of the area which the Natives

20. Native population in 1913 was \pm 4,5 million (U.G. 32-1912, Census of the Union of South Africa, 1911). By 1936 it had increased to 6,6 million. (U.G. 50-1936, Census of the Union of South Africa).

Land Commission had suggested.²¹ It is on this reduced area that the Homelands are today being established. Beaumont's proposals with regard to neutral areas were also rejected.

21. The Beaumont Commission proposed that 18, 788, 679 morgen be reserved (U.G. 19-1916, *op. cit.*, p. 43.), while 17, 672, 935 morgen were scheduled in terms of the Natives Trust and Land Act of 1936. (Van Biljon, *op. cit.*, p. 467).

APPENDIX 1NATIVES LAND ACT NO. 27 OF 1913

To make further provision as to the purchase and leasing of land by Natives and other Persons in the several parts of the Union and for other purposes in connection with the ownership and occupation of land by Natives and other Persons.

1. (1) From and after the commencement of this Act, land outside the scheduled native areas shall, until Parliament, acting upon the report of the commission appointed under this Act, shall have made other provision, be subject to the following provisions, that is to say:-

Except with the approval of the Governor-General:-

- (a) a native shall not enter into any agreement or transaction for the purchase, hire, or other acquisition from a person other than a native, of any such land or of any right thereto, interest therein, or servitude thereover; and
- (b) a person other than a native shall not enter into any agreement or transaction for the purchase, hire, or other acquisition from a native of any such land or of any right thereto, interest therein, or servitude thereover.
- (2) From and after the commencement of this Act, no person other than a native shall purchase, hire or in any

other manner whatever acquire any land in a scheduled native area or enter into any agreement or transaction for the purchase, hire or other acquisition, direct or indirect, of any such land or of any right thereto or interest therein or servitude thereover, except with the approval of the Governor-General.

- (3) A statement showing the number of approvals granted by the Governor-General under sub-sections (1) and (2) of this section and giving the names and addresses of the persons to whom such approvals were granted; the reasons for granting the same, and the situation of the lands in respect of which they were granted, shall, within six weeks after the commencement of each ordinary session of Parliament, be laid upon the Tables of both Houses of Parliament.
 - (4) Every agreement or any other transaction whatever entered into in contravention of this section shall be null and void ab initio.
2. (1) As soon as may be after the commencement of this Act the Governor-General shall appoint a commission whose functions shall be to enquire and report—
- (a) what areas should be set apart as areas within which natives shall not be permitted to acquire or hire land or interests in land;
 - (b) what areas should be set apart as areas within which persons other than natives shall not be permitted to acquire or hire land or interests in land.

- (3) The commission shall submit with any such report—
- (i) descriptions of the boundaries of any area which it proposes should be so set apart; and
 - (ii) a map or maps showing every such area.
- (2) The commission shall proceed with and complete its enquiry and present its reports and recommendations to the Minister within two years after the commencement of this Act, and may present interim reports and recommendations: Provided that Parliament may by resolution extend (if necessary) the time for the completion of the commission's enquiry. All such reports and recommendations shall be laid by the Minister, as soon as possible after the receipt thereof, upon the Tables of both Houses of Parliament.
3. (1) The commission shall consist of not less than five persons and if any member of the commission die or resign or, owing to absence or any other reason, is unable to act, his place shall be filled by the Governor-General.
- (2) The commission may delegate to any of its members the carrying out of any part of an enquiry which under this Act it is appointed to hold and may appoint persons to assist it or to act as assessors thereto or with any members thereof delegated as aforesaid, and may regulate its own procedure.

- (3) The reports and recommendations of the majority of the commission shall be deemed to be the reports and recommendations of the commission: Provided that any recommendations of any member who dissents from the majority of the commission shall, if signed by him, be included in any such report aforesaid.
 - (4) The commission or any member thereof or any person acting as assistant, or assessor, or secretary thereto may enter upon any land for the purposes of its enquiries and obtain thereon the information necessary to prosecute the enquiries. The commission shall without fee or other charge have access to the records and registers relating to land in any public office or in the office of any divisional council or other local authority.
4. (1) For the purposes of establishing any such area as is described in section two, the Governor-General may, out of moneys which Parliament may vote for the purpose, acquire any land or interest in land.
- (2) In default of agreement with the owners of the land or the holders of interests therein the provisions of the law in force in the Province in which such land or interest in land situate relating to the expropriation of land for public purposes shall apply and, if in any Province there be no such law, the provisions of Proclamation No. 5 of 1902 of the Transvaal and any amendment thereof shall multatis mutandis apply.

5. (1) Any person who is a party to any attempted purchase, sale, hire or lease, or to any agreement or transaction which is in contravention of this Act or any regulation made thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months, and if the act constituting the offence be a continuing one, the offender shall be liable to a further fine not exceeding five pounds or every day during which that act continues.
- (2) In the event of such an offence being committed by a company, corporation, or other body of persons (not being a firm or partnership), every director, secretary, or manager of such company, corporation, or body who is within the Union shall be liable to prosecution and punishment and, in the event of any such offence being committed by a firm or partnership, every member of the firm or partnership who is within the Union shall be liable to prosecution and punishment.
6. In so far as the occupation by natives of land outside the scheduled native areas may be affected by this Act, the provisions thereof shall be construed as being in addition to and not in substitution for any law in force at the commencement thereof relating to such occupation; but in the event of a conflict between the provisions of this Act and the provisions of any such law, the provisions of this

Act shall, save as is specially provided therein prevail:

Provided that—

- (a) nothing in any such law or in this Act shall be construed as restricting the number of natives who, as farm labourers, may reside on any farm in the Transvaal;
- (b) in any proceedings for a contravention of this Act the burden of proving that a native is a farm labourer shall be upon the accused;
- (c) until Parliament, acting upon the report of the said commission, has made other provision, no native resident on any farm in the Transvaal or Natal shall be liable to penalties or to be removed from such farm under any law, if at the commencement of this Act he or the head of his family is registered for taxation or other purposes in the department of Native Affairs as being resident on such farm, nor shall the owner of any such farm be liable to the penalties imposed by section five in respect of the occupation of the land by such native; but nothing herein contained shall affect any right possessed by law by an owner or lessee of a farm to remove any native therefrom.

7. (1) Chapter XXXIV of the Orange Free State Law Book and Law No. 4 of 1895 of the Orange Free State shall remain of full force and effect, subject to the modifications and interpretations in this section

provided, and sub-section (1)(a) of the next succeeding section shall not apply to the Orange Free State.

- (2) Those heads of families, with their families, who are described in article twenty of Law No. 4 of 1895 of the Orange Free State shall in the circumstances described in that article be deemed to fall under the provisions of Ordinance No. 7 of 1904 of that Province or of any other law hereafter enacted amending or substituted for that Ordinance.
- (3) Whenever in Chapter XXXIV of the Orange Free State Law Book the expressions 'lease' and 'leasing' are used, those expressions shall be construed as including or referring to an agreement or arrangement whereby a person, in consideration of his being permitted to occupy land, renders or promises to render to any person a share of the produce thereof, or any valuable consideration of any kind whatever other than his own labour or services or the labour or services of any of his family.

8. (1) Nothing in this Act contained shall be construed as,—
 - (a) preventing the continuation or renewal (until Parliament acting upon the report of the said commission has made other provision) of any agreement or arrangement lawfully entered into and in existence at the commencement of this Act which is a hiring or leasing of land as defined in this Act; or

- (b) invalidating or affecting in any manner whatever any agreement or any other transaction for the purchase of land lawfully entered into prior to the commencement of this Act, or as prohibiting any person from purchasing at any sale held by order of a competent court any land which was hypothecated by a mortgage bond passed before the commencement of this Act; or
- (c) prohibiting the acquisition at any time of land or interests in land by devolution of succession on death, whether under a will or on intestacy; or
- (d) preventing the due registration in the proper deeds office (whenever registration is necessary) of documents giving effect to any such agreement, transaction, devolution or succession as is in this section mentioned; or
- (e) prohibiting any person from claiming, acquiring, or holding any such servitude as under Chapter VII, of the Irrigation and Conservation of Waters Act, 1912, he is specially entitled to claim, acquire, or hold; or
- (f) in any way altering the law in force at the commencement of this Act relating to the acquisition of rights to minerals, precious or base metals or precious stones; or
- (g) applying to land within the limits in which a

- municipal council, town council, town board, village management board, or health committee or other local authority exercises jurisdiction; or
- (h) applying to land hold at the commencement of this Act by any society carrying on, with the approval of the Governor-General, educational or missionary work amongst natives; or
- (i) prohibiting the acquisition by natives from any person whatever of land or interests in land in any township lawfully established prior to the commencement of this Act, provided it is a condition of the acquisition that no land or interest in land in such township has at any time been or shall in future be, transferred except to a native or coloured person; or
- (j) permitting the alienation of land or its diversion from the purposes for which it was set apart if, under section one hundred and forty-seven of the South Africa Act, 1909, or any other law, such land could not be alienated or so diverted except under the authority of an Act of Parliament; or
- (k) in any way modifying the provisions of any law whereby mortgages of or charges over land may be created to secure advances out of public moneys for specific purposes mentioned in such law and the interest on such advances, or whereunder the mortgagee or person having the charge may enter

and take possession of the land so mortgaged or charged, except that in any sale of such land in accordance with such law the provisions of this Act shall be observed.

(2) Nothing in this Act contained which imposes restrictions upon the acquisition by any person of land or rights thereto, interests therein, or servitudes thereover, shall be in force in the Province of the Cape of Good Hope, if and for so long as such person would, by such restrictions, be prevented from acquiring or holding a qualification whereunder he is or may become entitled to be registered as a voter at parliamentary elections in any electoral division in the said Province.

9. The Governor-General may make regulations for preventing the overcrowding of huts and other dwellings in the states, native villages and settlements and other places in which natives are congregated in areas not under the jurisdiction of any local authority, the sanitation of such places and for the maintenance of the health of the inhabitants thereof.

10. In this Act, unless inconsistent with the context,—
'scheduled native area' shall mean any area described in the Schedule to this Act;
'native' shall mean any person, male or female, who is a member of an aboriginal race or tribe of Africa; and shall further include any company or other body of persons, cor-

porate or unincorporate, if the persons who have a controlling interest therein are natives;

'interest in land' shall include in addition to other interests land, the interest which a mortgagee of, or person having a charge over, land acquires under a mortgage bond or charge;

'Minister' shall mean the Minister of Native Affairs;

'farm labourer' shall mean a native who resides on a farm and is bona fide, but not necessarily continuously, employed by the owner or lessee thereof in domestic service or in farming operations:

Provided that

- (a) if such native reside on one farm and is employed on another farm of the same owner or lessee he shall be deemed to have resided, and to have been employed, on one and the same farm;
- (b) such native shall not be deemed to be bona fide employed unless he renders ninety days service at least in one calendar year on the farm occupied by the owner or lessee or on another farm of the owner or lessee and no rent is paid or valuable consideration of any kind, other than service, is given by him to the owner or lessee in respect of residence on such farm or farms.

A person shall be deemed for the purposes of this Act to hire land if, in consideration of his being permitted to occupy that land or any portion thereof—

- (a) he pays or promises to pay to any person a rent in money; or
- (b) he renders or promises to render to any person a share of the produce of that land, or any valuable consideration of any kind whatever other than his own labour or services or the labour or services of his family.

11. This Act may be cited for all purposes as the Natives Land Act, 1913.

APPENDIX 2LIST OF PLACES VISITED BY THE COMMISSION (OR DELEGATES)1. CAPE OF GOOD HOPE:

Butterworth, Cape Town, Hankey, Humandorp, Kimberley, King Williams' Town, Knysna, Kokstad, Lady Frere, Mafeking, Port Elizabeth, Queenstown, Taungs, Umtata, Umzinkulu, Vryburg.

2. NATAL:

Donnybrook, Dundee, Durban, Empangeni, Eshowe, Estcourt, Greytown, Krantzkop, Ladysmith, Melmoth, Pietermaritzburg, Port Shepstone, Vryheid.

3. TRANSVAAL:

Baberton, Ermelo, Haenertsberg, Louis Trichardt, Lydenburg, Middelburg, Nylstroom, Pietersburg, Rustenburg, Standerton.

4. ORANGE FREE STATE:

Bethany, (Edenburg) Bethlehem, Bloemfontein, Harrismith, Hoopstad, Kroonstad, Thaba'Nchu, Witzieshoek.

(U.G. 22-1916, op. cit., Appendix XII)

APPENDIX 3

Evidence was taken largely from a few classes, or professions of the population. In the case of Europeans evidence from farmers predominated, followed by that from magistrates.

	Cape Province	Natal	Orange Free State	Trans- vaal	Total
Farmers	41	67	49	55	212
Legal profession	15	6	2	6	29
Magistrates	34	42	11	19	106
Native Administrators	17	5	-	14	36
Politicians	2	13	6	15	36
Religious affiliations	21	26	3	19	69
Other	41	10	9	14	74
Total No. of Europeans interviewed	171	169	80	142	562

Native evidence was taken largely from chiefs, headmen, indunas etc. Very few natives who were described as 'farmers' were interviewed, a few members of 'political parties', largely of the South African Native National Congress, were interviewed.

	Cape Province	Natal	Orange Free State	Trans- vaal	Total
Chiefs etc.	33	86	10	72	201
Farmers	7	2	4	2	15
Griquas	6	-	-	-	6
Political affiliations	2	5	3	1	11
Religious affiliations	5	5	4	4	18
Other	54	13	5	12	84
Total No. of Natives interviewed.	107	111	26	91	335

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 - (iv) Union Government Publications.
- (b) Unpublished Collections of Private Papers.
- (c) Published Collections of Papers.
- (d) Other Official Documents and Publications.
- (e) Newspapers.

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