



Frederick Robert Moor
(Reproduced from Siona Bishop's album of the Moor family)

Frederick Robert Moor and Native Affairs
in the Colony of Natal 1893 to 1903

by

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SUMMARY

This dissertation is concerned with the public life of Frederick Robert Moor during the period 1893 to 1903. Moor served as Secretary for Native Affairs during the first ten years of responsible government in Natal in the ministries of Sir John Robinson (1893 - 1897), Harry Escombe (1897) and Alfred Hime (1899 - 1903). His policy towards the Africans and his handling of specific issues that faced the Native Affairs Department are examined. This study shows that the political nature of his office and his responsibility to the White electorate influenced his determination of policy and its implementation.

Control was the key-note of Moor's policy and continuing in the tradition of the Native Affairs Department he believed that the tribal system and customary law were the best means of effecting this control. He therefore opposed anything that threatened this system such as the system of exemption from customary law which freed Africans from tribal control. This desire to protect the traditional system of government as well as his paternalism explains Moor's reluctance to allow Africans to appeal against the decisions of the lower courts to the higher courts or to permit the employment of lawyers by the Africans in the courts that administered customary law.

Moor was opposed to granting the franchise to Africans even though he realised that he, as Secretary for Native Affairs, could not adequately represent their interests. He was also against alienating land in freehold to the Africans. Moor's policy made it impossible for him to find a place in his system for those Africans who wanted to shake off traditionalism and he found it difficult to handle the specific problems faced by them.

Moor's location policy was motivated primarily by the desire to control the Africans and this was made more urgent with the spread of the Ethiopian movement. Yet he wished also to improve the Africans ability to support themselves and for this reason he initiated irrigation projects. Moor wanted to bring the mission reserves under the control of the government in the same way as the locations and in achieving this he caused tension between the government and the missionaries.

No study of the relations between African and White in colonial Natal can exclude the labour issue. Moor had an individual approach to the labour question but was constantly torn between the demands of the colonists for cheap and abundant labour and his obligations to the Africans. He is revealed as being sympathetic to the position of the Africans. His unwillingness to prevent African labour in Natal from going to the Transvaal and his appointment of J.S. Marwick to see to the interests of these Africans in the Transvaal were controversial.

By 1903 Moor had acquired considerable experience as Secretary for Native Affairs and had formulated his policy. Despite his good intentions his policy succeeded in sowing the seeds of dissatisfaction amongst the Africans. The Africans appreciated his honesty but were critical of his failure to deal with specific issues such as the improvement of their educational facilities.

Moor did not have to deal with an uprising in this period but three years after he left office the storm broke over Natal and Moor's responsibility for this is briefly discussed. Moor returned to the government in 1906 as Prime Minister and Minister for Native Affairs but this is outside the scope of this dissertation.

family home and gave me access to the Moor family album. I am particularly grateful to Donald Moor for granting me permission to read as well as quote from Shirley Moor's diary.

But for the co-operation and generous assistance of the staff of the Natal Archives, the Natal Society Library, the Don Africana section of the Durban Municipal Library and the Killie Campbell Africana Library my task would have been much more difficult.

Finally, words of appreciation are due to Mrs. Nola Scott who typed this dissertation, to Dr. and Mrs. Manilal Marie and family with whom I stayed in Pietermaritzburg and to my parents, Satish, Prathiebha and Kirti for their encouragement and support.

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F.R. (Taffy) Walter, Donald Moor, Jeff Moor, Siona Bishop and Diana Wevell were most co-operative. They provided me with snippets of information, escorted me around Moor's

ABBREVIATIONS

A.B.M.	American Board Mission
B.B.N.A.	Blue Book for Native Affairs of the Colony of Natal
C.S.O.	Colonial Secretary's Office
G.H.	Government House Records
L.A.D.	Debates of the Legislative Assembly of the Colony of Natal
L.C.D.	Debates of the Legislative Council of the Colony of Natal
N.G.G.	Natal Government Gazette
N.N.A.C.	Natal Native Affairs Commission 1906 - 1907
N.P.P.	Natal Parliamentary Papers
P.M.	Prime Minister's Office
S.A.N.A.C.	South African Native Affairs Commission 1903 - 1905
S.N.A.	Secretary for Native Affairs

INTRODUCTION

The story of the relationship between the Africans¹ and White colonists of Natal and the issue of "solving" the "Native question" dominates the history of this colony from the formal assumption of authority by the British government in 1845 to the year 1910. In 1852 the African population was estimated at 112 988 as opposed to 7629 Whites² and the policy, as framed in the late 1840's and 1850's and sanctioned by the imperial government, with regard to the Africans was to place them in locations and to recognise African traditional law with some qualification. The core of the policy was the upholding and maintenance of the tribal system in order to perpetuate a system of indirect rule. This policy determined by pragmatic considerations was to ensure the subsequent political and social separation of the two race groups, limiting interaction to a great extent to the labour market.

In the 1850's and 1860's, when the moulding and shaping of the imperial government's "Native policy" was evident, criticisms from the colonists abounded. They claimed that the recognition of the authority of the African Chiefs and the acceptance of African traditional law was equivalent to encouraging barbarism. The location system came under attack because it was feared that it would encourage the Africans to lead idle lives and they would pursue their simple traditional economy on these large lands instead of entering the labour market.

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1. The term African is used throughout this work in preference to the terms "Native" and "Kafir", which were used in the period under consideration. Black has not been used since it is sometimes understood to refer to Africans, Coloureds and Indians and could cause confusion.
 2. Statistical Year Book for the Colony of Natal for the Year 1904, p. 3.

The virulence of the attacks on the government's "*Native policy*" began to abate in the 1870's and 1880's perhaps as a result of the demands for responsible government which were certainly motivated by the colonists desire to have control over "*Native policy*." The British government would not accede to the request for constitutional change if it perceived that radical changes were contemplated in "*Native policy*." The protracted struggle for constitutional reform came to an end when, on 20 July 1893, Law 14 of 1893 "*To provide for the establishment of Responsible Government in Natal*" better known as the Constitution Act of 1893 came into operation.

The issue of control over "*Native policy*" had a not insignificant part in the whole process of negotiation between the imperial government and the pro-responsible government leaders. The Constitution Act indeed reveals the attempts of the imperial government to restrict the control of the colonists over matters concerning the African population and safeguards were made. It provided for a Legislative Assembly of 37 elected members who would hold their seats for four years and a Legislative Council of eleven nominated members appointed for ten years; five of the first Council would retire after five years. Section 14 of the Act provided that the Governor would nominate the first Council while further Councils were to be appointed by the Governor together with his ministers. The imperial government had insisted on this provision for an Upper House nominated by the Governor in the hope that they would check hasty, extreme or unjust legislation pertaining to the Africans.

In terms of section 6 of the Constitution Act the Governor had the right to assent or refuse assent to all bills or he could reserve these for consideration by the imperial government. Section 7 provided that even if the Governor allowed a particular piece of legislation, if within two years after this

assent was given he was informed by the imperial government that the act was to be disallowed, he would have to inform the Legislative Assembly and Council that the act was now "null and void." As a corollary to these provisions, clause VIII of the Royal Instructions issued to the Governor on 20 July 1893³ provided that the Governor might not grant assent to "Any bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable" unless such a bill had a clause which suspended its operation until notification by the imperial government of its allowance.

Clause VI of the Royal Instructions provided that as Supreme Chief over the African population the Governor should act on the advice of his ministers and in consultation with them but he had the right to act independently of his ministers for the "ultimate decision" would be his. If however he acted against the wishes of his ministers the Governor, as provided by clause VII, would have to report to the imperial government furnishing reasons for such action.

In theory, then, the colonists' control over "Native policy" was restricted and discriminatory race legislation would first have to receive the sanction of the British government. In addition to all the safety checks schedule A of the Constitution Act provided that £10 000 per year would be set aside "For the promotion of the welfare and education of the Natives."

Sir Walter Hely-Hutchinson was appointed Governor of Natal in August 1893 and he arrived in Natal a month later.

3. For these Instructions see N.G.G., Vol. XLV, No. 2644, 31.10.1893.

Section 8 of the Constitution Act provided for the appointment of a ministry of not more than six men. The first elections under responsible government were held in September and a ministry was appointed in the following month. The five men included in the first ministry of Natal were Sir John Robinson (Premier and Colonial Secretary), Harry Escombe (Attorney General), George Morris Sutton (Treasurer), Frederick Robert Moor (Secretary for Native Affairs) and Thomas Keir Murray (Minister of Lands and Works).

While one may agree with C.A. Gillit that "*The one outstanding feature of the elections in 1893 was a general political apathy and a complete lack of interest*",⁴ the opposite was the case where the appointment of the first ministry was concerned. In particular, considerable interest was shown in the important portfolio of Secretary for Native Affairs. As early as July the Inkanyiso Yase Natal expressed the hope that they would have a sympathetic, liberal Secretary for Native Affairs who would be well experienced in African matters. It also warned that a cautious policy should be adopted so that the Africans would not regret the fact that responsible government had been granted.⁵

The new Secretary for Native Affairs, F.R. Moor of Weenen County, had worked with Robinson and Escombe in the agitation for responsible government. In fact when he lost his seat in the elections of September 1892 the fate of the responsible government bill was doomed because Robinson did not have

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4. C.A. Gillit: Natal 1893 - 1897; the Alignment of Parties and the Fall of the Escombe Ministry (Unpublished B.A. Hons. thesis, University of Natal, 1965), chapter 3, p. 1.
 5. Inkanyiso Yase Natal, 21.7.1893.



The Robinson Ministry
Seated in the centre is Sir John Robinson. On his right is
T.K. Murray and on his left is G.M. Sutton. Standing behind
are Harry Escombe and F.R. Moor.
(Reproduced from Natal Mercury Pictorial, 22.10.1908)

sufficient support to carry it through the Legislative Council.⁶ Moor was informed by the central committee of the responsible government party: "*We feel now that the battle is lost.*"⁷ In November 1892, however, the Weenen elections were annulled due to irregularities in the polling and by-elections were held returning the pro-responsible government candidates, Moor and George Morris Sutton, in December 1892.⁸ When the Newcastle elections, held early in 1893, were decided in favour of Robinson's party, he had enough support to pass a motion in May 1893 in the Legislative Council endorsing support for responsible government and the bill was carried.⁹ Moor had gained the highest number of votes in Weenen County in the elections of September 1893¹⁰ and as a representative of the farming community and close supporter of Robinson he secured a position in the first ministry of Natal.

Prior to the granting of responsible government Moor had stressed the importance of considering the interests of the Africans and avoiding "*unjust or tyrannical measures*" pointing out that the Whites should " ... *deal with the Natives fairly, honestly, justly and firmly* ..." ¹¹
The Johannesburg Star, commenting on Moor's appointment as Secretary for Native Affairs, stated that he was " ... a

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6. T.V. Bulpin: Natal and the Zulu Country, p. 414; A.F. Hattersley: Later Annals of Natal, p. 206.
 7. G.M. Sutton Collection (Natal Archives, Pietermaritzburg): Box 6, Letters, H. Bale - G.M. Sutton, 27.9.1892.
 8. J. Lambert: Sir John Robinson and Responsible Government 1863 - 1897; the Making of the First Premier of Natal (Unpublished M.A. thesis, University of Natal, Pietermaritzburg, 1975), p. 217.
 9. E.H. Brookes and C. de B. Webb: A History of Natal, p. 179; Bulpin: Natal and the Zulu Country, p. 414; Hattersley: Later Annals of Natal, p. 206.
 10. See Appendix 1.
 11. L.C.D., 1890 - 1891, Vol. 15, p. 92.

farmer without antipathies or leanings too pronounced for an office which will doubtless require delicate management for some time to come."¹² It was possibly for this reason that Robinson had offered Moor the portfolio of Secretary for Native Affairs for he himself was convinced of the necessity for cautiousness in dealing with the Africans.¹³ The Natal Witness¹⁴ and Times of Natal¹⁵ reacting to Moor's appointment pointed out, however, that he was not really knowledgeable about the Africans and that he knew them only as an employer knows his labourers. To be successful Moor would have to extend his knowledge.

One of the most significant steps taken by the new Secretary for Native Affairs was the appointment of an Under Secretary for Native Affairs as provided for by schedule A of the Constitution Act. This civil servant would be the permanent head of the Native Affairs Department and Moor and Robinson gave careful consideration to the appointment.¹⁶ The post was considered important because the Under Secretary for Native Affairs would serve as a line of communication between the government and the African people and the success of the government would hinge on this appointment.¹⁷ Furthermore, it was pointed out, the Governor, the Prime Minister and the Secretary for Native Affairs knew little about the Africans so it was vital that they have a knowledgeable Under Secretary for Native Affairs.¹⁸

12. Quoted in Natal Mercury, 16.10.1893.

13. See for instance L.A.D., 1894, Vol. 22, p. 13.

14. Natal Witness, 11.10.1893 (Editorial).

15. Times of Natal, 12.10.1893 (Editorial).

16. See Charlotte Moor Papers (Killie Campbell Africana Library, Durban): Diary 1890 - 1896, entry 7.11.1893.

17. Inkanyiso Yase Natal, 21.7.1893.

18. Natal Witness, 10.10.1893 (Editorial).

It was rumoured that the post was intended for Arthur Shepstone,¹⁹ the son of Theophilus Shepstone, and in fact Governor Hely-Hutchinson had advised the new ministry to appoint a Shepstone to the post.²⁰ The Robinson ministry considered only three men for the position: J.C.C. Chadwick, the Resident Magistrate at Ixopo, S.O. Samuelson, a Zulu interpreter to the Supreme Court and T.R. Bennet, the Resident Magistrate at Lower Tugela. The choice finally fell on Samuel Olaf Samuelson who had impressed the government with his excellent record in the civil service; they noted that he was respected by the African Chiefs and Headmen and that he had considerable experience with the African people.²¹

The appointment was well received and the Inkanyiso Yase Natal, in particular, felt optimistic about the new government because, despite Moor's lack of experience, he was "*honest and upright*" and he would now be supported by the experienced Samuelson.²² By January 1895 the Native Affairs Department consisted not only of Moor and Samuelson but one second class clerk, two third class clerks, one Induna and two African messengers²³ making it one of the more important departments in the government. It was estimated that the expenses of the Department in the period July 1894 to June 1895 would be £16 871 including the salaries of its officials, the special £10 000 reserved vote for the Africans, travelling expenses, payments to be made to the Chiefs and so forth.²⁴

19. Natal Witness, 10.10.1893 (Editorial).

20. Sir John Robinson Collection (Natal Archives, Pietermaritzburg): Vol. 1, 3/8, Letter, Hely-Hutchinson - Robinson, 7.10.1893.

21. C.S.O. (Natal Archives, Pietermaritzburg) 2571
Confidential Minute Papers: 83 - '93, Robinson - Hely-Hutchinson, 2.11.1893.

22. Inkanyiso Yase Natal, 20.10.1893.

23. Natal Civil Service List for 1895, p. 145.

24. N.G.G., Vol. XLVI, No. 2686, 3.7.1894.

There was some interest in the intended policy of the new government towards the Africans. As early as 1893 and also 1894 some members of the Legislative Assembly wished to know what changes were to be made since the ministry had in the past criticised the administration of "Native affairs" in Natal.²⁵ Moor was informed by C.A.S. Yonge, the member for Lions River Division, that the farming communities expected much from him.²⁶ In 1888 Moor had stated that " ... the past history of this colony goes to show that all our enactments in connection with Natives in this colony have had a tendency to crystallise and throw back into heathenism the whole of the Native population" and he had criticised the "constant tinkering with the laws" relating to the African population.²⁷ He had also said that " ... any European in this colony who has the welfare of these Natives at heart should blush for shame at the way in which we have kept our Natives in a state of savagery and heathenish barbarism."²⁸ Now a government consisting of colonists and elected by colonists could implement its own policy and Moor, a Natal born colonist who broke the Shepstone connection in the Native Affairs Department, was given the opportunity to remedy what he considered to be the undesirable effects of the previous administration.

This dissertation then is concerned with the examination of the policy of a "non-Shepstone" and his relationship with the Africans in Natal from 1893 to 1903. What, for instance, was Moor's attitude towards the tribal system and African traditional law? Did Moor encourage the emergence of a

25. Two members were J.P. Symons, member for Umvoti County (L.A.D., 1893, Vol. 21, p. 11) and H. Fell, member for Umgeni Division (L.A.D., 1894, Vol. 22, p. 23).

26. L.A.D., 1893, Vol. 21, p. 13.

27. L.C.D., 1888, Vol. 12, p. 16.

28. L.C.D., 1888, Vol. 12, p. 27.

class of Africans who would turn their backs on their own cultural heritage and instead accept the advantages of White civilisation? Did he have a vigorous education policy? What form of political representation did Moor envisage for the African? Did Moor attempt in any way to improve the position of the Africans in the locations? Did he favour communal land tenure or was he prepared to grant land freehold to the Africans? Since the White colonists looked to the Africans to solve their labour needs was Moor in favour of imposing new taxes or increasing the taxes paid by Africans or increasing their needs so as to force them into the labour market? What in fact was Moor's solution to the labour question in Natal? What criticisms were there of Moor's handling of the "*Native question*"?

Moor's position as Secretary for Native Affairs was different from that of the Shepstones for under the new constitution the office of Secretary for Native Affairs became a political one. As a political official Moor and other members of the ministry could be removed from office according to the dictates of the Natal electorate. Furthermore, while elected as the representative of a White constituency, Moor occupied a portfolio which required him to see to the welfare of the African population. Could Moor effectively represent these two interests or did his dual obligations produce conflict? How did the political nature of his office affect Moor's policy towards the African? Was the ministry in Natal limited at any time in the implementation of its policy towards the Africans by the imperial government, the Governor or the Legislative Council?

In an attempt to consider the multifarious issues posed here the chapters in this study have been thematically arranged. The first chapter will provide information about Moor's background and political life while further chapters will deal with major issues like the system of exemption from

customary law, the question of political representation for the disenfranchised Africans, the locations and mission reserves, the labour question and matters relating to the administration of justice.

This study does not refer specifically to Zululand since in 1897 when Zululand was annexed to Natal Moor was no longer in office as Secretary for Native Affairs. Zululand was placed under the administrative care of Charles Saunders who was Civil Commissioner and Chief Magistrate. Act 17 of 1898,²⁹ Act 46 of 1898³⁰ and Act 6 of 1899³¹ extended the application of certain Natal laws to Zululand but Moor was not concerned with this decision. Likewise the Zululand Delimitation Commission, which was appointed in 1902 to demarcate reserves, did not issue its report until 1905 when Moor was out of office. The Zululand question then does not emerge as a major issue with which Moor was concerned.

The period 1893 to 1903 also saw the outbreak of the Anglo-Boer war in 1899 and the subsequent annexation of the Northern Districts, namely Utrecht, Vryheid and part of Wakkerstroom, to Natal in 1902. This work does not consider the war in any detail because it was made clear by the Natal ministry that the war was a "White man's war" and they objected to the active participation of the Africans in the war.³² The Africans were then employed only as

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29. "To apply certain of the laws of the Colony of Natal to the Province of Zululand, and to amend and declare the construction of the laws heretofore in force in the said Province."
30. "To extend the Jurisdiction of the Supreme Court to the Province of Zululand."
31. "To assimilate the Law of the Province of Zululand relating to Firearms and Gunpowder with that of other parts of Natal."
32. G.H. (Natal Archives, Pietermaritzburg) 1040 Minutes Received from the Prime Minister: 234 - '00, No. 3, 14.2.1900; S.N.A. (Natal Archives, Pietermaritzburg) 1/4/6 Confidential papers for 1899: 48 - '99, Prime Minister - Magistrates, 9.9.1899.

scouts.³³ While Pakenham has denounced the idea of a "White man's war", and has reassessed the role of the African in the war, he does not provide significant information about Natal.³⁴ While acknowledging that the Africans were affected by the war the frame of reference of this dissertation precludes one from making a major issue of this. Natal's population and territory were, however, extended considerably. In 1894 the total population in Natal was 584 326 of which the Whites numbered 45 707, the Indians 35 411 and the Africans 503 208. By 1904, the population of Natal including Zululand and the Northern Districts, consisted of 97 109 Whites, 100 918 Indians and 910 727 Africans making a total of 1 108 754 inhabitants.³⁵

This study of Moor as Secretary for Native Affairs is an attempt to fill an historiographical gap since the period 1893 to 1903 has been to a large extent neglected by historians. Although the policy of Theophilus Shepstone from 1846 to 1875 has received considerable attention from scholars of Natal history this is not the case for the later period from 1875 to 1893 during which J.W. Shepstone and later H.C. Shepstone filled the office of Secretary for Native Affairs. The period is not considered in any depth and a detailed study of these two men has yet to be made. If it is felt that the "lesser Shepstones", to borrow Professor Brookes description,³⁶ have not received sufficient attention, the Secretaries for Native Affairs in the responsible government era (1893 to 1910) or as they were known after 1905, Ministers for Native Affairs,

33. R.C.A. Samuelson: Long Long Ago, p. 207.

34. See T. Pakenham: The Boer War, pp. xvii, 396 - 418.

35. Statistical Year Book for the Colony of Natal for the Year 1904, p. 3.

36. E.H. Brookes: White Rule in South Africa 1830 - 1910; Varieties in Governmental Policies Affecting Africans, p. 60.

have received even less. Four men occupied this important portfolio in this period: Frederick Robert Moor (October 1893 to October 1897, June 1899 to August 1903, November 1906 to May 1910); Sir Liege Hulett (October 1897 to June 1899); George Leuchars (August 1903 to May 1905) and Henry Daniel Winter (May 1905 to November 1906).

E.H. Brookes³⁷ has made an assessment of the policy adopted in Natal towards the Africans from 1875 to 1910 but this is by no means a detailed examination. Indispensable to the student interested in African-White relations in Natal in the 65 years preceding the Union of South Africa is the work of David Welsh.³⁸ Welsh not only provides a detailed examination of the Shepstone system but he also considers in some depth the policy followed after Shepstone's resignation. His work is particularly useful because he examines the changing attitude of the colonists towards the Shepstone system from the 1850's to the 1890's. Despite his excellent analysis of the situation in Natal in the 1890's and 1900's, his examination of this period is necessarily limited since it forms part of a wide study and he does not attempt to evaluate the roles played by the various Secretaries for Native Affairs.

L.E. Switzer³⁹ examines problems faced by the American Zulu Mission in Natal not only before responsible government but also, in considerable detail, after 1893. The policies of the various responsible government ministries are examined

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37. Brookes: White Rule in South Africa 1835 - 1910.
 38. D. Welsh: The Roots of Segregation; Native Policy in Colonial Natal 1845 - 1910.
 39. L.E. Switzer: The Problems of an African Mission in a White-Dominated, Multi-Racial Society; the American Zulu Mission in South Africa 1885 - 1910 (Unpublished Ph.D. thesis, University of Natal, 1971). Hereafter referred to as The American Zulu Mission.

in so far as they affected missionary work. Thus the mission reserves question, the question of land tenure for the Africans and the education policy of the ministries after 1893 are examined. Moor is mentioned in this thesis and his policy on specific issues is quoted. Switzer, however, is not concerned with Moor's years as Secretary for Native Affairs and his policy with regard to all issues affecting Africans. Switzer deals with Moor only in so far as his utterances or policies were significant to the American Zulu Mission. Switzer's work nevertheless, like that of Welsh, is a significant secondary source to the student interested in the responsible government period and the "*Native question*."

Professor D.H.P. Haasbroek, in a three part article on the period 1856 to 1896,⁴⁰ examines in detail the circumstances which led to the provision for a Legislative Council in the Constitution Act and the significance of this. He also mentions Moor as a member of the select committee which had recommended the establishment of a Legislative Council of eleven nominated members. After responsible government was granted Haasbroek, in the final part of his article, confines his study to the question of the disenfranchisement of the Indians, a question with which the Robinson ministry was concerned.

John Lambert's thesis⁴¹ provides a detailed account of the negotiations between the pro-responsible government leaders and the imperial government as well as their discussions

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40. D.J.P. Haasbroek: The Struggle for Political Supremacy in Natal, 1856 - 1896 Part I (Historia, December 1971, Vol. 16, No. 4, pp. 271 - 280); Part II (Historia, March 1972, Vol. 17, No. 1, pp. 47 - 56); Part III (Historia, June 1972, Vol. 17, No. 2, pp. 109 - 117).
41. Lambert: Sir John Robinson and Responsible Government 1863 - 1897.

concerning several clauses of the responsible government bill. This account gives an interesting insight as to the relative significance the issue of control over "*Native policy*" played in the negotiations. Lambert also examines the legislative restrictions on the colonists' control over "*Native policy*" which were incorporated into the Constitution Act. He does not, however, consider in detail the policy of the Robinson ministry towards the Africans and merely comments that during Robinson's premiership very little was done regarding the "*Native question*." Similarly the works of C.A. Gillit⁴² and M.H. Comrie⁴³ while providing an account of politics in the 1890's and the ministry of Harry Escombe do not consider Moor's role in the ministry and the "*Native question*" as a whole.

In contrast to other writers Shula Marks attempts an evaluation and examination of the roles of the four men who occupied the portfolio of Native Affairs from 1893 to 1910. In doing this she makes the statement that "*It is ... not easy to estimate exactly what part the personalities and views of different Secretaries for Native Affairs played within the political structure.*"⁴⁴ This dissertation then sets out to evaluate Moor's role as Secretary for Native Affairs in the ministry of Sir John Robinson (1893 - 1897), Harry Escombe (1897) and Alfred Hime (1899 - 1903).

Moor was a prominent Natal politician as will be seen in chapter one. The late Professor Brookes justly pointed

42. Gillit: Natal 1893 - 1897; the Alignment of Parties and the Fall of the Escombe Ministry.

43. M.H. Comrie: The Ministry of Harry Escombe 1897 (Unpublished B.A. Hons. thesis, University of Natal, 1965).

44. S. Marks: Reluctant Rebellion; the 1906 - 1908 Disturbances in Natal, p. 21.

out that Moor and his political career have been neglected by students of Natal history.⁴⁵ In fact the only monograph on Moor is that of I.C. Smith.⁴⁶ His study provides one with a useful introductory chapter on Moor's background but an in-depth study of Moor's premiership has yet to be made. Moor became Prime Minister of Natal in 1906 resuming also the portfolio of Native Affairs and in these capacities he had to deal with the aftermath of the Bambata rebellion of 1906. Thereafter policy with regard to the Africans was reviewed and this resulted in Moor's reforms of 1907 - 1908. This has been examined by Shula Marks in the aforementioned work. This dissertation confines itself to Moor's terms of office prior to the Bambata rebellion since the situation in post-rebellion Natal was quite different and would provide the subject of a separate study.

A handicap in the writing of this study has been the absence of any of Moor's private papers. While the papers of Moor's wife, Charlotte, and daughter, Shirley, are available in the Killie Campbell Africana Library they have been of limited value in this work. Many of Moor's papers, it is believed, were destroyed on his farm Greystone when lightning struck the out-house in which his papers were stored.⁴⁷

In an attempt to reconstruct Moor's policy and his relationship with the Africans in the period 1893 to 1903 the unpublished official records of the various departments in the

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45. Private correspondence: E.H. Brookes - writer, 19.6.1978.
46. I.C. Smith: Frederick Robert Moor and his Premiership of Natal, 1906 - 1910 with Special Reference to the Unification of South Africa (Unpublished B.A. Hons. thesis, University of Natal, 1966).
47. Personal information from D. Moor, S. Bishop and D. Wevell at 'Avalon', Estcourt, 24.1.1979.

government of Natal that are preserved in the Natal Archives Depot at Pietermaritzburg have been examined. Extensive use has been made of the published debates of the Legislative Assembly and Legislative Council of Natal, the reports of several commissions, annual reports and statistical records. In particular, Moor's evidence before the South African Native Affairs Commission (1903 - 1905) has been most important. Newspapers of the period have been consulted and found extremely useful. The private papers of Moor's contemporaries and members of his family have been consulted in an attempt to see Moor the man and Moor the politician through the eyes of his peers.

In this study an unusually large number of statutes have been referred to. The compilation of statutes in Natal from 1845 to 1906 by R.L. Hitchins and G.W. Sweeney⁴⁸ has been most useful and most of the statutes referred to in the following pages are taken from this publication. When an act is not to be found in Hitchins and Sweeney or when it is included but with the omission of significant sections reference is given in this dissertation to the Government Gazette where the act or bill may be found.

In the following pages an attempt will be made to assess the extent to which Frederick Robert Moor was successful in the position of Secretary for Native Affairs and to examine the various issues, relevant to the Native Affairs Department, that emerged during the first ten years of responsible government in Natal.

48. R.L. Hitchins and G.W. Sweeney: Statutes of Natal, 1845 - 1899 I, II, III; Statutes of Natal; Supplement 1901 - 1906.

CHAPTER ONE

THE MAN-BABA MUSI MOLO¹ (1853-1927)

Frederick Robert Moor was a successful farmer with varied interests. He was also actively involved in the political arena in Natal and later the Union of South Africa for thirty-four years of his life. Though this study is only concerned with Moor's involvement with African affairs in Natal from 1893 to 1903, this chapter is concerned with Moor's background and a brief outline of his political career is provided. The purpose of this chapter is to obtain a better understanding of Moor.

In the late 1840's and early 1850's immigrants streamed into Natal as part of various immigration schemes. It is estimated that between 1 January 1849 and 28 June 1852 the number of immigrants was about 4806.² One of the best known immigration schemes was that of Joseph Byrne.³ On the 26 April 1850 287 passengers sailed from London on the Minerva which was one of the 20 ships chartered by Byrne.⁴ The passengers on this ship were probably extremely optimistic about their prospects in Natal, no doubt

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1. Meaning Father Mr. Moor - the title of an article in Ilanga lase Natal, 14.6.1907 (Translation in S.N.A. 1/1/371 Minute papers for 1907: 1805 - '07, Extract from Ilanga lase Natal).
 2. A.F. Hattersley: The British Settlement of Natal; a Study in Imperial Migration, p. 315.
 3. For details of the Byrne immigration scheme see J. Clark: Natal Settler-Agent; the Career of John Moreland, Agent for the Byrne Emigration Scheme of 1849-51; E. Hammond: The Settlement of the Byrne Immigrants in Natal 1849-1852 (Unpublished M.A. thesis, Unisa, 1926); Hattersley: The British Settlement of Natal.
 4. Clark: Natal Settler-Agent, pp. 209-210; J. Clark: Byrne's 20 Ships; Passenger Lists, 1849-1851, p. 43.

encouraged by the idyllic pictures conjured up by the eloquent Byrne,⁵ and none could have anticipated the dramatic landing they were to have on the shores of Natal. On 4 July 1850 the Minerva was wrecked on a reef below the Bluff⁶ tossing its occupants and cargo into the sea. The dismal scene that faced the immigrants was well described by Donald Moodie, the Colonial Secretary of Natal: "*The Bluff side of the Bay is covered with the wreck, the sea with feathers and leaves of books; with the exception of a few well-corded trunks the emigrants have lost 300 tons of personal effects!*"⁷ Among the passengers who were so unceremoniously landed were Sarah Annabella Ralfe who was travelling with her family and Frederick William Moor.⁸

F.W. Moor, the youngest son of Colonel John Moor an officer in the Bombay Artillery in the service of the East India Company,⁹ was born in Surat in 1830¹⁰ returning to England on the death of his father. He and his mother settled first in Jersey and later in Hampstead while he trained to be a surveyor and, not entirely satisfied with his position in England, he decided to emigrate to Natal.¹¹

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5. See Clark: Natal Settler-Agent, p. 10.
 6. Clark: Byrne's 20 Ships, p. 43. For details of the wreck see Clark: Natal Settler-Agent, pp. 71-74.
 7. Quoted in Clark: Natal Settler-Agent, p. 73.
 8. Clark: Byrne's 20 Ships, p. 44; A.F. Hattersley: The Natal Settlers 1849-1851, p.13.
 9. Shirley Moor Collection (Killie Campbell Africana Library, Durban): [Notes on]The Moors by S. Moor, p. 1.
 10. Information from the private album of Siona Bishop, The Homestead, Winterton.
 11. Shirley Moor Collection: [Notes on]The Moors by S. Moor, p. 6. However reference is made to Moor as a young medical student in R.E. Gordon (ed.): Dear Louisa; History of a Pioneer Family in Natal 1850-1888, pp. 11, 15, 19, 24.

The wreck of the Minerva had its romantic moments. F.W. Moor scooped up Sarah Annabella Ralfe into his arms and carried her to the safety of the shore.¹² It is not clear whether the couple knew each other before they left England or were acquainted during the voyage or were brought together by the romantic rescue but romance certainly bloomed and they were married in June 1852 having settled in the Byrne valley.¹³ To this couple was born a son, Frederick Robert Moor, on 12 May 1853 in Pietermaritzburg.¹⁴ This Natal born child of two immigrants was to play a not insignificant role in the political life of Natal.

The Moors and the Ralfes were interested in sheep farming and the wet conditions at Byrne were not favourable so F.W. Moor moved near the Ralfes to a farm Brakfontein, on the Bushman's River at Frere close to Estcourt, where conditions were more suitable.¹⁵ Frederick Robert Moor attended the Hermannsburg School situated approximately 15 miles [24 km] from Greytown and founded in the early 1850's by the Hanoverian Mission Society. Yet another pupil of this first boarding school in Natal who was to make a name for himself in politics and was to be later closely associated with Moor was Louis Botha.¹⁶ While at Hermannsburg Frederick Robert Moor received a well rounded education encompassing not only moral instruction and guidance but

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12. See R.R. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 18); Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 8.
 13. See letter, Ellen Mcleod - Louisa, 27.2.1853 (Gordon (ed.): Dear Louisa, p. 45).
 14. A.F. Hattersley: Sir Frederick Robert Moor (J.R. Weaver (ed.): D.N.B. 1922-1930, p. 612).
 15. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 18); Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 9.
 16. H.C. Lugg: Historic Natal and Zululand, pp. 74-75.

also manual labour in the fields and industrial training. In addition, the students were made aware of their sense of vocation for as F.E.H. Wittenberg states "The educational work of Hermannsburg school was strongly determined by the Lutheran conception of vocation, this being the place where God has put each person, there to fulfil his duty and to labour to the best of his ability."¹⁷ He comments that Moor "was perhaps the man who represented best the type of citizen the Hermannsburg School wanted to bring forth."¹⁸

Hermannsburg is important for the role it played in shaping and moulding Moor in his formative years and it was here that early indications of leadership qualities were revealed. Moor and other students considered it desirable that the school should have a cadet corps and Moor, as a senior student at the school, was deputed to write to the Colonial Secretary seeking permission for the school to initiate the movement.¹⁹ Permission was granted and in 1869 a cadet corps of 40 students, between the ages of 14 and 18 years, was formed with a teacher, Louis Schmidt, as the captain and 16 year old Moor and John Muirhead as the first lieutenants.²⁰ Moor thus played a role in the establishment of the cadet movement and in giving Hermannsburg School the distinction and honour of being

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17. F.E.H. Wittenberg: A History of Hermannsburg School (Unpublished thesis for the University Education Diploma, University of Natal, 1955), pp. 17-18.
 18. Wittenberg: A History of Hermannsburg School, p. 31.
 19. Shirley Moor Collection: [Notes on]The Moors by S. Moor, p. 19.
 20. Wittenberg: A History of Hermannsburg School, p. 26. See also The Natal Cadet Corps (Natal Mercury Pictorial, 31.12.1908).

the first school not only in Natal but in the British Empire to have a cadet corps. Though the Hermannsburg cadet corps lasted only until 1878 its example was followed by Hilton College and Maritzburg High School in 1872.²¹

Even more significant than the years spent at Hermannsburg School were Moor's years at the diamond diggings in Kimberley. By 1877 Kimberley was a competitive community of 18 000 souls²² all driven by the dream of amassing a huge fortune. In 1872 Moor, at the age of 19, set out for the diamond fields to join this community of fortune seekers and pegged his claim. Later he was joined by two of his three brothers.²³ It was here that he displayed his early propensity for public life or as A.F. Hattersley says, his years here "*fostered an inclination towards public life.*"²⁴ Though it has not been ascertained what he said, the 19 year old Moor, made his first public speech on behalf of the diggers while "*standing on a heap of rubble.*"²⁵ This was to be the first of many speeches in Moor's life. He was, in fact, later known for his oratorical talent.²⁶ While here, he was twice elected to the Kimberley Mining Board²⁷ which consisted

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21. Wittenberg: A History of Hermannsburg School, pp. 26-27.
 22. F. Wilson: Farming 1866-1966 (M. Wilson and L. Thompson (eds.): The Oxford History of South Africa II, p. 114).
 23. Hattersley: Sir Frederick Robert Moor (Weaver (ed.): D.N.B. 1922-1930, p. 612); Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 20.
 24. Hattersley: Sir Frederick Robert Moor (Weaver (ed.): D.N.B. 1922-1930, p. 612).
 25. Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 20.
 26. Personal information from F.R. Walter at Pietermaritzburg, 3.10.1978; Hattersley: Sir Frederick Robert Moor (Weaver (ed.): D.N.B. 1922-1930, p. 613). See also Natal Mercury, 11.5.1903 (Column, Gallery Notes).
 27. Natal Witness, 19.3.1927.

of nine elected members representing the claimholders for the purpose of ensuring the smooth and effective running of the mines and diggings.²⁸ This experience probably gave him confidence as well as experience in public affairs.

While Moor was in Kimberley he was to meet Cecil John Rhodes, another strong personality with outstanding qualities of leadership. There is some indication that the two men were closely associated during these years for the Moor and Rhodes brothers belonged to an élite group of 12 diggers who were teasingly named "*the twelve Apostles*" and who associated with each other because of their common interests.²⁹ Moor's daughter, Shirley Moor, claims that her father would not have associated with Rhodes for he disliked him and in the 1890's he abhorred Rhodes' role in the Jameson Raid and held him responsible to a certain extent for the Anglo-Boer war of 1899.³⁰ While one may concede that this may have been so after 1896 one is not so certain that marked antipathy was present in the 1870's. When Rhodes succeeded in putting through "*that far-reaching measure*"³¹ the Glen Grey Act in 1894 Moor was Secretary for Native Affairs in Natal. Moor could have adopted the same policy for the Africans in Natal but he had reservations about the provisions of the Act.³²

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28. G. Beet: The Grand Old Days of the Diamond Fields; Memories of Past Times with the Diggers of Diamondia, p. 140.
29. Beet: The Grand Old Days of the Diamond Fields, pp. 164-165.
30. Cited in Smith: Frédéric Robert Moor and his Premiership of Natal ..., p. 6.
31. Brookes: White Rule in South Africa 1830 - 1910, p. 166.
32. For Moor's views on this see Natal Mercury, 15.9.1897; 21.9.1901; Natal Witness, 13.9.1897; L.A.D., 1903, Vol. 34, p. 34; also chapter four.

While it is not possible to ascertain exactly the influence of Moor's exposure to the community at Kimberley on the development of his attitudes and personality, his stay was certainly significant, for it was here that he met Charlotte Mary St. Clair Moodie, the granddaughter of Natal's first Colonial Secretary, Donald Moodie.³³ Shirley Moor, in presenting a character sketch of Charlotte Moodie and Frederick Moor, states that they "could not have presented a greater contrast to each other, she, emotional, impulsive, irrational, and he with his critical and analytical approach to life, tinged with pessimism and an inherent melancholy." She also states that Charlotte Moodie in later years accused Moor of constantly "preaching a Doctrine of Despair with Don't as a text!"³⁴ What Moor's family perceived as being pessimism may have been an indication of his cautiousness in most matters. Moor as Secretary for Native Affairs does not emerge as an impulsive man guided by whims but rather a man who would meditate on the pros and cons before taking any action. He would not, however, hesitate to take drastic action if after reflection he considered such action necessary.³⁵

These two diverse personalities were drawn together in an association which resulted in their marriage in 1878.³⁶

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33. Hattersley: Sir Frederick Robert Moor (Weaver (ed.): D.N.B. 1922-1930, p. 612); Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 21. Charlotte Moodie later was known for her literary talent and was the author of a novel, Marina de la Rey, and also of numerous poems written under the pseudonym of Colonia.
34. Shirley Moor Collection: [Notes on] The Moodies by S. Moor, p. 15.
35. See for instance chapter two.
36. Hattersley: Sir Frederick Robert Moor (Weaver (ed.): D.N.B. 1922-1930, p. 612).

With his marriage Moor's days at the diamond fields drew to a close. As his daughter recalls "*Charlotte had an intense dislike of the arid dusty diggings and used to say in after years that she would have 'given all the diamonds in Kimberley for a blade of green grass'.*"³⁷ In addition to this, Moor, himself, felt that there was no security in remaining on the fields. He consequently sold his claims to his brother George, and returned to Natal in 1879 to take up farming³⁸ having been quite successful financially at the diamond fields.³⁹

In 1869 Frederick William Moor had secured a farm some five miles [8 km] south-west of Estcourt from the Wheeler family in settlement of a debt.⁴⁰ This farm has some historical interest for it was the site of the Battle of Vecht Laager in 1838 when Zulu impi of Dingaan clashed with the Voortrekkers who had settled there.⁴¹ It was on this farm that F.R. Moor and his wife settled on their return to Natal,⁴² his father having moved to Pietermaritzburg.⁴³ Moor and his wife stayed for some years in a house built by the Wheelers until he built a larger house which he

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37. Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 21.
38. Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 21; Hattersley: Sir Frederick Robert Moor (Weaver (ed.): D.N.B. 1922-1930, p. 612). The date given in the Natal Witness, 19.3.1927 is 1880.
39. Letter, C.J. Smythe - mother, 15.6.1899 (D. Child: Charles Smythe; Pioneer, Premier and Administrator of Natal, p. 172).
40. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 18); Lugg: Historic Natal and Zululand, p. 69; Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 22.
41. Lugg: Historic Natal and Zululand, p. 69.
42. Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 22.
43. See Natal Witness, 4.1.1884.

called Greystone.⁴⁴ It was on this property that Moor's seven children were born⁴⁵ and it was here that he carried out his adventurous farming activities.

Moor displayed considerable initiative and a pioneering spirit in his farming activities making a name for himself as had his father who was one of the first in the colony to introduce imported Merinos from the valuable Rambouillet stock in France.⁴⁶ Estcourt was one of the four villages in Weenen County and most farmers kept cattle, sheep and horses.⁴⁷ In 1884 when the elder Moor died the Natal Witness lauded him as "one of the few sheep-farmers who have done well in Natal" and "one of the most extensive and successful farmers in the County."⁴⁸ Ten years later the Times of Natal said of his son Frederick Robert Moor "Mr. Moor is perhaps one of the most successful of our farmers ... noted for his shrewdness and levelheadedness ..."⁴⁹ By 1894 Moor, in partnership with his brother J.W. Moor, was engaged in farming ventures over an area of 20 000 acres [8097,17 ha]. Their stock consisted of 6000 to 7000 sheep and they were among the largest breeders of goats in Natal since they possessed 1200 goats.⁵⁰ Moor, in fact, acquired the first Angora goats in Natal⁵¹ where the interest in the mohair industry

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44. Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 23. This house still stands today and the property is used by the Veld and Vlei School.
45. Shirley Moor Collection: [Notes on] The Moors by S. Moor, p. 23.
46. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 18); G. Cox: The Agricultural Development of Natal (A Century of Progress in Natal 1824-1924), p. 66).
47. R. Russell: Natal: the Land and its Story: a Geography and History for the Use of Schools, p. 48.
48. Natal Witness, 4.1.1884.
49. Times of Natal, 20.10.1894.
50. Times of Natal, 20.10.1894.
51. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 19).

was considerable in the 19th century.⁵² In addition to the sheep and goats, Moor engaged in ostrich farming, for he believed there was a good market for the sale of ostrich feathers. He also kept horses and cattle and imported Pekin ducks.⁵³

In Weenen County, when land was irrigated, wheat and other cereals grew well⁵⁴ and Moor favoured irrigation projects⁵⁵ undertaking one such scheme in the early days of occupation of his farm.⁵⁶ His interest and unshakeable belief in the advantages of irrigation caused him to initiate large irrigation projects for the Africans in the locations during his years as Secretary for Native Affairs.⁵⁷

It was however in politics that Moor was to distinguish himself and it was to become the nerve centre of his life thus relegating his farming interests to the background. He became, as his daughter Shirley, teasingly called him, "a cheque-book farmer."⁵⁸ In politics too he followed in the footsteps of his father. F.W. Moor had entered politics in 1880 when he had successfully contested the seat of Walter Macfarlane, the speaker of the Legislative Council, and was for the next three years the representative for Weenen County.⁵⁹ In 1881 he was commended by the Natal Witness for being "a man who earnestly desires to represent his constituents in reality and not in name only" for he arranged regular meetings at which he con-

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52. N. Hurwitz: Agriculture in Natal 1860-1950, p. 103.
 53. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 19).
 54. Russell: Natal: the Land and its Story, p. 48.
 55. See L.C.D. 1886-1887, Vol. 9, pp. 50-51; L.C.D., 1890, Vol. 14, pp. 222-223.
 56. Drummond: Greystone - Home of the Moors (Farmer's Weekly, 21.11.1962, p. 18).
 57. See chapter four.
 58. Personal information from D. Moor, at 'Avalon', Estcourt, 24.1.1979.
 59. Natal Witness, 4.1.1884.

sulted his constituents, unlike certain other members of the Legislative Council.⁶⁰ In 1886 F.R. Moor was elected to the Legislative Council to represent Weenen.⁶¹ He was to represent this constituency for the next 24 years first in the Council and, later with the establishment of responsible government, in the Legislative Assembly.⁶² Moor, as described by his grandson, F.R. Walter,⁶³ was an unostentatious, simple, easy-going person who did not expect people to stand on ceremony when in his presence. These qualities probably attracted his constituents to him and this was confirmed by a reporter on the Natal Witness who wrote: "*When Mr. Moor goes amongst his constituents, he divests himself of his official garb, and he is again a plain farmer, talking about mealies and forage and wattle and drought.*"⁶⁴

Moor had initially been opposed to the granting of responsible government to Natal but by 1890 he changed his position and dedicated himself to the movement, allying himself with Sir John Robinson and Harry Escombe.⁶⁵ With the change in constitutional status in 1893 he secured the portfolio of Secretary for Native Affairs in the Robinson ministry and then in the Escombe ministry.⁶⁶

60. Natal Witness, 22.8.1881 (Editorial).

61. Times of Natal, 11.10.1893.

62. For his defeat in 1910 see p. 34.

63. Personal information from Mr. Walter, at Pietermaritzburg, 3.10.1978.

64. Natal Witness, 13.12.1902 (Column, 'Topics of the Town').

65. Times of Natal, 11.10.1893.

66. For the appointment of the Escombe ministry see N.G.G., Vol. XLIX, No. 2854, 15.2.1897, Government Notice No. 79. For the appointment of the Robinson ministry see introduction.

Sir Henry Binns, who had the task of forming a new ministry in October 1897, invited Moor to continue in the office of Secretary for Native Affairs since he was reluctant to make changes in this important office.⁶⁷ This was despite the fact that in 1896 he had accused Moor of being "mysterious" and a "proverbial church mouse" and demanded some statement of policy.⁶⁸ Moor refused this offer perhaps because, as Governor Walter Hely-Hutchinson suggested, "he did not feel justified in deserting Mr. Escombe."⁶⁹ Sir J. Liege Hulett was consequently appointed to this position.⁷⁰

During the period October 1897 to June 1899 Moor remained in the Assembly in opposition to the Binns ministry. In 1898 he attended the Customs Union Conference in Cape Town as a representative of Natal.⁷¹ He did not remain for long in opposition for, in June 1899, Binns died and Albert Hime, who held the portfolios of Lands and Works and Defence, was asked to form a ministry.⁷² Moor certainly wielded some power as a representative of the farming community and this is indicated in a letter from Hime, who represented Pietermaritzburg, to Hulett asking

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67. Harry Escombe Collection (Natal Archives, Pietermaritzburg): Box 2, Section 8, Letters from H. Binns, Binns - Moor, 3.10.1897.
68. L.A.D., 1896, Vol. 24, pp. 27-28.
69. G.H. 1301 Confidential Despatches to Secretary of State: Hely-Hutchinson - Chamberlain, 8.10.1897. For Binns' opposition to Escombe see Gillit: Natal 1893-1897; the Alignment of Parties and the Fall of the Escombe Ministry, chapter 1, pp. 12-13. For Escombe's opposition to Albert Hime who was also in Binns' ministry see G.H. 1300 Confidential Despatches to Secretary of State: Hely-Hutchinson - Ripon, 14.10.1893.
70. For the appointment of the Binns ministry see N.G.G., Vol. XLIX, No. 2904, 8.10.1897, Government Notice No. 544.
71. Natal Witness, 19.3.1927.
72. Natal Witness, 6.6.1899; 9.6.1899.



him to withdraw his claim for a portfolio in favour of Moor. He stated:

*"I am, as you are aware, anxious to obtain Moor's services as a member of my ministry. Influential members of the Farmer's Party are equally anxious that I should secure his services. His non-inclusion would result in the weakening of the Government and tend to the formation of a new and of a stronger opposition than that which now exists."*⁷³

Hulett reluctantly agreed having little choice⁷⁴ and Moor was appointed Secretary for Native Affairs⁷⁵ remaining in office until August 1903.

The Natal Mercury⁷⁶ expressed some surprise at Moor's inclusion in the Hime ministry for Moor and Hime had had strong words previously and were opponents. The editor claimed that it was not "dignified" of Moor to accept the portfolio and that if he was to "be charged with office-seeking, he will only have himself to blame." Hime was exonerated for "... no one can blame him for turning an opponent into an ally." Moor had his reasons for accepting. Tension between the British government and the South African Republic over the Uitlander question was mounting. Hime and his colleague Henry Bale were members of the anti-Kruger South African League and were

73. C.S.O. 2579 Confidential Minute Papers for 1899: 74^A - '99, Hime - Hulett, undated but probably written in the first week of June 1899.

74. C.S.O. 2579 Confidential Minute Papers for 1899: 74^A - '99, Hulett - Hime, 9.6.1899.

75. For the appointment of the Hime ministry see N.G.G., Vol. LI, No. 3023, 10.6.1899, Government Notice No. 297.

76. Natal Mercury, 12.6.1899 (Editorial).

"true-blue Imperialists" while Moor believed in a policy of conciliation.⁷⁷ Moor felt that he could counter-balance the attitude of Hime and Bale and exert a moderating influence on the question of Natal's participation in the issue and he wanted peace.⁷⁸ His attitude was that the chasm that existed between the two White races in South Africa was more serious than even the "*Native question*."⁷⁹ He had not made his inclusion in the Hime ministry an easy task for he insisted that his friend C.J. Smythe be given a portfolio⁸⁰ to which demand Hime acceded. These two then stated that they would only accept their offices if Hime and his other ministers agreed to send a message to the High Commissioner, Sir Alfred Milner, to say that in the event of any hostilities breaking out, Natal wished to have a say in the decision.⁸¹ This, too, was reluctantly agreed to for the other members of the ministry felt they were hindering Milner.⁸² Moor later claimed that he had done everything he could to prevent the outbreak of war.⁸³

Moor was extremely unpopular during the war years because of his policy of conciliation and apparent sympathy with the Boers. He was accused of "*disloyalty to the*

77. See Brookes and Webb: A History of Natal, pp. 198-199.

78. See Child: Charles Smythe, p. 170.

79. L.A.D., 1902, Vol. 31, p. 111.

80. C.S.O. 2579 Confidential Minute Papers for 1899: 74^A - '99, Hime - Hulett undated.

81. See Child: Charles Smythe, pp. 170 - 171; G.H. 1282 Secret Despatches to Secretary of State: Hely-Hutchinson - Chamberlain, 10.6.1899.

82. See G.H. 1282 Secret Despatches to Secretary of State: Hely-Hutchinson - Chamberlain, 10.6.1899. For more details on this question see Brookes and Webb: A History of Natal, pp. 196-201. For further rift in the ministry see G.H. 1282 Secret Despatches to Secretary of State: Hely-Hutchinson - Chamberlain, 20.7.1899.

83. L.A.D., 1902, Vol. 31, p. 111.

British cause"⁸⁴ and his presence in the ministry was regarded as "a crying disgrace to us Imperialists."⁸⁵ During the elections in September 1901 rumours were rife about Moor's pro-Boer and anti-imperialist sympathies. One candidate stated that Moor was included in the ministry at the request of Abraham Fischer, the prominent Free State politician, so that his influence would make the ministry sympathetic to the Dutch cause.⁸⁶ Yet another quoted a letter written by Moor where he was alleged to have enquired as to "what is to become of the Dutch brotherhood [extending] from the Transvaal to the sea."⁸⁷ Moor attempted to defend himself and stated he had always favoured a confederation of the South African states and had made reference many times to a "White [as opposed to Dutch] brotherhood in a Black continent."⁸⁸ Despite these attempts to smudge Moor's political reputation he was victorious at the polls.⁸⁹ His opponents, however, regarded his return as a further indication of his pro-Boer tendencies for they claimed that he was returned by the support of the large Dutch population in Weenen.⁹⁰

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84. By J.G. Maydon, a Durban election candidate (See Natal Mercury, 26.9.1901).
85. By J.H. Wallace, the defeated candidate of Weenen County in the September elections of 1901. See Natal Mercury, 5.10.1901 (Letter from J.H. Wallace). See Appendix 1 for Wallace's fate in the Weenen County elections.
86. Joseph Baynes at a meeting in Ixopo (See Natal Witness, 4.9.1901; 7.9.1901). This was refuted by Hime (See Natal Witness, 5.9.1901).
87. Dan Taylor, the candidate for Durban (See Natal Witness, 20.9.1901).
88. Natal Witness, 23.9.1901 (Letter from F.R. Moor); Natal Witness, 2.10.1901 (Letter from F.R. Moor); Times of Natal, 26.9.1901.
89. See Appendix 1.
90. Natal Mercury, 5.10.1901 (Letter from J.H. Wallace); Times of Natal, 3.10.1901 (Letter from Union Jack).

Politically, Moor was secure in this period 1899 to 1903. In 1901 he represented Natal at the inauguration of the Australian Commonwealth celebrations.⁹¹ He returned greatly enamoured of Australia and delivered several speeches such as "*My impressions of Australia, and the commercial relations between that country and Natal*"⁹² and published his impressions on "*Dairying in Australia*" in the Natal Agricultural Journal.⁹³ Moor also made favourable observations about the labour situation in Australia and in chapter five the influence of his Australian visit on his labour policy in Natal is discussed. Moor was congratulated by the press on his successful and useful visit to Australia.⁹⁴ In 1902 he was acting Prime Minister while Hime attended the coronation of King Edward VII in England and in March 1903 he represented Natal at the Inter-Colonial Customs Conference at Bloemfontein.⁹⁵ In August 1903 the Hime ministry was replaced by the ministry of George Morris Sutton which in turn was replaced by the ministry of Charles J. Smythe in May 1905 which lasted until November 1906.⁹⁶

91. Natal Witness, 19.3.1901.

92. Natal Mercury, 2.4.1901. For Moor's views on Australia see Natal Witness, 13.3.1901; 23.3.1901; Natal Mercury, 25.3.1901.

93. Natal Agricultural Journal, 12 April 1901 - 21 June 1901, Vol. IV, Nos. 3 - 8.

94. Natal Mercury, 25.3.1901 (Editorial); 5.4.1901 (Editorial); Times of Natal, 22.3.1901 (Editorial); 23.3.1901 (Editorial).

95. A.F. Hattersley: Sir Frederick Robert Moor (W.J. de Kock and D.W. Kruger (eds.): Dictionary of South African Biography II, p. 492).

96. See Brookes and Webb: A History of Natal, p. 305.

During the period August 1903 and November 1906 Moor was in opposition to the Sutton and Smythe ministries emerging by 1905 as the leader of the opposition.⁹⁷ From 1905 to 1906 he was chairman of the Natal Industries Commission and in March 1906 he attended the Inter-Colonial Customs Conference at Pietermaritzburg.⁹⁸

In November 1906 Moor was asked by the Governor, Sir Henry McCallum, to form a ministry which he did and he was to be not only Premier but also Minister for Native Affairs until the formation of the Union of South Africa in 1910.⁹⁹ He was thus not only the first Secretary for Native Affairs in the responsible government era but also the last Premier of Natal. In 1907 he attended the Imperial Conference in England and during this visit he was made a Privy Councillor. He also received the freedom of the cities of London, Bristol and Manchester as well as honorary degrees from Oxford and Edinburgh.¹⁰⁰ In 1908 Moor was made chairman of the Inter-Colonial Customs Conference which first met in Pretoria and later in Cape Town. This was an unprecedented move for the High Commissioner generally presided over the conferences. The High Commissioner, however, was not invited to the conference and Moor was asked to preside because he was the most senior colonial Prime Minister.¹⁰¹ Moor, although he believed in a federal form of government,¹⁰² was to lead

97. Marks: Reluctant Rebellion, p. 20, footnote 3.

98. Natal Witness, 19.3.1927.

99. For secondary sources on this aspect of Moor's political career see introduction, p. 15.

100. See Shirley Moor Collection: [Notes on] The Moors by S. Moor, pp. 23-24; Natal Mercury, 10.6.1907; 11.6.1907.

101. S.B. Spies: Reconstruction and Unification, 1902-1910 (C.F.J. Muller (ed.)): Five Hundred Years; a History of South Africa, p. 332).

102. See E.H. Walton: The Inner History of the National Convention of South Africa, pp. 64-67.

Natal into a union of South African states and was one of the Natal delegates at the National Convention of 1908 - 1909 which was convened to draw up a constitution.¹⁰³ The Union of South Africa came into being on 31 May 1910 and Moor was appointed Minister of Commerce and Industries in the ministry of General Louis Botha.¹⁰⁴

The first elections of the Union of South Africa were held in September 1910¹⁰⁵ and Moor, who gained 450 votes, was defeated by H.M. Meyler who secured 495 votes.¹⁰⁶ His daughter, Shirley, on hearing of his defeat made an entry in her diary stating "*As regards Papa's surprising defeat I think even his opponents are sorry really! It's jolly hard on him. He's represented the constituency for twenty-five years, and his father represented it in the days of the old Council before self-government.*"¹⁰⁷ In an entry some days later she tries to explain Moor's reaction, writing "*His attitude is - now that the dream of his life has been realized in seeing Union established, he can retire peaceably to his beloved farm and his much neglected private affairs - at least I suppose so.*"¹⁰⁸

Moor's days in Botha's cabinet were over but his political activities did not cease with his defeat. The South African Constitution provided for the nomination of senators "*on the ground mainly of their thorough acquaintance ...*

103. For the Natal delegates see Walton: The Inner History of the National Convention of South Africa, p. 29.

104. L.M. Thompson: The Unification of South Africa 1902 - 1910, p. 458.

105. Thompson: The Unification of South Africa 1902 - 1910, p. 460.

106. Thompson: The Unification of South Africa 1902 - 1910, p. 476.

107. Shirley Moor Collection: Diary of Shirley Moor, 11.11.1905 - 6.2.1911, entry 16.9.1910.

108. Shirley Moor Collection: Diary of Shirley Moor, 11.11.1905 - 6.2.1911, entry 21.9.1910.

with the reasonable wants and wishes of the coloured races in South Africa" and Moor was appointed as one such senator.¹⁰⁹ In 1911 in honour of the "*inauguration of the Union of South Africa*" Senator Frederick Moor was included, together with South Africans like Edgar Walton, Percy Fitzpatrick, Abe Bailey and Abraham Fischer, on the New Year's honours list. He was the recipient of the order of Knight Commander of St. Michael and St. George.¹¹⁰ Moor served as senator until 1920¹¹¹ when he retired from public life to Greystone. On 18 March 1927 Sir Frederick Robert Moor died at Greystone at the age of 73.¹¹²

Having surveyed briefly the span of Moor's life in this chapter, the following chapters will deal with specific issues that faced him during his period as Secretary for Native Affairs in the Robinson, Escombe and Hime ministries. One of the first issues that called for Moor's attention was the system of exemption from customary law and this will be discussed in the next chapter.

109. Thompson: The Unification of South Africa 1902-1910, p. 479.

110. Natal Mercury, 3.1.1911.

111. Natal Witness, 19.3.1927.

112. See Natal Witness, 19.3.1927.

CHAPTER TWOTHE SYSTEM OF EXEMPTION

The system of exemption provided the educated African with a method of escape from the application of customary law and freed him from tribal control. Before examining Moor's response to the system of exemption it might be a valuable exercise to consider the situation in the mid-19th century and examine the circumstances which led to the adoption, by the early British administration, of the policy of recognising the tribal system and African traditional law as the most effective way of governing the Africans.

One of the most serious problems that faced Lieutenant Governor Martin West, who was appointed to Natal in 1845,¹ and the Diplomatic Agent to the Natives, Theophilus Shepstone, was to decide on a policy for the governing of the 100 000² Africans in Natal. A Locations Commission, of which Shepstone was one of the members, was appointed in March 1846 to consider the whole question of African administration in Natal and it reported a year later. Among other things the Commission recommended that the Africans should be placed in locations under the supervision of White officials.³ While Roman-Dutch law was recognised in Natal by Ordinance 12 of 1845⁴ the Commission felt that it would not be advisable to do away with the laws and customs to which the Africans were accustomed. It recommended that Africans should be governed according to their own laws provided that these did not contrast too sharply with the laws under which Whites were governed.⁵

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1. Brookes and Webb: A History of Natal, p. 54.
 2. Brookes: White Rule in South Africa 1830 - 1910, p. 41.
 3. Brookes: White Rule in South Africa 1830 - 1910, pp. 42 - 43; Welsh: The Roots of Segregation, p. 12.
 4. For all statutes referred to in this work, unless otherwise indicated, see Hitchins and Sweeney: Statutes of Natal, 1845 - 1899 I, II, III; Supplement 1901 - 1906.
 5. Welsh: The Roots of Segregation, p. 13.

Locations were subsequently demarcated.⁶ On 21 June 1849 instructions issued under the royal seal were proclaimed in Natal and under clause 28 African traditional law was recognised "... except so far as the same may be repugnant to the general principles of humanity, recognised throughout the whole civilised world ..." and it stated clearly that the British administration had "... not interfered with, or abrogated the power which the laws, customs and usages of the inhabitants vested in the ... Chiefs, or in any other persons in authority among them ...". Ordinance 3 of 1849 gave effect to these instructions.⁷ In 1850 the Lieutenant Governor was proclaimed "Supreme Chief of the Native Population" with authority over the African Chiefs.⁸

The British government was reluctant to incur unnecessary expense in Natal and Shepstone realised that it would be economical to use the African Chiefs in the administrative system. The problem, however, was that a large part of the African population were Zulus who had come to Natal and their tribal structure had broken down. In order to re-establish the tribal system it was necessary for Shepstone to appoint new Chiefs from among the refugees and this is what he did.⁹ In 1882 there were 102 tribes under 173 Chiefs or Headmen.¹⁰ In 1901 there were 295 Chiefs in Natal and Zululand¹¹ and in 1905 there were 208 tribes in Natal, 83 in Zululand and 23 in the Northern Districts each with its own Chief.¹²

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6. Locations are discussed in chapter four.
 7. For the proclamation of the instructions and Ordinance 3 of 1849 see N.G.G., No. 25, 23.6.1849. Ordinance 3 was eventually repealed by Law 26 of 1875 (See chapter six).
 8. Brookes: White Rule in South Africa 1830 - 1910, p. 51.
 9. Brookes: White Rule in South Africa 1830 - 1910, p. 44.
 10. Report of the Natal Native Commission 1881 - 1882, p. 33.
 11. S.N.A. 1/1/291 Minute papers for 1901: 1029 - '01, Moor - Colonial Secretary, 4.6.1901.
 12. B.B.N.A. for 1905, Report of the Under Secretary for Native Affairs, p. i.

Shepstone ultimately came to regard the tribal system as an ideal one and indeed, as he pointed out, there was no workable alternative.¹³ In explaining the efficacy of the system he stated: "Each individual of this vast population has his special responsibility ... He must report everything of importance that becomes known to him to his superior until the Chief is reached ... By this means the head of a tribe ... is kept informed of what is going on. The foundation of all effective government is a knowledge of what its subjects are doing and thinking."¹⁴ The Chiefs could be used for the benefit of the White government: "Let the Chiefs understand that they rule as your lieutenants; that they carry out your behests, subject to your general supervision ..."¹⁵ If tribal differences were maintained united action by the Africans against the Whites would not be a threat.¹⁶ Shepstone later claimed that the merit of his system lay in the fact that it ensured years of peace in Natal.¹⁷

African traditional law had developed over a long period and had been handed down as part of oral tradition and Shepstone administered it as he saw fit. The trial of the rebellious Chief Langalibalele of the Hlubi tribe in 1874¹⁸ was significant because as Welsh points out "What emerged from the trial ... was that in the absence of a definite manual or code of customary law, customary law virtually amounted to what Shepstone claimed it was."¹⁹ Between 1875 and 1891 definite steps were taken to codify

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13. T. Shepstone: The Native Question; the Answer to President Reitz, pp. 7 - 8.
 14. T. Shepstone: The Native Question, p. 8.
 15. T. Shepstone: The Native Question, p. 9.
 16. See Welsh: The Roots of Segregation, p. 22.
 17. T. Shepstone: The Native Question, p. 16.
 18. For details of this rebellion see W.R. Guest: Langalibalele; the Crisis in Natal 1873 - 1875; Welsh: The Roots of Segregation, pp. 132 - 138.
 19. Welsh: The Roots of Segregation, pp. 145 - 146.

African traditional law.²⁰ Law 19 of 1891²¹ ultimately granted statutory recognition to a Code of Native Law which had been drawn up by a board of experts. This Code, as Welsh points out, was not purely African tribal law but contained new provisions and innovations.²²

In a schedule attached to Law 19 of 1891 the Code of Native Law, consisting of 26 chapters and 298 sections, was set out. It defined the duties and authority of the various participants in the tribal hierarchy:- the Supreme Chief, the Secretary for Native Affairs, the African Chiefs and the kraal heads.²³ Section 8 defined a tribe as "a number or collection or body of Natives forming a political organization or community, and composed of not less than 20 kraals, under the government, control, or leadership of a Chief, and which organization or community has been recognised or established by the Supreme Chief." Section 33 provided that the Chiefs of these tribes would be appointed by the Supreme Chief who had the authority to divide tribes or bring tribes or parts of tribes into a single unit. The Code also dealt with matters relating to inheritance and succession, marriage and divorce and lobolo.²⁴ Section 219 provided rules for "Native good manners and respect to authority."

The system of ruling through the Chiefs and recognising customary law was well rooted and continued throughout the responsible government era. Moor, Secretary for Native

20. See Welsh: The Roots of Segregation, pp. 164 - 168.

21. "To legalise the Code of Native Law ..." For the Code see N.G.G., Vol. XLIII, No. 2506, 11.8.1891.

22. Welsh: The Roots of Segregation, p. 168. Welsh thus prefers to call the laws by which Africans were governed as customary law as opposed to Native or African law (See Welsh: The Roots of Segregation, p. 5).

23. See chapters II - VI of the Code. For a description of the Code of Native Law see also Marks: Reluctant Rebellion, pp. 36 - 47.

24. See chapters IX - XII of the Code.

Affairs in the first responsible government ministry, was convinced that the tribal system was most effective. In 1901 he declared in the Legislative Assembly that "... the Native policy, so far as I am concerned, ever since I have been the head of the Native [Affairs] Department, has been to strengthen and maintain the tribal system ..."²⁵ He saw no reason why the Africans should not be governed by their own laws for another few centuries.²⁶ The views of the Under Secretary for Native Affairs on the tribal system were no different from Moor's.²⁷ Moor's attitude towards the tribal system and customary law are important because they determined, partly, his response to the system of exemption from customary law.

There were a number of reasons why Moor placed confidence in the tribal system. This mode of government had been in operation for years and he claimed it was the only system that the Africans knew²⁸; it was also a fairly inexpensive system of administration.²⁹ Moor's interpretation of the African system of government was that it was a despotic one.³⁰ This interpretation suited the colonists who believed that the African should not be granted political representation.³¹ The tribal system ensured White supremacy and was seen to be the only means by which control could be secured over the African population. In pointing out the value of the tribal system to the members of the Legislative Assembly Moor echoed the opinion of Shepstone: "*The theory of the*

25. L.A.D., 1901, Vol. 30, p. 185.

26. S.A.N.A.C., Vol. III, Evidence of Moor, p. 221, Question 20885.

27. See for instance S.N.A. 1/1/290 Minute papers for 1900: 1447 - '00, Report by Samuelson on matters relating to Africans and policy, 20.2.1901; S.N.A. 1/1/293 Minute papers for 1901: 2270 - '01, Memorandum of policy of the government since 1894 by Samuelson, September 1901.

28. Natal Mercury, 21.9.1901.

29. L.A.D., 1897 - 1898, Vol. 26, p. 114.

30. Natal Mercury, 21.9.1901.

31. See chapter three.

system is simple, and in its working is admirable. The Chief, as head of the tribe, the Headman or Induna, the head of the kraal, and the inmates of the kraal, are each respectively responsible to the head directly above; and above all, to the Magistrate; then the responsibility runs from the Magistrate to the Secretary for Native Affairs, and thence to the Supreme Chief. And if this sense of responsibility is kept on the shoulders of each, then you have got a grip of the whole team, descending from the Supreme Chief down to the smallest umfaan in a kraal."³² He regarded the system "Not only as a safeguard, but as the best means of governing these people in their present condition."³³ Like Shepstone he believed that as long as tribal distinctions were perpetuated the possibility of combined action by the Africans would be avoided.³⁴ This was more clearly explained by Samuelson who pointed out "There are two distinct ... forms of tribal government in the Colony, the one by hereditary Chiefs and the other by Chiefs appointed by the government. These forms should be maintained, they are of material value in giving effect to the principle of divide and rule."³⁵

The rise of the Ethiopian movement in the late 1890's and 1900's, which Sundkler points out refers "to the programme 'Africa for Africans' with a corresponding aversion to White domination",³⁶ succeeded in making Moor and others even more

32. L.A.D., 1897 - 1898, Vol. 26, p. 114.

33. S.A.N.A.C., Vol. III, Evidence of Moor, p. 216, Question 20808.

34. S.A.N.A.C., Vol. III, Evidence of Moor, p. 222, Question 20893.

35. S.N.A. 1/4/12 Confidential papers for 1903: 96 - '03, Report by Samuelson on the strength and combination of tribes in Natal, p. 13. For more information about the policy of divide and rule see Times of Natal, 24.1. 1895 (Editorial) and chapter three.

36. B.G.M. Sundkler: Bantu Prophets in South Africa, p. 56. See chapter four for more details on this movement.

aware of the advantages of governing the African according to customary law. The Native Affairs Department was perturbed by a number of African preachers who were considered to be indulging in seditious preaching. If such a preacher was under customary law he could easily be dealt with, for instance under section 37 of the Code of Native Law: "*The Supreme Chief, acting in conjunction with the Natal Native Trust,*³⁷ may, when deemed expedient in the general public good, remove any tribe, or tribes, or portion thereof, or any Native, from any part of the Colony or Location, upon such terms and conditions and arrangements as he may determine." In fact, Johannes Zondi, a blind preacher who was accused of sedition, was sent in 1901 on Moor's instructions to a district in Zululand "*there to reside during the pleasure of the Supreme Chief*" under this section of the Code.³⁸

The Code of Native Law which was aptly described by R.C.A. Samuelson as a "*Miscellaneous Expediency Code*"³⁹, could be amended so as to tighten the strings of control⁴⁰ and the principle of communal responsibility could be used to the benefit of the White administrators.⁴¹ For instance in 1903 Moor introduced a bill to amend the Code⁴² and section 1 of the resultant Act 47 of 1903 gave the Supreme Chief the right to fine all adult males in a tribe or community if it was found that there had been an attempt by the tribe to conceal evidence relating to homicides, damages to person

37. For the Natal Native Trust see chapter four.

38. S.N.A. 1/4/9 Confidential papers for 1901: 32 - '01, Moor - Prime Minister, 1.11.1901; Moor - Governor, 12.12.1901. See also the similar case of Zagiyaana, an African preacher who was under customary law, in S.N.A. 1/4/9 Confidential papers for 1901: 24 - '01, Moor - Governor, 2.10.1901.

39. Natal Witness, 10.3.1902 (Letter from R.C. Samuelson).

40. In the period 1893 to 1903 the Code was amended several times. See Appendix 6.

41. This was always considered beneficial by the colonists (See Welsh: The Roots of Segregation, pp. 130 - 131).

42. See L.A.D., 1903, Vol. 33, pp. 130 - 131. For a draft of the bill see N.G.G., Vol. LV, No. 3317, 21.4.1903.

or property or thefts.⁴³ Section 3 provided that the Supreme Chief could fine all or any adult members of a tribe if members of such tribe concealed evidence relating to an armed gathering of Africans which was prohibited by section 2 unless the permission of the Supreme Chief had been secured. The fines imposed under these sections would not be more than £20. Section 6 provided that if such fine was not paid the African could be imprisoned with or without hard labour for not more than six months.

Moor and other exponents of the tribal system and customary law made eloquent speeches proclaiming its virtues and explaining its intricacies. Many Africans, however, took advantage of Law 28 of 1865 which made provision as the title indicated "*For relieving certain persons from the operation of Native Law.*" Originally this law had been considered necessary since African society had not been placed in a vacuum and was not stagnant.⁴⁴ As members of a multi-racial society Africans could not be oblivious to the way in which their White counterparts were governed. This chapter will show that not only was this law to be perceived by Moor as a flaw in his neat system of administration where each African knew his place, since it removed Africans who took advantage of its provisions from the strict control imposed by the Code of Native Law, but there were also problems as regards the status of such Africans.

Law 28 of 1865 made provision for releasing some Africans from customary law "*by reason of their not now being either so ignorant or so unfitted by habit or otherwise as to render them incapable of exercising and understanding the ordinary*

43. This section was a re-enactment of section 6 of Law 44 of 1887 "*To amend 'The Native Administration Law, 1875'*", which law, Act 47 of 1903 "*To amend the Code of Native Law*" repealed.

44. See Brookes: White Rule in South Africa 1830 - 1910, p. 55; Welsh: The Roots of Segregation, pp. 57 - 59.

duties of civilized life." Both male and female Africans could petition the Lieutenant Governor for exemption but an African male engaging in polygamy could not secure exemption. The Lieutenant Governor had the right to refuse any petition and this decision could not be questioned. A petitioner who was successful would receive a letter of exemption and the wife and any children under the age of 16 years of such petitioner would also be included in the letter. This document very distinctly stated that the said African or Africans as the case may be "*shall be, and are (or is) hereby declared to be exempted from, and taken out of the operation of Native Law; and shall be, and are henceforth subject to the ordinary Laws of the Colony.*"

Despite the existence of this law exemption was never really encouraged and this was not surprising in view of Shepstone's declared preference for the traditional system of government. Up to 1875 not one petition was received and the first letter of exemption was granted only in April 1876, some 11 years after the law had been passed.⁴⁵ Africans were initially not made aware of the law and it was only in 1876 that it was translated into Zulu by a missionary.⁴⁶ J.W. Shepstone and Henrique Shepstone did not encourage exemption, the former regarding the system as creating "*An undesirable class, a decidedly undesirable class.*"⁴⁷ By 31 December 1893 363 men, 258 women and 631 children were exempt from customary law.⁴⁸

45. Brookes: White Rule in South Africa 1830 - 1910, pp. 56, 138; Welsh: The Roots of Segregation, pp. 235 - 236.

46. N. Etherington: The Rise of the Kholwa in South East Africa: African Christian Communities in Natal, Pondoland and Zululand, 1835 - 1880 (Ph.D. thesis, Yale University, 1971), p. 330.

47. See S.A.N.A.C., Vol. III, Evidence of J.W. Shepstone, p. 117, Question 19569; Evidence of H.C. Shepstone, p. 85, Questions 19158 - 19160.

48. See Appendix 2.

Africans continued to petition for exemption under Moor's administration for several reasons. They were encouraged by, for instance, the American Zulu Mission⁴⁹ who were opposed to customary law for as one missionary remarked "This Native Code is an English adaptation of barbarian law. It is an abominable stronghold where heathenism hides and defies progress ... Our Christian Natives are shadowed with heathenish laws."⁵⁰ This was echoed by some Africans, one commenting "I find that the Native is enclosed in a cage by this law; and it makes it for him impossible to reform ... The poor Amakolwa⁵¹ find themselves quite oppressed by this law of darkness, degradation, and non-reformation."⁵²

Several of the Africans who gave evidence before the South African Native Affairs Commission (1903 - 1905) stated that they considered exemption to be a benefit.⁵³ Joseph Tshangane Gumede was an exception for he stated that he did not wish to be exempted because it would separate him from his people.⁵⁴ Simeon E. Kambule, a prominent exempted African farmer, said "I am exempted, and I know that I am under a very good law, and that law compels me to go forward and

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49. See A.B.M. (Natal Archives, Pietermaritzburg) 2 Minutes of Meetings: 63rd Annual Meeting, 30.6.1898.
50. A.B.M. 46 Annual Letters 1853 - 1897: General Letter from the American Zulu Mission by Charles Newton Ransom, 1892, p. 3.
51. Amakolwa or Kholwa is the term used by the Nguni for believers and refers to that class of African which emerged as a result of missionary influence and mission schools.
52. Natal Witness, 21.4.1894 (Letter from J.H.L. Gumede).
53. See for instance S.A.N.A.C., Vol. III, Evidence of Simeon E. Kambule, pp. 456 - 457, Questions 24854-7, 24862, 24871-3; Joseph Sondezi, p. 489, Question 25470; Joseph Kumalo, p. 490, Question 25472; Enoch Msimango, p. 491, Question 25478; Petros Mazarine Maling, p. 492, Question 25486.
54. S.A.N.A.C., Vol. III, Evidence of Gumede, p. 466, Question 25059.

be a man, and an honest man, too."⁵⁵ Exemption from customary law was also a prerequisite for the franchise as will be seen in chapter three.

Some Africans favoured exemption because they wished to make wills thereby leaving their property to their wives and children. According to section 97 of the Code of Native Law no African under customary law could make a will except as provided for by Act 7 of 1895.⁵⁶ Section 3 of Act 7 of 1895 enabled an African male or female under customary law to make a will to dispose of immovable property. An African who was under customary law, could not, for instance, leave property that was not landed to his daughters for no provision was made⁵⁷ and such property would be disposed of according to customary law. If however an African was exempted he could, in terms of section 27 of Law 28 of 1865, make a will disposing of both his moveable and immovable property. The problem was as John Kumalo stated "*If a man's daughter is married and lobola received by him, then at his death, he is unable to assign any of his goods to his married daughter, for being married under Native law, her husband would appropriate anything so given. A man has a natural and great wish that the fruit of his labour should be enjoyed by his own children.*"⁵⁸ According to section 13 of Act 7 of 1895 the estate of an African under customary law who died intestate would be disposed of according to customary law but section 27 of Law 28 of 1865 provided that the estate of an exempted African who died intestate would be disposed

55. S.A.N.A.C., Vol. III, Evidence of Kambule, p. 457, Question 24873.

56. The Code actually made reference to Law 12 of 1864 but Act 7 of 1895 "*To repeal and to re-enact, with certain amendments, the Law No. 12, 1864 ...*" took its place.

57. For such a case see S.N.A. 1/1/274 Minute papers for 1897: 3002 - '97, L. Hulett - Colonial Secretary, 1.2.1898.

58. C. de B. Webb and J. Wright (eds): The James Stuart Archive ... I, Interview with John Kumalo, 29.10.1900, p. 222. See also S.A.N.A.C., Vol. III, Evidence of Kambule, pp. 456 - 457, Questions 24854-8, 24872; Evidence of Maling, p. 492, Question 25486.

of according to the ordinary laws of the colony. Africans then could have regarded exemption as a benefit for they could provide security for their children.

Certain problems created by the system of exemption surfaced in 1894 during Moor's term of office and were to plague the Native Affairs Department throughout the responsible government era. The roots of the problem, however, went back to pre-responsible government days. Africans who secured their letter of exemption believed that they were to be placed under the same laws as the Whites for this was what the document stated. In practice, however, while the exempted Africans were exempted from customary law, certain discriminatory measures applying to Africans were also considered applicable to them. In 1879 John Shepstone, for instance, claimed that the restrictions on the possession of arms and ammunition by Africans would also be applicable to the exempted Africans.⁵⁹ However, in 1888 Law 14 was passed "to extend and define the meaning of the word 'Native'" and in terms of this the exempted African was not considered to be a "Native." The effect of this measure was that the exempted African could now, for instance, buy liquor which, under Law 22 of 1878, as the title indicated, "... persons of the Native race"⁶⁰ were prohibited from procuring. However Law 10 of 1891 "To amend Law No. 14, 1888 ..." remedied what the Secretary for Native Affairs considered to be a mistake⁶¹ and specifically provided that the exempted African should come under the prohibitory liquor law together with the unexempted African. The definition of a "Native" in terms of Law 14 of 1888 was however not changed.

59. S.N.A. 1/7/12 Reports for 1878 - 1880: 2128 - '79, Report of Acting Secretary for Native Affairs on petition of certain Natives exempted from the operation of Native Law, 11.11.1879.

60. For this Law see N.G.G., Vol. XXX, No. 1741, 10.12.1878. Law 22 of 1878 was subsequently repealed by Act 38 of 1896 which is discussed on p. 55.

61. See Welsh: The Roots of Segregation, p. 240.

Significantly, Moor, Escombe and Robinson had opposed the passage of Law 10 of 1891.⁶² Moor considered it an injustice to the exempted African: *"If they are not fit to be exempted from their own laws; then in the name of all that is reasonable let us keep them under their own laws; but if these people are to be taken out from under those laws then let them enjoy every privilege we enjoy."*⁶³ The doubtful status of the exempted African was one of the first issues that Moor and the Native Affairs Department had to deal with.

In December 1893, two months after Moor had assumed office as Secretary for Native Affairs, a seemingly insignificant case, that of Daniel Lutuli, an exempted African, versus the Durban Corporation, was brought before the circuit court sitting at Durban and which was presided over by Sir Walter Wragg.⁶⁴ The case was to stir up a hornet's nest for it brought into question the whole system of exemption and the status of the exempted African. Lutuli had been fined five shillings by the Magistrate in Durban for violating the municipality's curfew regulations. Section 2 of Law 15 of 1869⁶⁵ provided that in the various boroughs of the colony "every coloured person found wandering abroad after and before such hour as such Corporation may fix, and not giving a good account of himself or herself ..." would be treated as a vagrant and as an offender under this law and the penalty to be imposed by the Magistrate could be imprisonment with hard labour for a period not exceeding three months or a fine not exceeding five pounds sterling. The municipalities in terms of section 4

62. L.C.D., 1891, Vol. 16, pp. 13,15,18.

63. L.C.D., 1891, Vol. 16, p. 15.

64. For a report of this case see Natal Mercury, 18.12.1893; 8.1.1894 (Letter from P.E. Coakes); Inkanyiso Yase Natal, 5.1.1894.

65. *"For the punishment of idle and disorderly persons and vagrants within the Colony of Natal."*

could draw up by-laws for carrying out the law and could fix a curfew hour. Lutuli having been arrested and convicted under these regulations appealed to the circuit court. The result of the appeal was that on technical grounds the Judge ruled that the case was to go back to the Magistrate for trial.⁶⁶ The significance of the case was not so much the outcome of the appeal but rather the difference of opinion between Lutuli's lawyer, P.E. Coakes and the Judge, Sir Walter Wragg.

Coakes held that an exempted African was not subject to the vagrancy law for it referred to "coloured persons" who included "*any of the people commonly called kafirs ...*" but Law 22 of 1878 defined "Natives" as those referred to as "*kafirs*" and Law 14 of 1888 specifically excluded the exempted African from the meaning of "*Native*."⁶⁷ Wragg refused to rule on the issue not wishing to prejudice the case which had still to be tried by the Magistrate. He expressed the opinion however that the exempted African was subject to the law for "*A Native cannot become a White man*" and the purpose of exemption was "*to release a Native from the trammels of lobola and other Native customs*" rather than the liquor or vagrancy law.⁶⁸ This statement was to cause considerable bitterness among the exempted Africans for they considered the purpose of exemption was to place them on the same level as the White colonists.

The exempted Africans were bitterly disillusioned and one commented that the letters of exemption were now a farce.⁶⁹ It was significant, they felt, that such a situation should have arisen under responsible government and they claimed

66. Natal Mercury, 8.1.1894 (Letter from Coakes).

67. Natal Mercury, 8.1.1894 (Letter from Coakes).

68. Natal Mercury, 18.12.1893.

69. Inkanyiso Yase Natal, 5.1.1894 (Letter from Sol Kumalo).

that they had been deceived by the government about their status.⁷⁰ The whole situation now seemed new to them.⁷¹ Sol Kumalo, a prominent exempted African and official of the Funamalungelo Society, which was a society of exempted Africans formed in 1888 by John Kumalo of Estcourt,⁷² called on the government to clear up the doubts surrounding their status because a "spirit of distrust" had emerged as a result of the Lutuli case.⁷³ Yet another comment in the Inkanyiso Yase Natal⁷⁴ was that "Rightly or wrongly my people believe that a desire exists to withdraw with the left hand what was given to us by the right. Whether this desire exists only in the breasts of a few prejudiced individuals, or whether it is to be found in the Government also is what my people want to know." Moor and the Native Affairs Department remained silent issuing no comment or statement of policy.

On 20 January 1894 a special committee of the Funamalungelo Society⁷⁵ met to discuss Lutuli's case and its implications and it resolved that a mass meeting be called and that a solicitor be consulted to advise them on their status.⁷⁶ This meeting was held on 7 February 1894 the purpose being "to discuss the position held by exempted Natives, and if possible to enquire for an explanation of their true position so that they may clearly understand how much is, and

70. Inkanyiso Yase Natal, 5.1.1894.

71. Natal Mercury, 5.1.1894 (Letter from J.H. Tshange [Tshange]).

72. Inkanyiso Yase Natal, 1.6.1894.

73. Inkanyiso Yase Natal, 5.1.1894 (Letter from Sol Kumalo).

74. Inkanyiso Yase Natal, 12.1.1894.

75. Members of this committee were Martin Lutuli (Groutville); Daniel Lutuli (Durban); J.H. Tshange, Sol Kumalo and S. Nyongwana (Pietermaritzburg); S. Mini, J. Molife and S. Msimang (Edendale); Isaac Mkize (Cedara); Isaiah Mgadi (Georgedale); James M. Majosi and P.G. Mtembu (Indaleni). See Inkanyiso Yase Natal, 26.1.1894.

76. Inkanyiso Yase Natal, 26.1.1894.

how much is not allowed them."⁷⁷ The Funamalungelo Society had been informed by their lawyer that they were subject to the vagrancy law for they were "Natives" and were included in the definition of "coloured persons." Consequently at the mass meeting it was decided that they would draw up a petition asking the Governor to remedy the situation.⁷⁸ A petition was drawn up, the petitioners asking for an amendment to the vagrancy law so that they would not be subject to the indignity of being treated as vagrants.⁷⁹ Though this petition was forwarded by the Funamalungelo Society to the Governor all the exempted Africans were by no means happy that it was necessary. As one irate exempted African stated, in his opinion he was exempted from the vagrancy law when he received his letter of exemption for this is what he believed exemption meant. If this was not so then exemption was really "a stone in place of bread" and the best course to take would be to petition the Governor to place them back under customary law where they understood their position rather than being placed "in a bastard state." He opposed the petition because thereafter they would "have to send petition after petition to amend this and that by-law."⁸⁰

Lutuli's case, the several meetings of the Funamalungelo Society and the resultant petition revealed the uncertainty surrounding the status of the exempted African and provided the Native Affairs Department with an opportunity to clarify

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77. Inkanyiso Yase Natal, 2.2.1894 (Letter from Sol Kumalo).
 78. Natal Witness, 17.2.1894 (Letter from Exempted Native).
 79. N.P.P. (Natal Archives, Pietermaritzburg) 168 Documents presented to the Legislative Assembly: 91, 1894.
 80. Natal Witness, 17.2.1894 (Letter from Exempted Native).

the position. This was not to be so. The result was a bill,⁸¹ which came to be known as the Nine O' Clock bill and which was presented during the 1894 session of parliament. It provided that certain male exempted Africans could be exempted from the by-laws of boroughs which were framed under section 4 of Law 15 of 1869 on receipt of a special pass, medal or badge from the Governor. Section 3 provided that "*No exempted Native shall be entitled to claim any such medal as of right.*" The Robinson ministry accepted the principle of the curfew and did not intend that all exempted Africans be relieved from it. As Escombe put it, though somewhat obscurely: "*There are, to use a common expression, exempted Natives and exempted Natives.*"⁸² Moor regarded the bill as "*a common act of justice*" and he believed that it was right that only certain exempted Africans be excluded from the by-laws since there were many young exempted Africans and restriction was essential.⁸³

The bill was an ineffectual one for it did not get to the gist of the matter. The grievance of the exempted Africans was that they believed that having become exempted they were to be accorded the same treatment as the White colonist. The Nine O' Clock bill merely confirmed that they were subject to certain disabilities together with the unexempted Africans. There was no doubt as to the intention of Law 28 of 1865 as Samuelson admitted the purpose "*was to entirely exempt them from the disabilities under which they lived as ordinary Natives.*"⁸⁴ They wished to be excluded from the municipalities' vagrancy regulations. Instead a bill was introduced which added to the confusion because

81. For the draft bill see N.G.G., Vol. XLVI, No. 2669, 10.4.1894.

82. L.A.D., 1894, Vol. 22, p. 674.

83. L.A.D., 1894, Vol. 22, p. 680.

84. N.N.A.C., Evidence of Samuelson, p. 12.

Moor and other members of the Robinson ministry now made a distinction not only between exempted and unexempted Africans but between exempted and exempted Africans.

It is apparent that the bill could not have satisfied the exempted African but it also received considerable opposition from the Times of Natal.⁸⁵ The editor conjured up scenes of Africans roaming the streets after dark thus posing a threat to the White inhabitants and foresaw a need for increasing the police force in the towns if the bill became law. The bill was seen by the editor as being a step towards placing the African on an equal footing with the Whites and members of the Robinson ministry were accused of being negrophilists. He postulated that if exempted Africans were relieved from the curfew regulations it would not be long before this was also granted to unexempted Africans. The Natal Mercury however stated that the bill would result in Africans being loyal to the government and would lead to "*a greater respect in the minds of the Natives ... [for] the fairness and justice of the rulers of the land.*"⁸⁶

Members of the Legislative Assembly objected to the bill because (1) it was not initiated by the government but was a result of a petition and the government was yielding to pressure;⁸⁷ (2) it would then lead to further concessions because there would be more demands and eventually the exempted African would be allowed to buy liquor, possess

85. See Times of Natal, 12.4.1894 (Editorial); 2.7.1894 (Editorial); 5.7.1894 (Editorial).

86. Natal Mercury, 15.8.1894 (Editorial).

87. L.A.D., 1894, Vol. 22, pp. 675 - 676 (F.S. Tatham, member for Pietermaritzburg); p. 719 (J. King, member for Umgeni Division). For Tatham's views see also Times of Natal, 20.4.1894.

firearms and eventually secure the franchise⁸⁸ and it would be "*the thin end of the wedge for still greater demands on this House on the part of the Natives*";⁸⁹

(3) the government was interfering with the authority of the municipalities for the curfew was a municipal measure;⁹⁰ (4) it would induce more Africans to become exempted from customary law⁹¹ and furthermore (5) it was a concession and it was considered that the way to govern the Africans was "*more by restriction than by concession*."⁹² The bill secured a second reading by a majority of only two votes⁹³ and was eventually withdrawn because the government did not wish to push through a bill which dealt with "*Native policy*" without a large majority.⁹⁴

The opposition to the bill and the outcome is significant for a number of reasons. It revealed the fears of certain colonists for, while the bill was really a small concession to the exempted African and had nothing to do with the franchise issue, it was seen as a step towards granting the franchise to the exempted African. The debate revealed that no matter how sympathetic a Secretary for Native Affairs and his colleagues were to the disabilities of certain Africans a bill could be withdrawn because members of the Legislative Assembly considered it to be conferring a benefit and concession to the African. The debate led to soul-searching in the Native Affairs Department and

88. L.A.D., 1894, Vol. 22, p. 697 (C.J. Smythe, member for Lions River Division); p. 698 (G. Leuchars, member for Umvoti County); p. 724 (J. Baynes, member for Ixopo Division); p. 720 (J.G. Maydon, member for Durban County).

89. L.A.D., 1894, Vol. 22, p. 719 (King).

90. L.A.D., 1894, Vol. 22, p. 676 (Tatham).

91. L.A.D., 1894, Vol. 22, p. 722 (Maydon).

92. L.A.D., 1894, Vol. 22, p. 719 (King).

93. L.A.D., 1894, Vol. 22, p. 727.

94. L.A.D., 1894, Vol. 22, p. 735.

Moor's attitude to exemption became firmly fixed as will be shown.

The exempted African became more sensitive and concerned about his ambiguous status. In 1895 the Funamalungelo Society pleaded against the reintroduction of the bill.⁹⁵ In the same year they presented a petition to the Legislative Assembly stating that when they became exempted they "*in many instances severed family ties and renounced such privileges as those of lobola, headmanship of families, and others which tended to enhance their position and importance amongst their people.*" The petitioners declared that they had exempted themselves "*in the firm belief that once admitted to exemption they would stand in the same position as to all civil rights as do the European colonists*" but they found this was not so.⁹⁶ For instance, in terms of Law 10 of 1891 they could not procure liquor. They earnestly requested that the matter be rectified. In view of the opposition of Robinson, Escombe and Moor to the liquor restriction for exempted Africans in pre-responsible government days, as was earlier shown, one could have expected that a remedial measure would have been introduced but in view of the opposition to the Nine O' Clock bill it was obvious that such a measure would gain little support in the Legislative Assembly. Thus section 4 of Act 38 of 1896 "*To amend and consolidate the Laws regulating the sale of Intoxicating Liquors*" included the exempted African in its definition of "*Native*" and prohibition remained unless permission was obtained from the Governor and his ministers.

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95. C.S.O. 1424 Letters received in 1895: 1382 - '95, James Henry Tshange and Sol Kumalo - Colonial Secretary, 18.3.1895.
96. N.P.P. 654 Petitions presented to the Legislative Assembly: 40, 1.7.1895.

This was resented by the exempted Africans for as Sikweleti Nyongwana, an African teacher, pointed out, they were not really in favour of buying liquor but they wished to have the right to decide.⁹⁷

After the abortive Nine O' Clock bill the Robinson ministry reconsidered the question of exemption from customary law. During 1895 not a single letter of exemption was granted.⁹⁸ Africans who were desirous of securing exemption became agitated and perturbed because there were long delays before they heard the outcome of their petitions. For instance, James Matiwane applied for exemption on 25 May 1894 but this was eventually granted on 9 October 1896.⁹⁹ In response to a query over the delay in granting this petition Moor stated that it was because the whole question of exemption was being reconsidered.¹⁰⁰ The Funamalungelo Society objected to the length of time taken to consider the petitions and criticised the government for inattention.¹⁰¹ The Inkanyiso Yase Natal agreed that letters of exemption should be granted only after careful consideration but commented sarcastically that there was a limit "*and a young man might expect to know whether he would receive the privilege he sought before he became bald and decrepit.*"¹⁰² Africans evidently feared that the Robinson ministry might not grant the exemptions as the Inkanyiso Yase Natal stated that while they had confidence in the government they were very much

97. N.N.A.C., Evidence of Sikweleti Nyongwana, p. 913. See also Evidence of Stephen Mini, p. 909.

98. See Appendix 2.

99. S.N.A. 1/1/186 Minute papers for 1894: 633 - '94, Application of James Matiwane for exemption from operation of Native Law, 25.5.1894.

100. S.N.A. 1/1/186 Minute papers for 1894: 633 - '94, Application of James Matiwane for exemption ..., Moor - Resident Magistrate, Lower Tugela Division, 17.10.1894.

101. Inkanyiso Yase Natal, 31.5.1895.

102. Inkanyiso Yase Natal, 5.7.1895.

aware "that the majority of the members of our Assembly are interested in the Natives only as a cheap medium of labour, and resent any improvement in his position which would prevent his being so."¹⁰³

Africans desiring exemption sought the help of the Funamalungelo Society which then sought an interview with Moor in March 1896.¹⁰⁴ Here they received the first indications of Moor's attitude for he made his position very clear to the delegation. He stated that in his opinion there was something wrong with the whole system of exemption for once having received a letter of exemption an African should be placed on the same footing as the Whites but this was not the case. He was, therefore, opposed to granting exemptions and considered it advisable for the Africans to remain under their own laws. Exemption was not a benefit and he accused the Funamalungelo Society of encouraging more Africans to become exempted thereby becoming their "co-sufferers."¹⁰⁵

Despite this strong statement of policy by Moor the Robinson ministry eventually decided to grant letters of exemption. This was probably due to the influence of Escombe whose attitude was:- "Law 28, 1865, is a law to confer a benefit. If a Native thinks that there is a benefit to him, it is not for the Government to say that there is no benefit."¹⁰⁶ This was despite the fact that he later admitted to Moor "that the system of exemption is more of a sham than a reality."¹⁰⁷ Moor did not want the African who was granted exemption to have any false notions about his status and to expect more than he would receive. He was subject to certain

103. Inkanyiso Yase Natal, 5.7.1895.

104. Times of Natal, 27.3.1896; 15.5.1896.

105. Times of Natal, 27.3.1896.

106. S.N.A. 1/1/274 Minute papers for 1897: 3006 - '97, Escombe - Robinson, 2.9.1895.

107. S.N.A. 1/1/293 Minute papers for 1901: 2270 - '01, Escombe - Moor, 27.5.1896.

disabilities and Moor wished him to know what these were. As a result, in addition to the lengthy procedure of securing exemption as set out in Law 28 of 1865, Moor insisted that the African who desired exemption had to come personally to the office of the Secretary for Native Affairs to have the problems surrounding his status explained to him.¹⁰⁸ By the end of 1896 35 Africans were granted exemption.¹⁰⁹

This was the position when Sir Liege Hulett, in October 1897, took over the portfolio of Secretary for Native Affairs from Moor. Like Moor he believed that letters of exemption were "*misleading and unsatisfactory*" because "*Natives who receive them believe that they receive the full legal status of Europeans.*"¹¹⁰ He thus granted few petitions for exemption¹¹¹ and the Governor noted that the Binns ministry was even less inclined to grant exemptions than the previous ministry.¹¹²

In 1898 the Binns ministry introduced a bill "*For the better prevention of the crime of Cattle Stealing and kindred crimes.*"¹¹³ Its provisions were fairly harsh and it was supported by Moor even before the Legislative Council amended some of them.¹¹⁴ Originally it was applicable to

108. S.N.A. 1/1/274 Minute papers for 1897: 3006 - '97, Moor - Robinson, 15.6.1896. See also S.N.A. 1/1/231 Minute papers for 1896: 1747 - '96, Moor - Office, 22.10.1896.

109. See Appendix 2.

110. S.N.A. 1/1/274 Minute papers for 1897: 3002 - '97, Hulett - Colonial Secretary, 1.2.1898. For Hulett's attitude and policy regarding exemption see also S.A. N.A.C., Vol. III, Evidence of Hulett, p. 169, Question 20229; p. 183, Question 20406.

111. See L.A.D., 1898, Vol. 27, p. 749.

112. G.H. 1301 Confidential Despatches to Secretary of State: Hely-Hutchinson - Chamberlain, 24.2.1898.

113. See N.G.G., Vol. L, No. 2946, 26.4.1898 for draft bill.

114. G.H. 1282 Secret Despatches to Secretary of State: Hely-Hutchinson - Chamberlain, 1.12.1898.

all Africans whether exempted or not. After the second reading in the Assembly it was referred to a select committee¹¹⁵ of which Moor was a member. The Under Secretary for Native Affairs, in giving evidence before this committee, said he believed that the exempted African should be excluded from the bill¹¹⁶ but the select committee apparently ignored his suggestion when it reported on 30 June 1898.¹¹⁷ The exempted Africans resented their inclusion in the bill and petitioned the Legislative Assembly on 25 July 1898.¹¹⁸ As a result of this, an amendment was carried in the Legislative Assembly with Moor supporting it, and in the Council, by which the exempted African was excluded.¹¹⁹ The Cattle Stealing Act¹²⁰ thus provided that "A Native who is exempt from the operation of Native Law shall not be deemed to be a Native within the meaning of this Act." This was a victory for the exempted African but he was still discriminated against since section 6 prohibited the removal of cattle from one place to another without a pass which could only be signed by a White man and not an exempted African. This point was brought to the attention of the Governor by the Secretary of State¹²¹ but the Hime ministry, who had to deal with this and other amendments suggested by Chamberlain, chose not to act. One reason was as Moor stated, that the

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115. Votes and Proceedings of the Legislative Assembly for 1898, Index to, and abstract, of proceedings on bills.
 116. N.P.P. 370 Select Committee Proceedings: No. 3, 1898.
 117. N.P.P. 376 Select Committee Reports: No. 3, 1898.
 118. N.P.P. 657 Petitions presented to the Legislative Assembly: 59, 25.7.1898.
 119. L.A.D., 1898, Vol. 27, pp. 748 - 749; L.C.D., 1898, Vol. 7, pp. 35, 38 - 40.
 120. Act 1 of 1899.
 121. G.H. 294 Confidential Despatches of Secretary of State: Chamberlain - Hely-Hutchinson, 22.4.1899.

Act should be given a chance to operate before alterations were made.¹²² Though a bill was introduced in 1903 by the Hime ministry amending the Cattle Stealing Act section 6 was not altered.¹²³

It was the Binns ministry that introduced the Courts Act of 1898, the passage of which Moor had opposed.¹²⁴ The exempted African was excluded from this Act but he would be "*deemed to be a Native within the meaning of this Act for the purposes of a civil case involving rights under Native Law, to which he is a party.*" This did not escape the attention of the exempted Africans who pleaded against it while the bill was still in the House,¹²⁵ but to no avail.

Moor's years in opposition to the Binns ministry, during which the status of the exempted African continued to be a problem as evidenced in the Cattle Stealing Act and Courts Act, could have only increased his opposition to the system of exemption. Hulett had stated that the question of the exempted African troubled the Native Affairs Department more than anything else and he saw the need for legislation to clear up the matter.¹²⁶ This legislation was not forthcoming so when Moor assumed office in the Hime ministry he took a determined stand. His known opposition to the system of exemption was strongly expressed in 1901. His policy, he informed Hime, was to

122. G.H. 294 Confidential Despatches of Secretary of State: Re despatch of Secretary of State, 22.4.1899, Moor - Attorney General, 28.6.1899; Hime - Hely-Hutchinson, 21.7.1899.

123. The bill passed as Act 1 of 1904 "To amend the Cattle Stealing Act, 1898" which came into operation during the term of office of the Sutton ministry.

124. For more details about this Act see chapter six.

125. N.P.P. 657 Petitions presented to the Legislative Assembly: 59, 25.7.1898.

126. L.A.D., 1898, Vol. 27, p. 749.

grant exemptions only in very special circumstances.¹²⁷
 A few months later he advocated the repeal of Law 28 of 1865 stating that "The repeal will not affect the status, whatever it may be, of Natives who have been exempted under this law and their descendants." He added the reason for such a drastic step was that: "Enactments have been passed from time to time by the Legislature detracting from the status held by exempted Natives. To continue to add to a class which is neither under the ordinary Laws nor entirely under Native Law is neither good policy nor common justice to the Native population."¹²⁸

Moor undoubtedly felt that Law 28 of 1865 interfered with his desire to have with the Africans a sound relationship in which they would know exactly where they stood. His attitude was "It is more honest for us to say to these people: 'You are not our equals, and we cannot accept any such position,' than to preach to them any condition of equality, which in our practice towards them would be immediately broken. If you teach the Native, or preach to him, any doctrine of equality, he will take you at your word, but when he finds that your practice towards him is contrary to your preaching, he will have a grievance which you yourselves have brought on."¹²⁹ He considered it was not fair to the African to take him out of his own laws where he had no doubts about his status and to place him in a position where he did not know exactly what his status was.¹³⁰ When Moor advocated abolishing Law 28 of 1865 he was in reality proclaiming his preference for customary law

127. S.N.A. 1/1/290 Minute papers for 1900: 1447 - '00, Moor - Hime, 12.4.1901.

128. S.N.A. 1/1/293 Minute papers for 1901: 2270 - '01, Moor - Hime, 22.10.1901.

129. S.A.N.A.C., Vol. III, Evidence of Moor, pp. 213 - 214, Question 20790.

130. S.A.N.A.C., Vol. III, Evidence of Moor, p. 215, Question 20800.

under which the African could be autocratically controlled as was shown at the beginning of this chapter.

Moor was also possibly influenced by a report on policy and matters relating to the Africans drawn up by Samuelson.¹³¹ In it Samuelson deprecated the existence of a class who were free of tribal control. In addition, he outlined several problems surrounding exemption. For instance, some Chiefs were exempted yet they derived their powers from the Code of Native Law to which their tribes were still subjected. He pointed out that the petitioner alone received a letter of exemption while his children, although also exempted, did not receive separate letters of exemption thus making it difficult for them to prove their status. This matter then needed attention. Samuelson believed that the children of a petitioner should not be exempted. He also recommended that provision should be made for cancelling a letter of exemption¹³² if the exempted African was guilty of some crime. Furthermore there should be provision for an exempted African to petition the Governor again, if so desired, to return to customary law. Samuelson's report indicated that the exemption law needed amending or it needed to be completely re-enacted. Samuelson, like Moor, was against the whole system¹³³ and several months after his report was submitted Samuelson stated that the law was "*a blot on our Statute*

131. S.N.A. 1/1/290 Minute papers for 1900: 1447 - '00, Report by Samuelson on matters relating to Africans, 20.2.1901.

132. This was also favoured by Governor McCallum (See S.N.A. 1/4/9 Confidential papers for 1901: 24 - '01, McCallum - Moor, 9.10.1901).

133. For more details on Samuelson's views see S.N.A. 1/1/293 Minute papers for 1901: 2270 - '01, Report by Samuelson on exemption, 23.2.1894; N.N.A.C., Evidence of Samuelson, pp. 5,6,11,12; Evidence of Rev. C. Robinson, p. 247.

Book and should never have been enacted."¹³⁴ A month later Moor recommended that the law be repealed.

To repeal Law 28 of 1865 was surely not the best way of dealing with the question of exemption. Certainly this would prevent more Africans from coming under the confusing system but what was to be done about all those Africans who were already exempted? Moor could have dealt with the matter in several ways: he could have directed his attention to clarifying the status of such Africans; or he could have acted on Samuelson's report which called for some amendments in the law. A solution, but one requiring moral courage, would have been to make it clear that once an African secured exemption he was to be on the same footing as the White colonist and in this way he would have satisfied the exempted African. Such a proposal however would never have passed through the Legislative Assembly as the attitude of members in the debate on the Nine O' Clock bill had shown. Moor's decision to repeal the law would have antagonised the missionaries as well as those Africans who considered the law to be a progressive step. He would also have interfered with the legal means by which the African could attain the franchise.

The Hime ministry decided against the drastic action of repealing the law as recommended by Moor but instead decided to grant exemptions only in "*very special cases*."¹³⁵ In effect, this decision was to make the law a dead letter. For instance, in 1901 the Native Affairs Department received

134. S.N.A. 1/1/293 Minute papers for 1901: 2270 - '01, Memorandum on the Legislative Policy of the Government in regard to the Native Population since 1894 by Samuelson, September 1901.

135. S.N.A. 1/1/293 Minute papers for 1901: 2270 - '01, Hime - McCallum, 7.11.1901.

31 petitions for exemption but only four men, five women and seven children were exempted.¹³⁶ In 1902 while 32 petitions were received not one African was exempted and up to 30 April 1903 no exemptions were granted.¹³⁷

While Moor and others made statements on exemption and its effects they were apparently unable to give figures on how many Africans had been exempted since there was no record of the descendants of exempted Africans.¹³⁸ Moor left the question of exemption unresolved thus failing to deal conclusively with a very salient issue. The problems surrounding exemption increased after 1903 as did the grievances of the exempted African.¹³⁹ The policy of exemption had never been a favourite one with the Native Affairs Department in pre-responsible government days so Moor's attitude was by no means unusual. However, his actions and his speeches clearly revealed his reluctance to accept or recognise the existence of a special class of African which was not included in his policy and system of administration. This attitude would be echoed in the stand he was to take regarding political representation for the African and his response to the Natal Native Congress.

136. This does not mean that 16 petitions were granted since one petition could exempt a man, his wife and children in terms of sections 21 and 22 of Law 28 of 1865.

137. For these figures see Appendix 2.

138. See L.A.D., 1898, Vol. 27, p. 749; Times of Natal, 9.4.1895 (Editorial). While Moor and others believed that the descendants of those exempted were also exempted the Native High Court in 1905 ruled against this idea (See Welsh: The Roots of Segregation, p. 246). Appendix 2 shows only the number of Africans included in the original letter of exemption.

139. For details of the system after 1903 see Welsh: The Roots of Segregation, pp. 246-249; S.N.A. 1/1/320 Minute papers for 1905: 920 - '05, Samuelson - Minister for Native Affairs, 17.4.1905; S.N.A. 1/4/11 Confidential papers for 1902: 59 - '02, Interim Report of Temporary Board on Native Administration and the Code, 22.5.1905.

CHAPTER THREEMOOR, THE NATAL NATIVE CONGRESS AND THE
QUESTION OF POLITICAL REPRESENTATION

Moor's policy of maintaining traditional structures of government and failing to make provision for change in African society became the breeding ground of disillusionment for a sector of this society, the kholwa, who showed up the cracks in his system. The rumblings of discontent were evident in the 1890's and 1900's and the kholwa became increasingly outspoken and vociferous in expressing their aspirations and grievances.¹ Their political response became more organized and the base of the movement was broadened. A considerable amount of their political energy was to be directed to the consideration of adequate political representation, a question which forced itself upon Moor's attention.

There were a number of kholwas who clamoured for change. Sol Kumalo, for instance, said "... what was savoury with our predecessors cannot reasonably be expected to be the same with the present civilized generation of Native."² The Inkanyiso Yase Natal made it very clear in September 1893 that the Africans did not desire to be kept down forever in a subservient state: "We cannot all be hewers of wood and drawers of water, we cannot always be like dumb driven cattle. We have ambitions and aspirations of our own which no amount of antagonism and hostility will check or destroy."³ This newspaper, established in 1889⁴, was

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1. For the political response of the kholwa prior to 1880 see Etherington: The Rise of the Kholwa in South East Africa, pp. 323-342.
 2. Natal Mercury, 3.1.1901 (Quoting a letter from Sol Kumalo to Ipepa lo Hlanga).
 3. Inkanyiso Yase Natal, 29.9.1893.
 4. For information see Inkanyiso Yase Natal, 11.1.1895.

printed at St. Alban's College in Pietermaritzburg under missionary supervision.⁵ In 1895 it was taken over by Sol Kumalo and a group of Africans and it was the only African newspaper in Natal at this time.⁶ The African proprietors thought "*it desirable to give our people a vent for the loyal and orderly expression of their views and grievances*" and they hoped that by its publication "*a better understanding*" would be fostered between African and White.⁷ This newspaper pleaded in 1895 for an organization among the Africans which would represent every district in the colony and which would assist the African people to improve their status and condition.⁸ This idea was taken up only in 1900.

The Africans had one organization, the Funamalungelo Society, but this represented just the exempted African and excluded the majority of the African population. There was a need for an organization with a broader base.⁹ One African noted:

*"The most precious proverb of the Whites is 'Union is strength', ... and at the present time the most important factors are associations. The farmers have theirs, also the lawyers and there are political associations."*¹⁰

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5. Welsh: The Roots of Segregation, p. 270.
 6. Inkanyiso Yase Natal, 11.1.1895.
 7. Inkanyiso Yase Natal, 11.1.1895. See also C.S.O. 1419 Letters received in 1895: 214-'95, Sol Kumalo and others - Colonial Secretary, 9.1.1895.
 8. Reported in Times of Natal, 28.8.1895.
 9. N.N.A.C., Evidence of Martin Lutuli, p. 973.
 10. Ipepa lo Hlanga, 28.12.1900 (Article by Nqakamatye). Translation in S.N.A. 1/4/9 Confidential papers for 1901: 3-'01, Extracts from Ipepa lo Hlanga.

There had to be an African political organization, they argued, which would unite them and strengthen their political response.

On 1 June 1900 a meeting attended by African representatives from all over the colony was held. They passed several resolutions expressing, among other things, their loyalty to the Queen and their feelings on the Anglo-Boer war. The main purpose of the meeting was to discuss the formation of an organization or society. Mark Radebe, a prominent African educated at Lovedale and afterwards actively involved in African protest,¹¹ informed the assembled Africans that the object of the meeting was "to consider the desirability, or otherwise, of forming an organization similar to the Indian Congress¹² or the Farmers' Conference." The resolution proposed by Chief Mini of Edendale "That this meeting of the Amakolwa Natives' representatives from different parts of the colony do hereby form themselves into an association, to be called the Natal Native Congress" was passed.¹³ Chief Mini stated that he hoped no differences were to be made between the exempted kholwa and the unexempted kholwa and even the heathen African Chiefs should send representatives to the Congress in the interests of unity. These sentiments were supported by Radebe. Chief Isaac Mkize was then elected President; Bryant Cele, Vice President;

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11. In addition to being a founding member of the Natal Native Congress he was twice its Secretary and was associated with the publication of Ipepa lo Hlanga (T.D. Mveli Skota (ed): The African Yearly Register; Being an Illustrated National Biographical Dictionary (Who's Who) of Black Folks in Africa, p. 84).
 12. The Natal Indian Congress was formed in 1894 by M.K. Gandhi.
 13. This report of the meeting together with resolutions passed is to be found in the Natal Mercury, 8.6.1900.

H.C.C. Matiwane, Secretary and Chief J.M. Majozi, Treasurer. Martin Lutuli, who was to be the President of the Congress in 1901¹⁴, observed that "The object of the Congress was to enable the Native population to express their feelings in such a way that their representations would come prominently before the Government and receive due consideration."¹⁵

In the aftermath of the meeting various associations were formed all over the colony and each sent from three to five members to the first meeting of the Natal Native Congress. This was held on 3 August 1900 and was attended by 100 delegates.¹⁶ The intention of the Congress officials to include all heathen Chiefs was disappointed because only two Chiefs sent delegates while six others sent messengers to report on the proceedings.¹⁷ The other heathen Chiefs could not be persuaded to take part because, as Matiwane, the Secretary of the Congress explained, they were afraid of being questioned by the Magistrate or the Secretary for Native Affairs.¹⁸ Despite this setback Congress officials continued to insist that Congress was open to all Africans.¹⁹ The Congress discussed matters relating to education and land rights but one of the most important issues was the question of political representation for the African which will be discussed later in this chapter.

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14. See Natal Mercury, 1.6.1901. Chief Isaac Mkize was Vice-President, Rev. B.S. Cele, Treasurer and H.C.C. Matiwane, Secretary in 1901.
 15. N.N.A.C., Evidence of Martin Lutuli, p. 973.
 16. Natal Mercury, 14.8.1900.
 17. Natal Mercury, 18.8.1900 (Letter from H.C.C. Matiwane).
 18. Natal Mercury, 18.8.1900 (Letter from H.C.C. Matiwane).
 19. See for instance C.S.O. 2811 Evidence of Native Suitors Commission: H.C.C. Matiwane, p. 909; Martin Lutuli, p. 1016.

The Native Affairs Department did not respond favourably to the existence of the Natal Native Congress and relations between government and Congress were far from cordial. Samuelson brought the movement to the attention of Moor stating "*I need not refer to the serious political significance of this movement promoted and engineered as I believe it is by Europeans.*"²⁰ Samuelson was referring to the fact that G.H. Hulett, the son of Sir Liege Hulett and a solicitor in Verulam, had been invited to address the gathering of Africans in June 1900. The invitation was explained by Radebe who declared that they "*must endeavour to enlist the sympathy of English gentlemen*" and Hulett knew their language and was well acquainted with African matters.²¹ Hulett had informed Samuelson that he would be personally involved in the administrative affairs of the Congress. In addition Matiwane was a clerk in Hulett's office.²² Hulett, as will be shown later in this chapter, made some important statements when he addressed the African gathering and he influenced Congress members. Although Moor agreed with Samuelson's views about the Congress it was decided to do nothing about the movement for the time being.²³

A year and a half after the Congress had been founded Moor expressed some anxiety for he claimed that the main object of the Congress was "*to attain equal political rights as those enjoyed by the White population*" adding that the

20. S.N.A. 1/4/8 Confidential papers for 1900: 89-'00, Samuelson - Moor, 8.5.1900 [i.e. 8.6.1900].

21. Natal Mercury, 8.6.1900.

22. S.N.A. 1/4/8 Confidential papers for 1900: 89-'00, Samuelson - Moor, 8.5.1900 [i.e. 8.6.1900].

23. S.N.A. 1/4/8 Confidential papers for 1900: Moor - Colonial Secretary, 8.6.1900; Acting Under Secretary - Moor, 20.7.1900.

movement "... if carried on on its present lines, will prove a source of considerable trouble in future."²⁴

Moor and the Governor did not regard the Congress as representing the African population and McCallum²⁵ stated:

*"The Natal Native Congress is a self constituted body, representing but a small section of the Native population, namely the exempted Natives and those who are adherents of missionary enterprise. It in no way therefore, is representative of, nor is it entitled to speak for, the great bulk of the Native population, of whose thorough loyalty, however, there can be no question."*²⁶

The Natal Mercury, in contrast to the reaction of Moor and the Native Affairs Department, hailed the formation of the Congress as a sign of progress. Elaborating, the editor commented that the Africans had been treated like children "But no class of people can remain children forever; as certain as the child grows up to manhood, so certainly do the lower classes of the human race mature and attain a higher social and intellectual standard - or they perish. It is well for us, the governing race, to recognise that this transition is inevitable." He added that the move-

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24. G.H. 1085 Letters Received from Private Individuals: S.N.A. Minute No. 2870 - 1901, re letter from Sir Arthur Bigge, 8.11.1901, Moor - McCallum, 18.12.1901.
25. Governor Hely-Hutchinson was appointed Governor of the Cape Colony in 1901 and Henry McCallum arrived in Natal as the new Governor in May of that year.
26. G.H. 1230 Copies of Despatches to Secretary of State: No. 130, McCallum - Chamberlain, 3.6.1901.

ment should be encouraged - "*Let the Natives feel that their advancement is made with our help and not in spite of us.*"²⁷

The attitude of the Native Affairs Department towards the Congress was determined by the Department's preoccupation with the Ethiopian movement.²⁸ Several African men were appointed to act as intelligence officers to keep a watch on gatherings of Africans and on several African preachers and to report back to the Secretary for Native Affairs. This intelligence service had been initiated by Sir Liege Hulett during his term of office as Secretary for Native Affairs²⁹ and faced with the Ethiopian movement Moor later followed this practice paying these men under the guise of "*Native messengers.*"³⁰ In 1901 Moor was interviewed on the subject of the Ethiopian movement by a reporter on the Natal Witness who was given access to certain files held in the office of the Secretary for Native Affairs.³¹ In the resultant article³² both the Natal Native Congress and the African newspaper Ipepa lo Hlanga were accused of being part of the movement. The publishers of Ipepa lo Hlanga were two African Chiefs, Isaac Mkizi and James Milward Majozi, both prominent office-bearers in the Congress.³³ The accusations were made because several articles had appeared in this African newspaper in December 1900 which the Native Affairs Department regarded as offensive and

27. Natal Mercury, 11.6.1900 (Editorial).

28. This movement is referred to in chapters two and four.

29. See L.A.D., 1898, Vol. 27, p. 185.

30. For details see L.A.D., 1899, Vol. 28, pp. 191-192, 294; S.N.A. 1/4/8 Confidential papers for 1900: 87-'00, Memorandum by Samuelson, 6.6.1900; Moor - Treasurer, 28.6.1901; Treasurer - Colonial Secretary, 11.7.1901.

31. Natal Witness, 13.4.1901.

32. Natal Witness, 13.4.1901 (Black Supremacy).

33. See S.N.A. 1/4/9 Confidential papers for 1901: 1-'01, Hime - Governor, 29.1.1901.

sedition. One article stated: "*It is useless to conceal the truth, the Whites and the Natives are enemies. The White wants only one thing, to live on the Native.*"³⁴ Others urged the African people to rise in protest against the existing state of affairs, criticized the Secretary for Native Affairs as well as the White colonists and asked for representation in parliament.³⁵ Moor, at this time, had been attending the inauguration of the Australian Commonwealth and H.D. Winter, the Minister of Agriculture, was deputizing for him. When similar articles appeared in January 1901, Winter felt that it was necessary to prevent their publication in future. He observed that the newspaper had 550 subscribers in southern Africa and

"There are many statements in the paper which are of a vicious nature, and incorrect. Natives who read the paper, or to whom it is read, take the contents as truthful and there is no one to contradict.

*If it can be legally done, then something should be done to prevent the dissemination of such publications amongst the Natives."*³⁶

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34. Ipepa lo Hlanga, 14.12.1900 (Translation in S.N.A. 1/4/9 Confidential papers for 1901: 1-'01, Article in Ipepa lo Hlanga).
35. For articles of this nature see S.N.A. 1/4/8 Confidential papers for 1900: 105-'00, Articles in Ipepa lo Hlanga; S.N.A. 1/4/9 Confidential papers for 1901: 1-'01; 3-'01, Articles in Ipepa lo Hlanga.
36. S.N.A. 1/4/9 Confidential papers for 1901: 1-'01, Winter - Colonial Secretary, 15.1.1901.

The result was that the publishers were summoned to appear at the office of the Secretary for Native Affairs where they were given a warning by Samuelson.³⁷

The article in the Natal Witness referred to above did much to damage relations between the Congress on one hand and Moor and Samuelson on the other. Matiwane reacted very strongly to this attack and in a letter to the editor he angrily stated that "*Your informants were the Secretary for Native Affairs and his Under Secretary. In the first place neither of these gentlemen know[s] very much about the Natives of this colony. When are they ever out of their offices?*" He denied that the Natal Native Congress was associated with seditious actions and called on Moor and Samuelson to furnish proof of their accusations. He added further "*I think Mr. Samuelson is very sore that he was not asked to father the organization, and is very much annoyed that he is ignored.*"³⁸ At the next meeting of the Congress much bitterness was expressed about the attacks made on it by Moor who was supposed to be the protector of the Africans.³⁹ Moor was certainly suspicious of Africans like Matiwane and in December 1901 he recommended to the Minister of Lands and Works that the police should keep an eye on Matiwane.⁴⁰ This was the result of a report, filed by a detective in the Native Police, that Matiwane constantly spoke about the franchise and that he was once heard by the detective to say "*The White man must go, South Africa was*

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37. S.N.A. 1/4/9 Confidential papers for 1901: 1-'01, Samuelson - Winter, 27.2.1901.
 38. Natal Witness, 11.5.1901 (Letter from H.C.C. Matiwane).
 39. See Natal Mercury, 1.6.1901; Natal Witness, 3.6.1901.
 40. S.N.A. 1/4/9 Confidential papers for 1901: 31-'01, Moor - Minister of Lands and Works, 3.12.1901.

meant for the Black man."⁴¹ It was also pointed out that Matiwane had considerable influence over the Africans.⁴²

In August 1901 the Duke and Duchess of Cornwall and York were to visit Natal and Governor McCallum wanted the African Chiefs from Natal and Zululand to take part in the celebrations.⁴³ Moor was against the whole idea:

"To ask all of them is a matter hardly to be entertained. Whether a certain selected number of Chiefs, or all, are invited, it means that a large number of men will be brought into each other's company who have never met. They will discuss the present political situation and many other matters; they will learn each other's views, and their assembling together will probably be the precursor of future meetings and exchanges of thoughts on public questions affecting them.

*It has always been the policy to keep them apart as much as possible, and to avoid anything which may bring unity of thought or action into their midst."*⁴⁴

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41. S.N.A. 1/4/9 Confidential papers for 1901: 31-'01, Report made by a Detective in the Native Police, 14.11.1901.
 42. S.N.A. 1/4/9 Confidential papers for 1901: 31-'01, Inspector of Native Police - Minister of Lands and Works, 28.11.1901.
 43. See G.H. 1231 Copies of Despatches to Secretary of State: No. 226, McCallum - Chamberlain, 22.8.1901.
 44. S.N.A. 1/1/291 Minute papers for 1901: 1029-'01, Moor - Colonial Secretary, 4.6.1901. See also chapter two for this policy of maintaining distinctions between the Africans.

Despite Moor's misgivings McCallum as Supreme Chief summoned Chiefs to Pietermaritzburg to what was to be the first gathering of Chiefs.⁴⁵ Samuelson regarded this "as the starting point of a common understanding between the Natives of the colony" and he disapproved for "they should deal with tribal units only and singly."⁴⁶ In view of the attitudes of Moor and Samuelson one would hardly have expected them to have given the Congress their blessing because the Congress aimed at uniting the Africans. In 1903 Samuelson noted that "Easy and rapid means of communication, missionary conferences, congresses, Native newspapers, community of interests and so forth are bringing the Natives together, and they can easily agree on some united action notwithstanding alleged tribal disunions and jealousies should sufficient causes be presented for concerted measures."⁴⁷

The above account illustrates the fact that the relationship between the Congress and the Native Affairs Department was strained. One must not over-emphasize this for in 1907 when Moor was once more Minister for Native Affairs as well as Prime Minister the Natal Native Congress informed him that "Your previous administration was one in which we always felt safe ..."⁴⁸ In view of the apparent differences between the Congress and Moor in the early 1900's it was strange that both were to come to the same conclusion as to the ability or rather inability of the Secretary for Native Affairs to represent the Africans.

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45. G.H. 1231 Copies of Despatches to Secretary of State: No. 226, McCallum - Chamberlain, 22.8.1901; Natal Witness, 15.8.1901.
46. N.N.A.C., Evidence of Samuelson, p.3.
47. S.N.A. 1/4/12 Confidential papers for 1903: 96-'03, Report by Samuelson on the strength and combination of tribes in Natal, 15.6.1903, p. 14.
48. S.N.A. 1/1/369 Minute papers for 1907: 1561-'07, Address of Natal Native Congress to Moor, 20.6.1907.

Africans in Natal were in theory not totally voiceless and some could obtain the franchise. The Charter of Natal of 1856 did not discriminate against the Africans and they could secure the right to vote as long as they were male, over 21 years of age and met the property requirements. Law 11 of 1865⁴⁹ altered the situation. Those Africans under customary law were denied the franchise. To obtain the franchise a male African had to be a resident of the colony for 12 years, he had to meet certain property qualifications and he had to be exempted from customary law for at least seven years. Furthermore he was required to petition the Lieutenant Governor who could refuse or grant the request of an African to be registered as a voter. In addition to the franchise law of 1865 section 6 of Law 2 of 1883⁵⁰ provided that "No person belonging to a class which is placed by special legislation under the jurisdiction of special courts, or is subject to special laws and tribunals ..." could become a voter unless he received a letter of exemption from the Governor which would exempt him from this section of Law 2. An African would have to become exempted from customary law to secure the franchise.

The one point on which the majority of the colonists were agreed on was that the African should never be granted the franchise. Robinson in his A Life Time in South Africa set down the main reasons for this attitude. The Africans, he argued, did not understand the franchise system. If the franchise were granted agitators would influence the Africans

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49. "Disqualifying certain Natives from exercising Electoral Franchise." For an analysis of the reasons for this law see S. Trapido: Natal's Non-Racial Franchise, 1856 (African Studies, 1963, Vol. 22, No. 1., pp. 22-32). See also Welsh: The Roots of Segregation, pp. 51-66.
50. Law "To Amend the Franchise."

and would take control of the political situation; the results would be "perilous" and "mischievous" legislation. Africans would be in a majority and ministries would then be very dependent on the African vote. "Race cleavage would be the dominant factor in deciding elections" and "Race bitterness and discord would rend and curse the country."⁵¹ J.G. Maydon, a member of the Legislative Assembly, stated " ... that this question of withholding the franchise from the Natives is one beyond all debate ... [The granting of the franchise] cannot possibly be contemplated even by the most sentimental Government."⁵²

When it came to the franchise question Moor held the same opinions as the rest of the Natal colonists. His attitude was "We are the dominant race, and we must remain so"⁵³ and further "At this stage in our history, we can tolerate no terms whatever of political or social equality ..."⁵⁴ He believed that the African was not yet ready for the franchise for the effects of education and religion on the African were superficial: " ... the whole thing is mere veneer."⁵⁵ He was very much against the Cape's franchise laws which were not discriminatory on the basis of colour.⁵⁶ Moor did not believe that provision should be made for the few Africans who had raised themselves to a standard of living comparable to the Whites for they must first raise the masses to their

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51. J. Robinson: A Life Time in South Africa; Being the Recollections of the First Premier of Natal, pp. 308-309.
52. L.A.D., 1894, Vol. 22, p. 720.
53. S.A.N.A.C., Vol. III, Evidence of Moor, p. 230, Question 20993.
54. S.A.N.A.C., Vol. III, Evidence of Moor, p. 213, Question 20790.
55. S.A.N.A.C., Vol. III, Evidence of Moor, p. 216, Question 20811.
56. S.A.N.A.C., Vol. III, Evidence of Moor, pp. 225-226, Questions 20926-20937; Natal Mercury, 21.9.1901.

level and this process would take hundreds of years.⁵⁷ In accordance with this view he had no compunction in discouraging exemption from customary law thus preventing more Africans from becoming eligible for the franchise and devoted himself to strengthening and enforcing the tribal system.⁵⁸

In March 1903 Moor attended the Inter-Colonial Conference at Bloemfontein⁵⁹ and was a member of the committee which had been appointed to draw up draft resolutions on the "Native question." When the Conference considered the report of the committee Moor moved that one resolution should be that "*The population of South Africa being in the approximate proportion of six Natives to one European it follows that the political status of the Native should conform to conditions which will assure the constant dominance of the White Races.*"⁶⁰ This was defeated by a majority of three votes to two, the influence of the Cape delegates prevailing.⁶¹ Moor's resolution reiterates the point that Moor was determined on a system of government which would ensure White supremacy.

In the 1880's there were Africans who would have been satisfied with representation of their interests by a White man in the Legislative Council.⁶² Trapido expresses

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57. S.A.N.A.C., Vol. III, Evidence of Moor, p. 224, Questions 20917-20924.
 58. See chapter two.
 59. The other Natal delegates were Sir Albert Hime (Prime Minister), T. Hyslop (Treasurer), Sir James Hulett and G. Payne (members of the Legislative Assembly).
 60. S.N.A. 1/4/12 Confidential papers for 1903: 62-'03, Minutes of meetings of the Inter-Colonial Conference at Bloemfontein, March 1903, pp. 8-10.
 61. S.N.A. 1/4/12 Confidential papers for 1903: 62-'03, Minutes of meetings of the Inter-Colonial Conference at Bloemfontein, March 1903, p. 10; Thompson: The Unification of South Africa 1902-1910, p. 117.
 62. Brookes: White Rule in South Africa 1830-1910, p. 62.

the opinion that the Africans showed little interest in the franchise and "... *that within the Natal settler political system of the 19th century, the franchise had no meaning for the African population.*"⁶³ There were Africans in the 1900's who claimed that they had no desire to sit with White men in parliament for they were still like children.⁶⁴ By 1903 there were only two African registered voters in Natal out of a total of 18 946 voters.⁶⁵ There were however a number of Africans in the 1900's who, after giving the question of political representation their serious consideration, came to the conclusion that they wanted direct representation.

In June 1900 when the mass meeting of Africans, referred to previously, gathered to constitute the Natal Native Congress they were informed by their guest speaker, G.H. Hulett, that the Secretary for Native Affairs "... *is an officer of the Government, and as such is bound by the opinion of his colleagues, and is selected to sit in the House as the representative of a certain class of people. He may be returned by the farming interests or the commercial interests; and ... he cannot adequately represent you.*"⁶⁶ This statement made some impression on the Africans for at the first meeting of the Congress on 3 August 1900, which was discussed earlier, Mark Radebe on behalf of the Pietermaritzburg Association moved a resolution which was passed. It read as follows:

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63. Trapido: Natal's Non-Racial Franchise, 1856 (African Studies, 1963, Vol. 22, No. 1, p. 32).
64. For instance Chief Majozi at a meeting of the Natal Native Congress (See Natal Mercury, 14.8.1900).
65. S.A.N.A.C., Report, p. 93, paragraph 430.
66. Natal Mercury, 8.6.1900.

"That this Congress humbly submits that the time has arrived when the Native people of this colony should be directly represented in the parliament of the colony. That the Congress is of opinion that the Secretary of Native Affairs, being a member of Government, and elected by a European constituency, whose wishes he must always accede to, cannot represent the Native population of the colony."⁶⁷

They also considered a scheme of representation whereby the Africans in the colony could elect four Whites to represent them.⁶⁸ The question of indirect representation of the Africans in the Upper House had been raised many times in the nineteen year struggle for responsible government in Natal. Suggested in 1874 by Charles Barter, the idea was taken up among others, by John Robinson, who was reluctant for many reasons to grant direct representation, and advocated that separate representation be given to the African population by means of five or seven or later twelve nominated White colonists. Haasbroek is of the opinion that Robinson saw the nomination of White representatives in an Upper House as a way of persuading Britain to agree to the granting of responsible government in spite of the very small White population.⁶⁹ A precedent existed in the New Zealand constitution whereby separate representation was provided for the Maori population.⁷⁰

67. Natal Mercury, 14.8.1900.

68. Natal Mercury, 14.8.1900.

69. For this whole issue see Haasbroek: The Struggle for Political Supremacy in Natal, 1856-1896 Part I (Historia, December 1971, Vol. 16, No. 4, pp. 276-280); Part II (Historia, March 1972, Vol. 17, No. 1, 47-56).

70. Thompson: The Unification of South Africa 1902-1910, p. 120.

In terms of the Constitution Act of 1893 eleven nominated members sat in the Legislative Council. Of these five were from Durban, Victoria, Alexandra and Alfred counties, three from Pietermaritzburg and Umvoti and three from Weenen and Klip River. The Act did not lay down that these nominated members should have any special qualifications with regard to knowledge of or interest in the Africans. The members of the Natal Native Congress probably considered this provision of an Upper House to see to their interests as being unsatisfactory since the members were nominated by the Governor and his ministers and were not elected by the Africans themselves.

In June 1901 Congress again expressed its resolution of 1900.⁷¹ An article in Ipepa lo Hlanga, the mouth-piece of the Congress, expressed the same idea: "*Mr. Moor, is elected by the residents of Weenen County to be their representative. Whence can he gain courage to fight for me when they can remove him from office should he not do their pleasure.*"⁷² One African asserted that Moor knew very little about the African people.⁷³ Furthermore, the Africans were not happy with the Under Secretary for Native Affairs for he was "*not theirs but the Government's servant.*"⁷⁴ These statements contrast sharply with the optimism expressed on the appointment of Moor and Samuelson in 1893.⁷⁵

71. Natal Mercury, 1.6.1901; Natal Witness, 3.6.1901.

72. Ipepa lo Hlanga, 14.12.1900 (Translation in S.N.A. 1/4/9 Confidential papers for 1901 : 1-'01, Article in Ipepa lo Hlanga).

73. Webb and Wright (eds): The James Stuart Archive ... I, Interview with John Kumalo and S. Mbaso, 30.12.1900, p. 249.

74. Webb and Wright (eds): The James Stuart Archive ... I, Interview with John Kumalo, 15.2.1900, pp. 230, 234. See also S.A.N.A.C., Vol. III, Evidence of Martin Lutuli, p. 861, Question 32087.

75. See introduction.

Commenting in April 1901 Moor stated: "*With regard to representation I have done my best as Secretary for Native Affairs to protect the interest of our Native population, and to promote their welfare.*"⁷⁶ In July 1901 he claimed that the country members represented and saw to the interests of the Africans.⁷⁷ However in September 1901 he came to the same conclusion as the Natal Native Congress making a statement which revealed that he was unhappy about his position as Secretary for Native Affairs. He declared that he found himself in an anomalous situation; he was elected by a White constituency and represented the White population yet as head of the Native Affairs Department he had to serve the interests of the African population.⁷⁸ Here then was what he termed "*a conflict of interests.*"⁷⁹ In 1902 at a meeting in Estcourt he asserted that "*An elected member could not be said to serve the interests of the two races, if he was only elected by one.*"⁸⁰ By 1903, then, Moor felt uneasy about his position in the Legislative Assembly.⁸¹

As early as September 1901 Moor had suggested that the position of Secretary for Native Affairs should be a permanent appointment. By making this post a civil service appointment rather than a cabinet one, the Secretary for Native Affairs would not be liable to be removed from office at short notice when the political situation altered.⁸² He expressed the opinion that the flaw in the constitution had to be corrected. His idea was that the permanent Secretary for Native Affairs would have a seat in the Upper House but with the right to speak in the Legislative Assembly.

76. S.N.A. 1/4/9 Confidential papers for 1901: 1-'01, Moor - Hime, 12.4.1901.

77. L.A.D., 1901, Vol. 30, pp. 644-645.

78. Times of Natal, 12.9.1901.

79. L.A.D., 1903, Vol. 34, p. 295.

80. Natal Witness, 12.12.1902.

81. See L.A.D., 1903, Vol. 33, p. 96.

82. Natal Witness, 12.9.1901; Times of Natal, 12.9.1901.

Policy would be determined by the government which would be advised by the Secretary for Native Affairs.⁸³ As a permanent official he would be able to proffer advice in an objective way and would be free from the criticisms of the electors and in particular his own constituency.⁸⁴ In addition to solving the problem of duality of interests Moor felt that his scheme was particularly desirable because the Africans did not understand why one Secretary for Native Affairs was for no apparent reason replaced by another.⁸⁵ They obviously did not understand that the appointment was a political one. Moor also felt that with a permanent official there would be some continuity of policy.⁸⁶

Moor's proposal received considerable support. The Natal Witness⁸⁷ favoured the idea as did the Times of Natal.⁸⁸ The latter commented that the scheme was desirable because "*Native policy, if it is to have a ghost of a chance of being successful, must be continuous and uniform.*"⁸⁹ The Ipepa lo Hlanga was doubtful about the beneficial effects of Moor's proposal but added that if there was to be a change the Africans would like to be consulted.⁹⁰ Governor Hely-Hutchinson, his successor, Henry McCallum, Henry Bale the Attorney General, and Prime Minister Hime all supported the idea.⁹¹ In 1903 a motion was passed in the Legislative Council as an "*expression of opinion*" and as "*a suggestion*" that the Secretary for Native Affairs should be a permanent

83. L.A.D., 1903, Vol. 33, p. 96.

84. L.A.D., 1903, Vol. 34, p. 295.

85. Natal Witness, 12.9.1901.

86. L.A.D., 1903, Vol. 35, p. 182.

87. Natal Witness, 12.9.1903 (Editorial).

88. Times of Natal, 12.9.1901 (Editorial); 13.12.1902 (Editorial); 8.5.1903 (Editorial); 31.8.1903 (Editorial).

89. Times of Natal, 13.12.1902 (Editorial).

90. Ipepa lo Hlanga, 4.9.1903.

91. See C.S.O. 2592 Confidential Minute Papers for 1901: 185-'01, Report of Henry Bale, 29.6.1901; Ipepa lo Hlanga, 4.9.1903; L.A.D., 1901, Vol. 30, p. 833.

and non-political official.⁹² J.W. Shepstone, the former Secretary for Native Affairs, told the South African Native Affairs Commission that he was in favour of a permanent Secretary for Native Affairs for he was frequently told by the Africans:

*"We do not know where to go, we do not know who is who; we hear of one put in to-day, we hear of another put in tomorrow. We do not know what wrong these people do, why they are turned out; but there they are. We are told to-day it is Mr. Moor, tomorrow we are told it is Mr. Leuchars."*⁹³

One prominent colonist stated that he was in favour of the proposal for as the matter stood the Secretary for Native Affairs would be reluctant to introduce certain measures for fear of these being subject to party politics.⁹⁴

Moor, despite the many strong speeches he made on the subject and despite the support he was given, did nothing to give effect to his proposal. In 1903, when he was accused of only espousing theories and not carrying them out,⁹⁵ Moor replied that he did not wish to rush into the matter, he had put the proposal to the people, he wished them to think about it and thus the idea would gain ground.⁹⁶ Before he was ready to implement the proposal however, he was replaced by George Leuchars in August 1903. Leuchars was of the opinion that the Secretary for Native Affairs

92. L.C.D., 1903, Vol. 12, pp. 131-134.

93. S.A.N.A.C., Vol. III, Evidence of J.W. Shepstone, p. 116, Question 19558.

94. S.A.N.A.C., Vol. III, Evidence of W.H. Beaumont, p. 718, Question 29606.

95. By George Leuchars, member for Umvoti County (L.A.D., 1903, Vol. 34, p. 295).

96. L.A.D., 1903, Vol. 34, p. 296.

should remain unknown to the Africans and be in the background: "He should be behind the curtain and simply pull the strings."⁹⁷ The Africans, he also believed, did not understand the political nature of the appointment. He therefore proceeded to make himself inaccessible to the Africans because he believed that the Under Secretary for Native Affairs should make all the contact.⁹⁸ Had Moor remained in office it is doubtful if he would in fact have implemented his scheme for there was a general reluctance to make changes while the South African Native Affairs Commission, appointed in September 1903,⁹⁹ was endeavouring to draw up a policy suitable for all the South African colonies.¹⁰⁰ Moor, in 1902, predicted that the much hoped for federation of South Africa would take place within five years.¹⁰¹ Thus Moor left yet another issue unresolved in the Native Affairs Department when he relinquished his position in 1903 and moved to a far more comfortable position on the opposition bench in the Legislative Assembly.

Moor's policies towards exemption and representation were conservative; in line with the general view of the cabinet and of the White colonists he believed that White supremacy must be maintained. Robinson, as has already been discussed, was opposed to granting the franchise to the Africans and Hime opposed the granting of political rights to the Africans in the immediate future.¹⁰²

In the next chapter Moor's policy regarding locations and mission reserves is considered.

97. L.A.D., 1903, Vol. 34, p. 295.

98. N.N.A.C., Evidence of Leuchars, p. 163.

99. Natal Witness, 23.9.1903.

100. See for instance L.A.D., 1904, Vol. 36, p. 3.

101. Natal Witness, 12.2.1902.

102. G.B. Pyrah: Imperial Policy and South Africa 1902-1910, p. 90.

CHAPTER FOUR

THE LOCATIONS AND MISSION RESERVES

In 1895 there were 219 239 Africans in locations, 23 839 on mission reserves, 21 436 on crown lands and 243 513 on private lands.¹ Moor, as Secretary for Native Affairs, became actively involved in projects in the locations and he also became involved in the delicate question of who should have control of the mission reserves.

The first location for Africans had been marked out by the early British administration in November 1846 at Zwaartkop near Pietermaritzburg² and by 1882 there were 42 locations totalling 2 067 057 acres³ [836 865 ha]. This land was held in trust for the Africans by the Natal Native Trust which was established in 1864.⁴ In addition to being Secretary for Native Affairs in the Robinson, Escombe and later Hime ministry Moor became a member of this Trust which comprised the Governor and the ministry of the day.

Mission reserves had been set aside as a result of the location policy. By 1850 the American Zulu Mission, Hermannsburg Mission, the Berlin, Norwegian and Wesleyan missionary societies were operating in Natal.⁵ The American Zulu Mission which had begun missionary work in Natal as early as 1835⁶ had by 1850 11 mission stations along the

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1. B.B.N.A. for 1895, Statistical Return.
 2. E.H. Brookes and N. Hurwitz: The Native Reserves of Natal, p. 4.
 3. Brookes and Hurwitz: The Native Reserves of Natal, p. 11.
 4. Brookes and Webb: A History of Natal, p. 103; Brookes and Hurwitz: The Native Reserves of Natal, p. 9.
 5. Welsh: The Roots of Segregation, p. 43.
 6. J.D. Taylor: One Hundred Years of the American Mission in South Africa 1835 - 1935, p. 8.

coast,⁷ and they felt insecure, for while locations were being marked out and crown lands were being taken up, they had no legal title to the lands they occupied. The missionaries feared the possibility that if all the crown lands were taken up, and the Africans moved off these lands, they would not have an African population to work with. Since the British government had granted land to those Boer farmers who remained in Natal after the British occupation on a quit rent basis it seemed only logical to the American missionaries, who had been in Natal before the Boers, that they too should be granted land. In addition they believed that missionary work would be fostered if they had land.⁸

In terms of Ordinance 5 of 1856⁹ land was to be granted to the American Board of Commissioners for Foreign Missions and this was also to be applicable to other missionary societies. Between 1860 and 1885 legal title to 27 glebes totalling 11 615 acres [4 702 ha] were granted freehold to the various missionary societies.¹⁰ The government had little to do with these glebes, reserving only the right to construct roads for general use.¹¹ 17 mission reserves totalling 127 211 acres¹² [51 502 ha] were granted, the purpose of

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7. Switzer: The American Zulu Mission, p. 73.
 8. For all these reasons see H.D. Goodenough: Mission Lands: Glebes and Reserves, pp. 80-81 (in A.B.M. 49 Letters and Documents to the Natal Government: File 1904).
 9. "To empower the Lieutenant Governor to make grants of land to the American Board of Commissioners for Foreign Missions and to enable it to hold the same."
 10. Report of the Lands Commission 1902, pp. 14-15, section 101.
 11. Goodenough: Mission Lands: Glebes and Reserves, pp. 81-82 (A.B.M. 49 Letters and Documents to the Natal Government: File 1904).
 12. Four mission reserves totalling 26 976 acres [10 922 ha] were promised but deeds of grant were not issued. For these figures see Report of the Lands Commission 1902, pp. 14-15, sections 104 and 108.

these lands being to provide for a fixed African population among whom the mission societies would work.¹³ The reserves of each missionary society were under the control of trustees who included members of the society and the Secretary for Native Affairs.¹⁴ For instance, the 12 reserves granted to the American missionaries were controlled by the American Mission Reserve Trust Board, the trustees being the Secretary for Native Affairs, with the Chairman, Secretary and Treasurer of the American Zulu Mission.¹⁵ Thus on the reserves, unlike the glebes and locations, dual control was maintained. This chapter will show that Moor considered this joint control of the reserves undesirable and as his work in the locations progressed and his experience with the Natal Native Trust increased he thought it desirable that the reserves be under the same control as the locations.

Moor's policy as regards the locations was to secure effective control over the African residents and to minimise friction of any sort. He was also critical of the past administration of the locations which had achieved very little and referred to these parts of the colony as "*Darkest Africa*."¹⁶ He intended to remedy the situation and also to encourage agricultural pursuits among the Africans. To fulfil his aims he embarked on a policy of fencing the locations, defining boundary lines between tribes, constructing roads through the locations, undertaking

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13. Goodenough: Mission Lands: Glebes and Reserves, p. 81 (A.B.M. 49 Letters and Documents to the Natal Government: File 1904).
14. Report of the Lands Commission 1902, p. 15, section 105.
15. For the deed of grant of the American Mission Reserve Trust Board see S.N.A. 1/1/290 Minute papers for 1900: 2194 - '00.
16. Natal Witness, 7.3.1895.

irrigation projects and controlling the movements of African preachers whom, he believed, were spreading dangerous ideas. Several acts were placed on the statute books of Natal as a result of Moor's efforts.

Moor endeavoured to open up the locations by building roads and he initiated the project in 1894.¹⁷ He had advocated this while a member of the Legislative Council in 1889¹⁸ and he later commented that the fact that the locations were inaccessible was "*a blot on our past administration as a British Colony.*"¹⁹ He regarded the building of roads as being a step towards bringing civilisation to the Africans²⁰ and claimed that as the matter stood the African residents " ... not being able to get to the markets, are more or less stowed away in the darkness of the location surroundings and very much in the primitive condition that prevailed when they first went to live there. This I do not hold to be a good feature in our administration of these locations."²¹ Once the locations were opened up, he continued, various products would reach the Africans and they would also be able to sell their produce to the various markets. Moor was later accused by one African of building roads to facilitate the operation of White traders in the locations.²²

There is no doubt that, while Moor claimed that it was in the interest of the Africans and for the development of the locations that roads should be constructed, his motives

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17. B.B.N.A. for 1894, Report of the Secretary for Native Affairs, p. 8.
 18. L.C.D., 1889, Vol. 13, p. 336.
 19. L.A.D., 1898, Vol. 27, p. 183. See also Natal Mercury, 15.9.1897.
 20. Natal Witness, 28.4.1898.
 21. L.C.D., 1896, Vol. 4, p. 102.
 22. Natal Witness, 24.9.1897 (Letter from "Umuntu Ka Kwini").

were mixed. Roads were also necessary in the interests of the Whites for security reasons because in the event of disturbances the locations could be easily reached and the risings quelled.²³ By 1901 six roads had been constructed: the Inanda Road, Mapumulo Road, Isidumbeni-Ndwedwe Road, Upper Tugela Location Road, the Tugela Valley-Weenen Road and the Krantzkop-Middledrift Road. The Illovo Valley Road was still in the course of construction.²⁴

Moor was aware that tension existed between the residents of the locations and the White owners of private farms adjoining the locations with regard to land and the trespassing of stock. Moor believed that if fences were erected peace and order would be maintained.²⁵ Furthermore, fences were desirable, for by containing the movement of cattle, they would prevent the spread of diseases, for instance, rinderpest.²⁶ The Natal Farmers' Conference had resolved in March 1894 that the government should construct fences on the boundaries dividing private and location lands.²⁷ To do this, legislation was needed since section 41 of Law 30 of 1887,²⁸ which dealt with the erection of fences, specifically provided that it would not apply to the locations. Moor introduced a bill in the 1894 parliamentary

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23. See B.B.N.A. for 1894, Reports of Resident Magistrates for Indwedwe and Mapumulo, pp. 78, 85; S.A.N.A.C., Vol. III, Evidence of A.P. Smith, p. 275, Question 21691; N.N.A.C., Evidence of S.O. Samuelson, p. 648; L.A.D., 1898, Vol. 27, p. 183; L.A.D., 1899, Vol. 28, p. 191.
24. B.B.N.A. for 1901, Report of the Secretary for Native Affairs, p. A2.
25. L.A.D., 1894, Vol. 22, p. 482.
26. B.B.N.A. for 1896, Report of the Secretary for Native Affairs, p. 3; L.A.D., 1897, Vol. 25, p. 187.
27. C.S.O. 1393 Letters for 1894: 1936 - '94, Memoranda of resolutions passed at a meeting of the Natal Farmers' Conference, 22.3.1894.
28. "To regulate the Erection and Maintenance of Dividing Fences."

session²⁹ and Act 29 of 1894³⁰ made the fencing law applicable to the locations and the Natal Native Trust began the work of erecting fences.³¹

Law 30 of 1887 was permissive and magisterial divisions in the colony were not compelled to construct fences. Moor noted that several areas like Umsinga, Lower Tugela, Inanda, Indwedwe, Mapumulo, Umlazi and Lower Umzimkulu were not yet under the fencing law. This hindered the fencing project of the Natal Native Trust in the locations since notices to fence could not be served on private owners in these divisions. The Trust would have to pay the full cost of any fences constructed, whereas if notice was served the cost would be shared.³² Moor proposed a bill³³ which was passed as Act 12 of 1897³⁴ and for the purpose of dividing the locations from the adjacent lands the fencing law was made applicable to the whole colony. By 1901 425 miles [680 km] of fencing had been erected and six locations at Zwaartkop, Bushman's River, Putini, Upper Tugela, Umbono and Umsinga were fenced off from adjoining farms while work was being carried out on the Umvoti, Impafana and Inanda locations.³⁵ Moor, pleased with the work of fencing, said that it had resulted in more satisfactory relations between African and White than any other measure.³⁶ Fences however proved to be a nuisance to the Africans. Their move-

29. See L.A.D., 1894, Vol. 22, p. 482.

30. "To amend the Fencing Law, 1887."

31. See B.B.N.A. for 1894, Report of the Secretary for Native Affairs, p. 7.

32. L.A.D., 1897, Vol. 25, p. 187.

33. For the second reading of the bill by Moor see L.A.D., 1897, Vol. 25, p. 187.

34. "To extend the operation of the 'Fencing Law of 1887' in respect of Native locations."

35. B.B.N.A. for 1901, Report of the Secretary for Native Affairs, p. A3.

36. L.A.D., 1897, Vol. 25, p. 187.

ments were hindered as Act 6 of 1897³⁷ provided that the construction of a fence would be taken as a notice prohibiting trespassing and unauthorised entry on these premises. Many Africans, Governor Nathan pointed out in 1907, fell foul of this provision and were charged with trespassing.³⁸

In 1894 the Natal Native Trust embarked on the task of defining boundaries between tribes or sections of a tribe³⁹ under the authority conferred by section 81 of the Code of Native Law. Moor explained that boundaries would effectively separate tribes and would prevent disputes over land which frequently occurred. Boundaries were thus necessary for the better control of the locations.⁴⁰ There were difficulties in carrying out this task, for as Moor pointed out, their efforts were rendered useless since there was no penalty for any violation of these boundaries. Furthermore, certain tribes occupied both location and mission reserve lands and boundaries could not be successfully demarcated since section 81 of the Code of Native Law did not apply to the mission reserve lands and the Trust had no authority over them.⁴¹ Samuelson, in December 1895, advised that the solution was for these lands to be placed

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37. "To amend the Law with regard to Trespass."
38. G.H. 1551 General Memoranda Relating to Native Affairs: 925 - 1907, Nathan - Moor, 17.12.1907.
39. B.B.N.A. for 1894, Report of the Secretary for Native Affairs, p. 8.
40. S.N.A. 1/1/219 Minute papers for 1896: 562 - '96, Report by the Secretary for Native Affairs on the bill to amend the Code of Native Law, 19.5.1896. See also S.N.A. 1/1/274 Minute papers for 1897: 3013 - '97, Memorandum of matters for consideration in connection with lands in the colony vested in the Natal Native Trust and their occupation by Natives, by Samuelson, 16.12.1895.
41. S.N.A. 1/1/219 Minute papers for 1896: 562 - '96, Report by the Secretary for Native Affairs on the bill to amend the Code of Native Law, 19.5.1896.

under the Natal Native Trust.⁴² Two months later Moor, in a very strong statement, advised Escombe that since the Trust was not empowered to deal with the reserves the Natal Native Trust should be made trustees over them so that it, and thus the government, could have total control.⁴³ This was Moor's main aim with regard to the mission reserves and it was not easy to implement, as will be shown later in this chapter.

Act 40 of 1896, "*To amend the Code of Native Law*", which Moor introduced in the Legislative Assembly⁴⁴ offered a solution. In addition to the authority that the Governor and his ministers had with regard to the demarcation or alteration of boundaries in the locations, the trustees of the various mission reserve lands could also be asked to set out boundaries, continuing those established in the adjacent locations. All Africans on the mission reserves would have to abide by these boundaries as did those in the locations and any failure to do so would be an offence.

Act 40 of 1896 not only dealt with boundary demarcation it also repealed sections 79 to 89 of the Code of Native Law which dealt with the role of the Chiefs in the management of the locations. Moor considered it undesirable that the Chiefs should have any such authority. He favoured the appointment of White inspectors who would supervise and manage the locations, an idea which was suggested by Samuelson in 1895.⁴⁵ Moor claimed that the condition of

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42. S.N.A. 1/1/274 Minute papers for 1897: 3013 - '97, Memorandum of matters for consideration in connection with lands in the colony vested in the Natal Native Trust ... by Samuelson, 16.12.1895.
43. S.N.A. 1/1/274 Minute papers for 1897: 3013 - '97, Moor - Escombe, 12.2.1896.
44. See L.A.D., 1896, Vol. 24, pp. 180 - 181.
45. S.N.A. 1/1/274 Minute papers for 1897: 3013 - '97, Memorandum ... by Samuelson, 16.12.1895.

the Africans would improve under White supervision whereas in the past they had been left to their own devices. He cited the example of the Zwaartkop location where the government had already tested the efficacy of White supervision and the Africans had benefitted.⁴⁶ Moor felt that inspectors were needed because matters like road construction or boundary disputes and demarcation required detailed information from men on the spot who would report to the Natal Native Trust.⁴⁷

While Moor was inspired by a desire to improve the lot of the Africans by appointing inspectors who would advise them, he was also motivated by a desire to know what was going on in the locations. These men, he explained, would be "*the eyes and ears of the Natal Native Trust.*"⁴⁸ This intention was confirmed by G.M. Sutton, the Treasurer, who said that as the matter stood the government received reports from the Chiefs or Headmen and these were "*tinged with ... Native colouring.*"⁴⁹

Thus the Native Locations Act of 1896⁵⁰ which came into operation on 2 September 1896⁵¹ provided for the appointment of inspectors to supervise the locations. In addition, the Governor and his ministers were empowered to draw up rules regarding the utilisation and occupation of location lands. For instance, they could deal with the entrance to and removal of Africans from the locations. The maximum

46. L.A.D., 1896, Vol. 24, p. 346.

47. L.C.D., 1896, Vol. 4, pp. 101-102.

48. L.C.D., 1896, Vol. 4, p. 101.

49. L.C.D., 1896, Vol. 4, p. 85.

50. Act 37 of 1896 "*For the better management of Native Locations.*"

51. N.G.G. Vol. XLVIII, No. 2824, 1.9.1896, Proclamation 73.

penalty for violation of these rules was £10 or six months imprisonment with or without hard labour, or both. The first rules were issued in December 1896⁵² and these were added to in January 1902.⁵³ Moor wished to have control over the Africans in the locations and the rules issued provided the means. For instance, a kraal could be removed from one part of a location to another if stolen stock was traced to it and if the kraal was situated in such a position as to provide ready opportunity for stealing. A kraal could also be moved if it disturbed other Africans in the locations. Furthermore, a new kraal could not be put up without the permission of the Secretary of the Natal Native Trust. By 1906 there were several inspectors supervising the locations.⁵⁴

The actions of Moor and the Native Affairs Department were motivated by the desire to control the Africans and the need for control was made more imperative with the growth of the Ethiopian movement. The aim of this movement was *"to plant a self-supporting, self-governing, self-propagating Native Church, which would produce a truly African type of Christianity suited to the genius and needs of the race, and not be merely a black copy of any European Church."*⁵⁵ In Natal, the stimulus was provided by the visit of Joseph Booth,⁵⁶ an English missionary, who tried

52. See B.B.N.A. for 1896, pp. 27-28.

53. See B.B.N.A. for 1902, pp. B57 - B58.

54. N.N.A.C., Evidence of S.O. Samuelson, p. 662.

55. See G.C. Oosthuizen: Post-Christianity in Africa: a Theological and Anthropological Study, p. 33.

56. For details see A.B.M. 9 Committee Reports: File 1903, Deputation papers, F.B. Bridgman: The Ethiopian Movement and other Independent Factions Characterised by a National Spirit, pp. 10 - 11; S.N.A. 1/4/10 Confidential papers for 1902: 109 - '02, Prospectus of the African Christian Union, 10.9.1896; Natal Witness, 14.11.1896; 23.9.1902.

to get the support of the kholwa for his African Christian Union. Booth wanted Africans to dominate Africa commercially. Economic power was seen as the prelude to political power and he encouraged the Africans to be independent, his theme being "*Africa for the Africans.*" Though he did not get much support, since the kholwa questioned his participation as a White in the movement, his visit was significant for it encouraged schism. In 1896 a group of Africans under Simungu Shibe broke away from the American Zulu Mission to form the Zulu Congregational Church.⁵⁷ By 1903 there were at least nine independent associations who claimed that they were not "*under the boot of Europeans*"⁵⁸ and African preachers like Johannes Zondi, Funisela Solani and Simungu Shibe, to name only a few, continued to spread their philosophy throughout Natal.

The Native Affairs Department, unenthusiastic about the objectives of the Ethiopian movement,⁵⁹ kept a close watch on the movements of African preachers. In 1901 Governor McCallum advised the Prime Minister that some steps should be taken to halt what he termed the seditious practices amongst the Africans.⁶⁰ The difficulty, as Moor pointed out, was that it was not easy to accuse these Africans of sedition. Furthermore, the government had deliberately

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57. Sundkler: Bantu Prophets in South Africa, p. 45.
 58. A.B.M. 9 Committee Reports: File 1903, Deputation papers, Bridgman: The Ethiopian Movement ..., p. 11.
 59. See S.N.A. 1/4/10 Confidential papers for 1902: 103 - '02, Report on the Ethiopian movement by S.O. Samuelson, 19.11.1902; Natal Witness, 13.4.1901; also chapters two and three. The minute papers in S.N.A. particularly for the years 1900 to 1903 reveal the attention paid by the department to the movement. For a précis of papers dealing with the movement see G.H. 1547 General Memoranda Relating to Native Affairs: 903-'03.
 60. S.N.A. 1/4/9 Confidential papers for 1901: 31 - '01, McCallum - Hime, 8.11.1901.

not acted strongly to suppress the movement because they did not wish to create martyrs.⁶¹ The editor of the Natal Witness disapproved of the government's attitude and called for action.⁶² It was in the locations that Moor took steps to check the movement and his policy was to cause disquiet in missionary circles.

In 1901 Moor expressed his disapproval of African preachers who were not under the supervision of a White missionary.⁶³ In 1902 his policy, that the Natal Native Trust would not allow missions to be established in the locations if they were not under a permanent resident White missionary, was made known.⁶⁴ Moor said that the government did not consider that Africans were the right people to preach the Christian word without White supervision. He explained: "*It is like this, every missionary I have met has got the best boy in the country whom he can thoroughly trust. He is perfectly safe! But it turns out in many cases that this boy is not safe. As soon as he gets a bit of influence he turns round and says 'We don't recognise the White man at all. We are going to carry on our Ethiopian religion.'*" Thus, Moor asserted, the Trust's policy was for the missionaries' own good.⁶⁵ The Hime ministry's determination to control the African preachers increased and in 1903 a measure was passed whereby all ministers

61. Natal Witness, 13.4.1901.

62. Natal Witness, 13.4.1901 (Editorial).

63. S.N.A. 1/1/293 Minute papers for 1901: 2271 - '01, Moor - Resident Magistrate of Alfred Division, 10.10.1901.

64. See A.B.M. 23 Letters and Documents from the Natal Government: Moor - H.D. Goodenough, 10.10.1902; S.N.A. 1/1/320 Minute papers for 1905: 1196 - '05, Durban and Pietermaritzburg Church Councils - Secretary for Native Affairs (H.D. Winter), 22.8.1905.

65. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs and held in his office on 12.2.1903, pp. 24 - 25.

wishing to practise as marriage officers amongst Africans would have to apply to the Governor for a licence.⁶⁶ This measure came into operation after Moor left office and it resulted in conflict between the American Zulu Mission and the government when their African ministers were refused licences.⁶⁷

Moor's policy of prohibiting missionary work in the locations, if the work was not under White supervision, proved to be unpopular with the missionaries. They claimed that this policy was new to them and was initiated in 1902.⁶⁸ The official viewpoint, however, was that the policy had in fact been implemented as early as December 1892, before responsible government.⁶⁹ The missionaries objected to the policy as their work in an area containing 35% of the African population would be restricted since it was not practicable to have White missionaries in residence at every mission station in the locations. While aware that the policy was due to the government's desire to check the Ethiopian movement they did not think that this was good policy for, as one American missionary pointed out, it was kindling the spirit it intended

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66. Act 44 of 1903 "To amend the Law relating to the Marriage of Natives by Christian Rites." For the genesis of this measure see G.H. 1546 General Memoranda Relating to Native Affairs: 450-'02, Suggested legislation to check the spread of the Ethiopian Church movement; S.N.A. 1/1/301 Minute papers for 1903: 1322-'03, Proposed amendment of Law 46 of 1887. For Moor's views see L.A.D., 1903, Vol. 34, pp. 256 - 257; L.C.D., 1903, Vol. 12, pp. 113 - 114.
67. See Switzer: The American Zulu Mission, pp. 436 - 442.
68. A.B.M. 49 Letters and Documents to the Natal Government: Durban Church Council - Secretary for Native Affairs, 10.7.1905.
69. G.H. 1548 General Memoranda Relating to Native Affairs: 511-'06, Statement of facts in connection with the policy of the Natal Native Trust in regard to the unauthorised occupation of mission houses by Native evangelists, 5.5.1906.

to suppress.⁷⁰ The missionaries were also afraid that if the Natal Native Trust took over the mission reserve lands, as Moor wished, he would extend the policy to the reserves.⁷¹

Moor's policy was continued by his successor, Leuchars, and resentment grew because the missionaries asserted that church buildings were being destroyed by the government.⁷² In fact, on 13 August 1903, when Moor was still in office, the Trust had resolved that a church in a location in the Ndwedwe division under the control of a Zulu Congregationalist, Masana, be removed since it had been erected without the Trust's permission.⁷³ Dissatisfied with the Trust's policy as regards missionary work in the locations the matter was taken up by the Natal Missionary Conference, and by the Durban and Pietermaritzburg Church Councils and dissension continued long after Moor departed from the Native Affairs Department in 1903.⁷⁴

In 1902 Moor was responsible for introducing two acts on behalf of the Natal Native Trust. Act 26 of 1902 "*To empower the Natal Native Trust to take or grant the use of water from rivers flowing through Trust Lands*" Moor explained, was a result of the desire of private individuals to use the water on Trust lands which, as the matter stood,

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70. A.B.M. 49 Letters and Documents to the Natal Government: File 1904, A statement regarding the obstructive policy of the Natal Government toward Christian work amongst Natives, pp. 1 - 2.
71. S.N.A. 1/1/300 Minute papers for 1903: 723-'03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.12.1903, p. 24.
72. A.B.M. 49 Letters and Documents to the Natal Government: File 1904, A statement regarding the obstructive work of the Natal Government ..., pp. 1 - 2.
73. G.H. 1548 General Memoranda Relating to Native Affairs: 511-'06, Statement of facts in connection with the policy of the Natal Native Trust ..., 5.5.1906.
74. See A.B.M. 9 Committee Reports: Report of mission committee on governmental difficulties, 30.6.1905; Switzer: The American Zulu Mission, pp. 431 - 436.

was being wasted. In terms of the Act the Trust could now grant permission to use the water and Moor stated that individuals might use the water for industrial purposes which would be for the benefit of all.⁷⁵ Far more significant and valuable to the Africans was Act 27 of 1902 "*To empower the Natal Native Trust to raise a Loan of Fifty Thousand Pounds Sterling, for the purposes of Irrigation.*" This was the result of ambitious irrigation schemes, initiated by Moor and later Hulett, proving that Moor was concerned not only with keeping the Africans in the locations under the strict control and surveillance of the Natal Native Trust but that he was also genuinely interested in helping them.

The lands of the Natal Native Trust were by no means the best in the colony and Moor was aware that most of them were poor, being very dry.⁷⁶ An apt description is provided by Russell: "*The Native locations are generally the most barren, wild and broken parts of the country. Only small portions here and there are adapted for cultivation, and much of the land is not fitted even for pasturage but only for the habitation of the eagle and the baboon.*"⁷⁷ Some parts were so dry that in times of drought, which were frequent, the Africans suffered severe crop losses and had to depend on government assistance to avoid starvation. For instance, in parts of the Tugela Valley the Africans were fortunate if they had one good agricultural season in five years.⁷⁸ To prevent or minimise these losses and to help the Africans to progress and take an interest in agriculture Moor embarked on irrigation projects. He hoped to

75. L.C.D., 1902, Vol. 11, p. 23; L.A.D., 1902, Vol. 31, pp. 187 - 188.

76. S.A.N.A.C., Vol. III, Evidence of Moor, p. 232, Question 21014.

77. Russell: Natal: the Land and its Story, p. 189.

78. S.N.A. 1/1/295 Minute papers for 1902: 470-'02, Moor - Hime, 13.2.1902.

settle Africans on irrigated lands under White supervision and hoped that they would then produce enough not only for themselves but for other low rainfall areas.⁷⁹

As early as 1895 Moor sent minutes to the Magistrates of Umvoti, Umsinga, Weenen, Krantzkop and Mapumulo in which he asked for their opinions on the feasibility of bringing certain lands under irrigation for the benefit of the Africans living on them. They were also to inform him which lands were, in their opinion, suitable for such a purpose.⁸⁰ Moor's first irrigation scheme was started in 1896 at Keat's Drift on the Mooi River. It involved 300 acres [122 ha] of land which were divided into plots of five acres [2 ha] and rented to the Africans at 10 shillings per acre [0,4 ha] per year.⁸¹ Moor's successor, Hulett, was impressed with Moor's efforts⁸² and he began a project in the Tugela Valley in 1898 which Moor continued when he resumed office. This scheme involved 2400 acres [972 ha] of land.⁸³ As land was made available Africans took up plots which varied in size from two to five acres [0,8 - 2 ha] paying £1 or £1. 10s per acre [0,4ha] per year. In addition, a cottage which was to be occupied by a caretaker, was erected at the Tugela works. The caretaker was to set an example to the Africans in methods of cultivation.⁸⁴

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79. S.N.A. 1/1/295 Minute papers for 1902: 470 - '02, Moor - Hime, 13.2.1902; L.C.D., 1902, Vol. 11, p. 64.
80. See S.N.A. 3/2/21 Correspondence of the Natal Native Trust: 192 - '95, Moor - Resident Magistrates, Umvoti, Umsinga, Weenen, Krantzkop, Mapumulo, October 1895.
81. A.J. Humby: Irrigation in the Native Reserves of the Colony of Natal, p. 319; B.B.N.A. for 1903, p. B2.
82. See L.A.D., 1897 - 1898, Vol. 26, pp. 111 - 112.
83. L.C.D., 1902, Vol. 11, p. 63.
84. Humby: Irrigation in the Native Reserves of the Colony of Natal, pp. 326 - 327.

Moor was enthusiastic and optimistic about his schemes and personally visited the irrigation works, meeting the Africans there and encouraging them.⁸⁵ This was an indication of the degree of his involvement for he had criticised Hulett,⁸⁶ who had, while Secretary for Native Affairs, travelled through various districts in the colony, visiting the locations and speaking to the African Chiefs and others.⁸⁷ Moor's attitude was that the place of the Secretary for Native Affairs was in Pietermaritzburg and he did not wish to detract from the status of his office by travelling, which was the duty of the Under Secretary for Native Affairs. He had even been in favour of dropping the Secretary for Native Affairs' annual travelling expenses from £400 to £200.⁸⁸ He did not however consider it beneath his dignity to visit the irrigation works. He regarded his efforts as the most interesting work he had had since he first became Secretary for Native Affairs.⁸⁹

In 1903 Moor informed the Governor that the Tugela scheme was undoubtedly a success. Encouraged by the results of these two schemes, in May 1903, the Natal Native Trust resolved to commence work on another project on the Mooi River near Keat's Drift involving 1700 acres [688 ha] for the benefit of the Amacunu tribe.⁹⁰

The irrigation schemes were expensive and were financed from the revenue of the Natal Native Trust.⁹¹ It was also hoped

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85. S.N.A. 1/1/291 Minute papers for 1901: 855 - '01, Moor - McCallum, undated but probably early March, 1903.
 86. See L.A.D., 1899, Vol. 28, p. 47.
 87. See L.A.D., 1899, Vol. 28, p. 49; Natal Witness, 16.12.1898.
 88. L.A.D., 1899, Vol. 28, pp. 189 - 190.
 89. L.A.D., 1903, Vol. 34, p. 34.
 90. S.N.A. 1/1/291 Minute papers for 1901: 855 - '01, Moor - McCallum, undated; Report of resolution of the Natal Native Trust, 7.3.1903.
 91. L.C.D., 1902, Vol. 11, p. 63.

that the rents charged would help to pay for the schemes.⁹² The project at Keat's Drift cost £1900.⁹³ When Moor assumed office in June 1899 he found that £3300 had been spent on the Tugela scheme but £30 700 was needed to bring it to completion. It was considered necessary to borrow the money by mortgaging the Trust lands. This idea was backed by Governor Hely-Hutchinson who was enthusiastic about the irrigation schemes.⁹⁴ By early 1902, however, £20 000 had been spent without borrowing money, and another £8000 to £10 000 was needed.⁹⁵ In March 1902 the Natal Native Trust resolved that a bill should be drawn up to enable it to secure a loan of £50 000 for irrigation schemes and other projects in the locations.⁹⁶ This became law as Act 27 of 1902 and by February 1904 £38 300 had been disbursed under the Act.⁹⁷

Moor also on occasion used part of the special vote reserved for the Africans under the Constitution Act to finance his irrigation ventures, road construction, defining of boundary lines and fencing project.⁹⁸ This earned him the disapproval of one African who claimed that this money was being mis-spent.⁹⁹ Governor McCallum also disapproved of this for it

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92. G.H. 186 Numbered Despatches from Secretary of State: 118, Hely-Hutchinson - Chamberlain, 12.8.1899 (with 104, Chamberlain - Hely-Hutchinson, 31.10.1899).
93. S.N.A. 1/1/295 Minute papers for 1902: 470 - '02, Moor - Hime, 13.2.1902.
94. G.H. 186 Numbered Despatches from Secretary of State: 118, Hely-Hutchinson - Chamberlain, 12.8.1899 (with 104, Chamberlain - Hely-Hutchinson, 31.10.1899).
95. L.C.D., 1902, Vol. 11, p. 63.
96. S.N.A. 1/1/295 Minute papers for 1902: 470 - '02, Note by Clerk, Natal Native Trust, 7.3.1902.
97. B.B.N.A. for 1903, p. B3.
98. See B.B.N.A. for 1896, p. 5; B.B.N.A. for 1897, p. 5; B.B.N.A. for 1901, pp. A2 - A3; B.B.N.A. for 1903, p. B4; Report of the Secretary for Native Affairs for 1899 - 1900, p. 4; S.N.A. 1/1/304 Minute papers for 1903: 2768 - '03, Moor - McCallum, 14.8.1903.
99. Natal Witness, 24.9.1897 (Letter from "Umuntu Ka Kwini").

benefitted only a few Africans. He argued that irrigation works, road construction and paths should be financed from the revenue of the colony rather than the reserved vote for the Africans.¹⁰⁰

Moor's successor, Leuchars, approved of the irrigation schemes and proposed to continue with them.¹⁰¹ In a biting remark R.C.A. Samuelson, a well-known critic of the Native Affairs Department, later commented that the irrigation schemes were all that Moor had to his credit after being in office for so many years.¹⁰² While there were those who approved of the irrigation projects there were also some who had reservations. For instance, the projects were denounced in 1909 by the then Governor, Sir Matthew Nathan, as "*costly and ill-conceived.*"¹⁰³

While Moor could look upon his work in the locations with some satisfaction, since he had achieved most of what he had hoped for, the mission reserves were to be a source of frustration for him. In 1894 and 1895 Harry Escombe, the Attorney General, took a special interest in the mission reserves and attempted to resolve problems concerning authority and administration. Moor, while he was involved in Escombe's plans and negotiations with the missionaries, tended to take a back seat. His attitude could be explained by the fact that the matter required the legal expertise of the Attorney General and also that he had absolute confidence in Escombe's abilities. Moor tended to be overshadowed by

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100. S.N.A. 1/1/304 Minute papers for 1903: 2768 - '03, McCallum - Sutton, 19.8.1903; McCallum - Leuchars, 27.8.1903.
101. S.N.A. 1/1/304 Minute papers for 1903: 2768 - '03, Leuchars - McCallum, 26.8.1903. See B.B.N.A. for 1903, pp. B2 - B3.
102. R.C. Samuelson: Native Question, Rules of Policy, Past Short-comings, the White Man's Burden, p. 181.
103. Quoted in Marks: Reluctant Rebellion, p. 140.

the stronger personality of Escombe while they served in the same ministry. Moor took a firm stand on the mission reserves issue in 1896 and 1897 but it was only under the Hime ministry that he took sole responsibility and became deeply involved, resolving it to his satisfaction in 1903.

In December 1894 Escombe held a meeting attended by Moor, who said very little, and the representatives of the various missionary societies associated with the mission reserves.¹⁰⁴ Moor had earlier expressed his uneasiness to Escombe concerning his membership of the American Mission Reserve Trust Board on the grounds that in the case of difference of opinion arising between himself and the other three trustees, who were missionaries, he would be in a minority¹⁰⁵ and the deed of trust of this Board stated clearly that all the trustees would be bound by the actions of the majority.¹⁰⁶ Moor was more likely to be in a minority on the American Mission Reserve Trust Board than on any other since some trust boards consisted of two members only: the Secretary for Native Affairs and one other trustee.¹⁰⁷ In view of Moor's uneasiness Escombe now informed the meeting that it was undesirable for a political officer like the Secretary for Native Affairs to be a trustee. A change in the composition of the trust boards was needed and the meeting had to consider how this should be effected.¹⁰⁸

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104. See N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of the proceeding of the meeting held for the purposes of enquiring into the question of mission reserve lands, 17.12.1894. See also Times of Natal, 18.12.1894 for a summary of the meeting.
105. S.N.A. 1/1/183 Minute papers for 1894: 342 - '94, Moor - Escombe, 27.3.1894.
106. S.N.A. 1/1/290 Minute papers for 1900: 2194 - '00, Deed of Trust of the American Mission Reserve Trust Board, p. 6, condition(h).
107. Report of the Lands Commission 1902, p. 15, section 105.
108. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12.1894, pp. 3, 7.

There were three possible solutions: the Natal Native Trust might assume charge of the reserves, or an independent board might be created or the missionaries alone might be trustees. Escombe favoured the Natal Native Trust for, as he pointed out, it consisted of members of the government who were answerable to parliament and it was an old well established body with which the Africans were well acquainted; they would respect its authority and have confidence in it. He was opposed to missionary control for their dual role as missionaries and trustees would produce conflicts.¹⁰⁹

In addition to this question of trusteeship Escombe pointed out that the deeds of grant were not adequate and this was proved by the fact that the American Zulu Mission had submitted to him, for approval, a code of by-laws for the administration of their reserves. These by-laws, he explained, were not provided for by the deed of grant; in cases they went beyond the intention of the deed of grant and special legislation would be needed.¹¹⁰ As the matter stood there was no effective authority over the mission reserves.¹¹¹ For instance, Africans could not be easily removed from these lands, for neither the government nor the missionaries had this power. The deed of grant of the American Mission Reserve Trust Board provided that the trustees could apply to the Governor to have an African removed but Escombe claimed that this decision of the Governor could not be carried out without the authority of some court of law, since the deed of grant was not a law.¹¹² Escombe also considered it undesirable for the Chiefs to have authority over these lands.

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109. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, pp. 35,43-47,61.
110. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, pp. 3-4,8,10,57-58.
111. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, p. 27.
112. See Switzer: The American Zulu Mission, p. 133.

He envisaged that the mission reserves might be, in the future, a step from the locations where Africans could come and be free of their Chiefs.¹¹³

The purpose of the mission reserves was to secure a population among whom the missionaries might work and the government, Escombe explained, wanted this purpose to be carried out. He commented that the Africans were not there to work for the missionary societies.¹¹⁴ While all the deeds of grant provided for individual land tenure, only six mission reserves, Umsindusi, Inanda, Itafamasi, Table Mountain, Isidumbeni and St. Michael's had a special clause in their deed of grant which enabled the trustees to charge rent for the land.¹¹⁵ Escombe found that while only a few granted individual title to land the majority charged rents which were not justified in terms of their deeds of grant.¹¹⁶

One of Escombe's objects in calling the meeting had been to deal with the question of administering the reserves effectively. The delegates unanimously resolved that legislation was needed which would define the conditions and terms to which the residents of the mission reserves would be bound. It was agreed that the Chiefs should not have authority over these lands and also that no individual titles to land would be granted to Africans until the conditions were set out by law. Decision on this question of trust boards was post-

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113. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, pp. 26-27, 37-41, 58.
114. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, p. 6.
115. Report of the Lands Commission 1902, p. 15, section 106.
116. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, p. 5.

poned since Escombe did not want to force the issue or to lose the support of the missionaries.¹¹⁷

As the result of Escombe's efforts Act 25 of 1895¹¹⁸ was passed. It provided that "The Governor in Council may from time to time make, alter, and amend rules to regulate the use and occupation of ... mission reserves." Section 5 stated that "The Governor in Council may from time to time appoint and remove trustees of lands set apart as mission reserves" while section 6 provided that "The Natal Native Trust may be appointed as trustees under the grants of mission reserve lands." The Natal Native Trust was empowered to appoint men to assume charge of the reserves and to collect money owed by mission reserve residents other than fees and taxes due to the government. The Secretary for Native Affairs was hereafter not to be a trustee of these lands.

The American Zulu Mission associated with the largest number of reserves came out in total opposition to the idea of the Natal Native Trust, in effect the government, taking control of these lands. As the Rev. H.D. Goodenough explained: "The Natal Native Trust is a political and changeable body. Its members come into office in most cases without a special knowledge of Native affairs, and they are subject to currents of public opinion, often hostile to the objects for which these reserves were set apart. The management of the locations has not been such as to give us confidence in the Natal Native Trust ... We are not willing that these reserves should become simply Native locations, and that is practically what it will amount to if they are

117. N.P.P. 170 Documents presented to the Legislative Assembly: 76, Record of ... the meeting ..., 17.12. 1894, pp. 62 - 63.

118. "To regulate the use of mission reserves."

put into the hands of the Natal Native Trust."¹¹⁹ Henry Bale, a member of the Legislative Assembly who presented the views of the American Zulu Mission and attempted to have the trusteeship clauses expunged while the bill was still in the House,¹²⁰ advised Goodenough that although little had been achieved by the Natal Native Trust in the past there was now a new government and changes were expected.¹²¹

The missionaries evidently feared that their position was being threatened and that the Africans would be thrown off the mission reserves. They feared that the real object of placing the Trust in power would be to alienate these valuable lands for the White colonists.¹²²

Escombe, when informed of the missionaries' objections, was prepared to delete section 5 and 6 of the draft bill¹²³ but his efforts to expunge section 5 when it was before the committee of the House of Assembly was defeated by 15 votes to 13.¹²⁴ Having to abide by this decision Escombe, in defence of these clauses, explained later to members of the Legislative Council that although the Governor would have the power to alter the trust boards this power would not necessarily be exercised. He did not see the need of

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119. A.B.M. 34 General Letters and Documents Dispatched: H.D. Goodenough - H. Bale, 13.5.1895. See also A.B.M. 7 Committee Reports: Report of the trustees of the American Zulu Mission at the annual meeting, 25.6.1895.
120. See A.B.M. 10 General Letters and Documents Received: Bale - Goodenough, 5.6.1895; A.B.M. 2 Minutes of Meetings: 60th annual meeting, 6.7.1895. See also L.A.D., 1895, Vol. 23, pp. 151 - 154, 235 - 237, 270 - 271, 392 - 394, 482 - 483.
121. A.B.M. 29 Letters Between Missionaries: Bale - Goodenough, 25.5.1895.
122. See A.B.M. 46 Annual Letters of the Mission to the Board in Boston: James C. Dorward - Judson Smith, 28.6.1895.
123. For the draft bill see N.G.G., Vol. XLVII, No. 2727, 9.4.1895.
124. L.A.D., 1895, Vol. 23, pp. 269 - 270, 274.

disturbing the missionary components of the trust boards but, if in the future, any dispute arose between the government and the missionaries the clause could come into effect.¹²⁵

To appease the missionaries a new section was added to the draft bill at the suggestion of Bale.¹²⁶ Thus section 14 of the Act safeguarded the rights of the missionaries associated with the reserves for it stated that the Act would not be considered as an infringement or lessening of their rights. The Natal Missionary Conference considered that the rights of the trustees representing the missionary societies were being threatened and submitted a memorial, in August 1895, to the Governor asking for the bill to be deferred until the trustees and the central bodies of the various societies in America and Europe had considered the measure.¹²⁷ Hely-Hutchinson, however, ignored the request and assented to the bill.¹²⁸

It has already been shown that in February 1896 Moor had advocated the placing of the reserves under the Natal Native Trust so that his policy of defining boundary lines between tribes could be implemented. Despite the fact that Moor had remained in the background during the passage of the 1895 legislation, the details of its enactment and the opposition to it are important for they showed that Moor's proposed plan of action would not be well received by the missionaries and any implementation of it would meet with opposition. Moor's conviction of the necessity to control the mission reserves was strengthened when the American

125. L.C.D., 1895, Vol. 3, p. 52.

126. L.A.D., 1895, Vol. 23 p. 389.

127. G.H. 1143 Letters from Private Organizations: 4102 - '95, Secretary of the Natal Missionary Conference forwards memorial to the Governor, August 1895.

128. Votes and Proceedings of the Legislative Assembly for 1895, Index to and Abstract of Proceedings on bills.

Zulu Mission refused to co-operate with the Robinson ministry to put Act 25 of 1895 into effect. This mission noted the "*relentless determination*" of the government to exclude the missionaries from the trust boards of the mission reserves.¹²⁹

In an attempt to put the Act into effect Escombe and Moor held a meeting in October 1895 to which representatives of all the mission societies associated with the mission reserves were invited. This meeting was to consider the framing of rules and the appointment of a supervisor for the reserves as provided by the Act.¹³⁰ Missionaries of the American Zulu Mission expressed their dissatisfaction with the legislation by refusing to attend the meeting.¹³¹ In accordance with resolutions passed at this meeting¹³² a circular was sent out asking for details of the population on the reserves, the number of Christians and heathens, the names of Chiefs on these reserves and revenue received from these lands. It also called for suggestions from the missionaries about the rules required by the Act.¹³³ It was also decided at the meeting that the permission of the Secretary for Native Affairs would be required for Africans wishing to come on to the reserves and also for the removal

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129. A.B.M. 7 Committee Reports: Report of trustees of the American Zulu Mission to the annual meeting, 25.6.1895.
130. S.N.A. 1/1/213 Minute papers for 1895 - 1896: 478 - '95, Report of a meeting held on 14.10.1895 to give effect to the Mission Reserves Act.
131. S.N.A. 1/1/213 Minute papers for 1895 - 1896: 1283 - '95, Transcript of notes taken at an interview between the Prime Minister and representatives of the American Zulu Mission, 12.10.1895; 478 - '95, Report of a meeting held on 14.10.1895, pp. 2 - 4.
132. S.N.A. 1/1/213 Minute papers for 1895 - 1896: 924 - '95, Resolutions of meeting, 14.10.1895.
133. S.N.A. 1/1/213 Minute papers for 1895 - 1896: 1283 - '95, Escombe - Robinson, 14.10.1895.

of Africans from these lands. Once again the American missionaries impeded the progress of the government in the matter by refusing to make suggestions as to the rules.¹³⁴

The government was anxious to put the Act into operation and Escombe expressed his opinion to Moor in June 1896 that the American missionaries should be given one more chance to reconsider their stand but if they continued to be unco-operative the government would be forced to act independently of them.¹³⁵ In July however, the American Zulu Mission, perhaps aware that their attitude of non-co-operation was proving ineffective, resolved that if the government requested their co-operation again they would respond.¹³⁶ This change in attitude was possibly strengthened when Escombe informed the trustees of the American mission reserves that another meeting would be held to draw up rules for the mission reserves whether they were present or not. Taking a strong stand, Escombe threatened that the government would appoint the Natal Native Trust as trustees of the American mission reserves if the present trustees continued to be unco-operative.¹³⁷

In July 1896 the three trustees of the American mission reserves, the Revs. Pixley, Kilbon and Goodenough, attended a meeting called by the government at which both Moor and Escombe were present.¹³⁸ It was decided that the Natal

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134. S.N.A. 1/1/213 Minute papers for 1895 - 1896: 1283 - '95, C.W. Kilbon - Private Under Secretary, 16.1.1896; F.B. Bridgman - Private Under Secretary, 11.2.1896.
135. S.N.A. 1/1/210 Minute papers for 1895: 1352 - '95, Escombe - Moor, 25.6.1896.
136. A.B.M. 2 Minutes of Meetings: 61st annual meeting, 7.7.1896; 10.7.1896.
137. A.B.M. 23 Letters and Documents from the Natal Government: Interview of Messrs. Pixley, Goodenough and Kilbon with Attorney General, 9.7.1896.
138. S.N.A. 1/1/210 Minute papers for 1895: 1352 - '95, Meeting held between the trustees of the American mission reserves and members representing the government, 21.7.1896.

Native Trust would appoint the missionaries presently in charge of the reserves to continue in this position of responsibility, for the time being, once their names had been submitted to Moor. This was to fulfil the provisions of section 7 of the Act; it was also agreed that it was desirable that a superintendent be appointed as soon as a suitable person could be found. It was also considered necessary to give the responsibility of collecting rents on the reserves to one person.

The Rev. H.D. Goodenough promptly forwarded the names of the seven missionaries in charge of the twelve American mission reserves.¹³⁹ He was also appointed to collect the rents.¹⁴⁰ It was, however, the appointment of a superintendent that was to present a serious problem and frustration was generated on both sides.

The name of Martin Oftebro, a man who had a good knowledge of Zulu and who had been a clerk in a Zululand magistracy was forwarded to the government but the Under Secretary for Native Affairs informed Goodenough that the government would not accept this recommendation since Oftebro in the past had had a tendency towards alcoholism.¹⁴¹ The nomination of Joseph Dixon was also turned down. Moor stated that Dixon's linguistic abilities and experience were unknown.¹⁴² The Under Secretary for Native Affairs, in an

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139. S.N.A. 1/1/213 Minute papers for 1895 - 1896: 1240 - '96, Goodenough - Moor, 1.8.1896.
140. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Moor - Escombe, 20.11.1896.
141. A.B.M. 10 General Letters and Documents Received: O. Stavem - Goodenough, 1896 (exact date illegible); A.B.M. 23 Letters and Documents from the Natal Government: Samuelson - Goodenough, 12.3.1896.
142. A.B.M. 23 Letters and Documents from the Natal Government: Moor - Goodenough, 20.11.1896.

effort to assist the missionaries, suggested that his brother R.C. Samuelson would make a suitable superintendent and his name was subsequently forwarded. This was rejected by Moor who felt that it was not desirable to have the brother of the Under Secretary for Native Affairs as superintendent who would have to take orders from his brother.¹⁴³ The missionaries even considered the possibility of Goodenough being made superintendent but rejected the idea for a number of reasons. Firstly he was fully occupied with missionary work; then they did not want him to be in a position where he would be controlled by the government and finally because if the superintendency was not successful the government would blame the American Zulu Mission.¹⁴⁴ By June 1897 the trustees despaired of the situation and had no further suggestions to offer.¹⁴⁵

If the missionaries felt frustrated Moor was even more so and he was eager to see the government in control of all the reserves, as they were of the locations. In November 1896 he informed Escombe: *"The lay management of the mission reserves should be taken in hand by the Government without delay, otherwise a great deal of trouble will be experienced ... Missionary rights are sufficiently protected under section 14 of the Act. There should be no dual lay authority on the mission reserves. Natives look upon the reserves as Government property, and it is Government*

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143. A.B.M. 23 Letters and Documents from the Natal Government: Moor - Goodenough, 16.12.1896; S.O. Samuelson - Goodenough, 21.12.1896; R.C.A. Samuelson - Goodenough, 19.1.1897.
144. A.B.M. 2 Minutes of Meetings: Semi-Annual Meeting, 29.1.1897.
145. A.B.M. 8 Committee Reports: Report of trustees of the American mission reserves at annual meeting, 19.6.1897.

authority only which will be respected."¹⁴⁶ Escombe, while not expressing his own view advised Moor that if he wanted the Natal Native Trust to be trustees together with the other trustees this was possible but if Moor wanted the Natal Native Trust to be the only trustees legislation would be required.¹⁴⁷ To this Moor did not reply immediately.

On 28 January 1897 Moor brought the matter to the attention of the cabinet and in a strongly worded minute pointed out that no superintendent had been appointed and that no progress had been made in giving effect to Act 25 of 1895. He once more expressed his known disapproval of dual authority on the mission reserves and added with a note of finality: "... I am unable to recommend that any action be taken by the Natal Native Trust on this matter or that it should assume any responsibilities with regard to mission reserves, unless the Trust and the Government have full control."¹⁴⁸ One could argue that even if the provisions of Act 25 of 1895 had been carried out Moor would have still been dissatisfied for the Act did not end dual authority on the reserves even though Moor ceased to be a trustee. In terms of the Act the Natal Native Trust and the missionaries had to work together and Moor as a member of this Trust found this impossible. In the locations Moor and the Natal Native Trust had a free hand and he considered this to be a practical and effective way of operating.

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146. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Moor - Escombe, 20.11.1896.
 147. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Escombe - Moor, 26.11.1896.
 148. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Moor - Robinson, 28.1.1897.

L.E. Switzer states that Escombe seconded Moor's minute¹⁴⁹ but this was not really so for he in fact declined to express his views on the matter of making the Natal Native Trust the only trustees, stating however "*This change is of course of a radical character and has to be well considered before it is decided on.*"¹⁵⁰ There the matter stood, for the government was evidently reluctant to take the course advocated by the determined Secretary for Native Affairs. Moor refused, thereafter, to co-operate, abiding by his decision, and in April 1897 he refused to consent, on behalf of the Natal Native Trust, to the appointment of Dr. F. Augustine Robinson as superintendent as suggested by the Church of England which had a reserve at Umlazi.¹⁵¹ By 30 July 1897 Moor still stood by his minute of 28 January 1897¹⁵² and when he left office in October the deadlock remained.

Nothing was resolved during Hulett's term of office but Switzer points out that the Binns ministry did not show the same animosity towards missionary control of the reserves as the Robinson and Escombe ministries had done.¹⁵³ When Moor once again assumed office the Anglo-Boer war engaged the attention of the Hime ministry and consideration of the issue was postponed, as he later explained.¹⁵⁴

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149. Switzer: The American Zulu Mission, p. 149.
 150. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Escombe - Colonial Secretary, 26.2.1897.
 151. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Moor - Colonial Secretary, 23.4.1897.
 152. S.N.A. 1/1/233 Minute papers for 1896: 1947 - '96, Moor - Colonial Secretary, 30.7.1897.
 153. Switzer: The American Zulu Mission, p. 151.
 154. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.2.1903, p. 2.

In October 1900 a Lands Commission was appointed considering, among other things, the mission reserve lands.¹⁵⁵ Moor and Samuelson, in giving evidence before the commissioners, both stated that Act 25 of 1895 was "a dead letter."¹⁵⁶ Moor informed the commissioners that both the Africans and the missionaries were unhappy with the management of the reserves. He claimed that the government needed to have more control over the mission reserve residents and at present there was no control. After much reflection Moor said he had come to the conclusion that the government should be the trustees of these lands.¹⁵⁷

The Lands Commission reported in February 1902 and the commissioners recorded their disapproval of the way the mission reserves were administered. The Africans on the locations were under better control, they stated, than those on the mission reserves.¹⁵⁸ They praised the Robinson ministry for introducing Act 25 of 1895 but expressed their dissatisfaction that it had not been put into effect.¹⁵⁹ They noted that no one had been appointed as trustee to take the place of the Secretary for Native Affairs.¹⁶⁰ The American trustees had suggested S.O. Samuelson but Moor had rejected this claiming it was just as undesirable as the Secretary for Native Affairs being a trustee.¹⁶¹

155. See N.G.G., Vol. LII, No. 3134, 30.10.1900.

156. Evidence before the Lands Commission 1900 - 1902, Moor, p. 434; Samuelson, p. 10.

157. Evidence before the Lands Commission 1900 - 1902, Moor, pp. 431, 433 - 435.

158. Report of the Lands Commission 1902, p. 28, section 191.

159. Report of the Lands Commission 1902, p. 29, section 194.

160. Report of the Lands Commission 1902, p. 29, section 195.

161. A.B.M. 34 General Letters and Documents Dispatched: Goodenough - Bale, 13.5.1895; A.B.M. 23 Letters and Documents from the Natal Government: Moor - Goodenough, 12.11.1901.

No rules had been drawn up and for this the Lands Commission blamed the American missionaries.¹⁶² The commissioners recommended that the missionaries should cease to be trustees, that either the Natal Native Trust or the government should be the only trustees of all the mission reserves, and that the rules provided by Act 25 of 1895 should be drawn up.¹⁶³

The following year Moor convened a meeting which was well attended by representatives of the Church of England, the Roman Catholic Church and the Berlin, American, Norwegian and Hanoverian mission societies. Moor informed the missionaries that he and not the government was responsible for calling the meeting. His idea was that he and the missionaries would work out a solution as to the control of the mission reserves with the agreement of all. He considered that agreement was essential before the government acted on the report of the Lands Commission and before legislation was passed. He would then present their resolution to the other members of the Home ministry.¹⁶⁴ Stressing his desire for an amicable solution, with the general concurrence of the missionaries, he stated: *"We don't want to fight. I want to come to something by which we can work these things."*¹⁶⁵ He pointed out that if the government was to be the sole trustee, legislation would be needed. What he wanted was control of the reserves though the rights of the missionaries would be safeguarded.¹⁶⁶

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162. Report of the Lands Commission 1902, pp. 30 - 31, section 206.
163. Report of the Lands Commission 1902, p. 31, section 207.
164. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.2.1903, pp. 2 - 3.
165. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.2.1903, p. 9.
166. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.2.1903, pp. 3, 26.

The outcome of the meeting was most satisfactory for both Moor and the missionaries. It was agreed that the government might assume absolute control of the Africans on the reserves provided that the mission society named in the original deed of grant would be leased land for schools and churches for which it would pay rent. Furthermore, the mission reserve lands were to remain for occupation by Africans only and were to be administered according to the spirit of the deed of trust. A third condition was that all the revenue received from these lands would be used for the benefit of the residents of the mission reserves and that half of this revenue would be controlled by the mission society named in the deed of grant for the education of the Africans according to rules determined by the Department of Education.¹⁶⁷ The missionaries and Moor then parted amicably and J.M. Egner, of the Church of England, thanked Moor on behalf of the missionaries for the satisfactory discussion and stated that he was of the opinion "*that Mr. Moor has the interests of the Natives of this colony at heart ...*"¹⁶⁸

Moor was now well on his way to achieving his object with regard to the mission reserves. He directed the Attorney General to draw up a bill taking into consideration the three conditions agreed to, and advised that Act 25 of 1895 should be repealed. The new bill would re-enact it and would also contain other amendments.¹⁶⁹ Moor took a keen

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167. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Copy of amendment proposed by the Rev. Goodenough and agreed to by conference, 12.2.1903.
168. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.2.1903, p. 28.
169. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Moor - Attorney General, 4.3.1903; 7.4.1903.

interest in the drafting of the bill making detailed suggestions and alterations.¹⁷⁰

The draft bill¹⁷¹ repealed Act 25 of 1895. Section 4 made the Natal Native Trust the trustees of the mission reserves. Section 8 of the bill was in accordance with the condition of the missionaries as regards the leasing of land for churches and schools. Escombe, as discussed earlier, had pointed out, in 1894, to the missionaries the difficulties of removing Africans from the mission reserves. Moor now saw to it that section 11 provided that " ... *the Natal Native Trust shall have full and complete control of the reserves, and may remove therefrom according to Law any Natives or other persons who have come upon the lands unlawfully, or whose residence there is, in the opinion of the said Trust, prejudicial to the interests of the reserve ...*" This section was considered necessary for it could be used to check the Ethiopian movement¹⁷² and agitators and dissidents could be controlled as they were in the locations. Section 15 provided that the Governor and his ministry would make rules for the mission reserves.

One of the most important provisions of the bill was section 5, which in accordance with the wishes of the missionaries, stated specifically "*The mission reserves shall be kept for occupation solely by Natives ... and the reserves shall be administered for the benefit of the Natives living thereon according to the intention of the several deeds by which the reserves have been granted.*" Shula Marks writes that members of the Legislative Assembly possibly saw the 1903 legislation as a move towards securing the valuable coastal

170. See S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Moor - Attorney General, 7.4.1903; 22.4.1903.

171. See N.G.G., Vol. LV, No. 3324, 13.5.1903.

172. See L.C.D., 1903, Vol. 12, p. 128.

mission reserve lands for the White colonists. She suggests that the Natal Native Trust once in control could remove Africans from here and give them other less coveted lands.¹⁷³ This however was certainly not Moor's intention for when moving the second reading of the bill he informed members of the Legislative Assembly that " ... *I may say at the very outset that I look on these trusts as sacred. I could not bring myself to introduce legislation into this Assembly which might be contrary to the intentions of those trusts, and which might bring me into conflict with the missionaries ...*"¹⁷⁴ The rights of the Africans to these lands were safeguarded by section 5 of the bill which passed as Act 49 of 1903¹⁷⁵ with this provision remaining. Furthermore, the rights of the missionaries were safeguarded by section 17 which was a re-enactment of section 14 of Act 25 of 1895. Moor's outlook was appreciated by the American missionaries¹⁷⁶ who had initially feared that the report of the Lands Commission would result in the mission reserves being alienated to Whites.¹⁷⁷

While the missionaries were satisfied with the draft bill in general, the Rev. Goodenough forwarded to Moor certain amendments relating to the setting up of store sites, the mining of minerals on the reserves, education and, most important of all, the use of the revenue derived from the reserves.¹⁷⁸ These amendments were incorporated into Act 49 of 1903.

173. Marks: Reluctant Rebellion, pp. 122 - 123.

174. L.A.D., 1903, Vol. 34, p. 33.

175. "*To make better provision for the control and use of mission reserves.*"

176. A.B.M. 9 Committee Reports: Report of the trustees of the American mission reserves at annual meeting, July 1903.

177. A.B.M. 8 Committee Reports: Report of the trustees of the American mission reserves at annual meeting, 1902.

178. A.B.M. 49 Letters and Documents to the Natal Government: Goodenough - Moor, 25.5.1903.

There was one point on which Moor and the missionaries were not in agreement and that was the question of land tenure on the mission reserves as provided by the draft bill. It was shown earlier that the deeds of grant provided that individual Africans might be granted land to which they would secure title. In the 1860's a number of individual titles had been granted on the reserves but in 1868 the American Mission Reserve Trust Board passed a resolution expressing its preference for leasing the land, as opposed to the granting of freehold title, and after this very few titles were granted.¹⁷⁹ The reason for this policy, Goodenough informed Moor in 1894, was that it was found, for instance at Umvoti, that some of the men who owned land on the reserve reverted to their heathen customs and some engaged in polygamy. These men, it was thought, would have a detrimental effect on others but they could not be turned off the reserves for they held the land in freehold.¹⁸⁰ Switzer points out that another reason was that the Africans were not ready for individual land tenure and did not understand what private ownership meant.¹⁸¹ As the Under Secretary for Native Affairs explained, Africans were used to the system where land belonged to a group and control was exercised by the Chief.¹⁸² The Lands Commission found that a total of approximately 3000 acres [1215 ha] was granted to individual Africans in the Umvoti mission reserve, 751 acres [304 ha] at Amanzimtote, 227 acres [92 ha] at Imfume and 100 acres [41 ha] at Ifafa.¹⁸³

179. Report of the Lands Commission 1902, pp. 27 - 28, sections 186 - 187.

180. A.B.M. 49 Letters and Documents to the Natal Government: Goodenough - Moor, 25.6.1894.

181. Switzer: The American Zulu Mission, p. 90.

182. See Natal Witness, 7.10.1902.

183. Report of the Lands Commission 1902, p. 27, sections 179 - 180.

Escombe had, when moving the second reading of the Mission Reserves bill in the Assembly in 1895, stated: "I am aware there is some room for doubt as to the general question of individual title, but, as far as this land itself is concerned, there can be no room for doubt, because the trust deed itself expressly provides that individual titles may be given to individual Natives, and, if that be the case, then this Assembly and this Parliament will never consent to a breach of trust involved in a refusal to carry out the provision ..."¹⁸⁴ Thus sub-section (d) of section 2 of Act 25 of 1895 provided that rules could be made for "The sale and hire of land, and the restrictions to be placed on alienation, and the conditions attaching to bequest or devolution." Moor's attitude was completely different and he did not feel bound by the principle which was explicit in the deeds of grant. The restraining influence of Escombe was not present during Moor's term of office in the Hime ministry and he was in charge of the new Mission Reserves bill. When the bill was being drafted Moor directed that the word "lease" be substituted for "sale" so that the section would read "The lease and hire of land and the conditions to be imposed with regard thereto."¹⁸⁵ Sub-section (b) of section 15 of the bill contained this important change. Another major alteration was in section 13 of Act 25 of 1895 which provided that "Natives, whether male or female, may acquire land in a mission reserve, and may be given title thereto ..." and this section was, on Moor's instructions omitted from the bill of 1903.¹⁸⁶

184. L.A.D., 1895, Vol. 23, p. 140.

185. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Moor - Attorney General, 7.4.1903; 22.4.1903.

186. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Moor - Attorney General, 7.4.1903.

This change was bound to cause dissatisfaction amongst the Africans, whose preference for individual land tenure, evident since the 1880's, had increased in the following decade. For instance, in October 1899 at a meeting between the trustees and the African delegates of the American mission reserves the latter expressed their desire for freehold land.¹⁸⁷ In August 1900 the trustees submitted a petition to Hely-Hutchinson, which was first shown to Moor, pleading that the residents of the mission reserves should receive title to individual holdings with ownership rights.¹⁸⁸ In March 1902 Martin Lutuli and Mtimkulu Makanya presented Moor with a petition on behalf of the residents on the American mission reserves asking for individual titles to land.¹⁸⁹ These demands were not met, since Moor was opposed to the whole idea.

By 1901, in Natal as a whole, 48 589 acres [19 672 ha] of land were held freehold by Africans and 56 647 acres [22 934 ha] on quitrent.¹⁹⁰ Though Africans could buy crown lands¹⁹¹ Moor was determined that location and reserve lands should not be so alienated. He favoured the system that operated on the Natal Native Trust lands where land was held on the

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187. A.B.M. 2 Minutes of Meetings: Report of special meeting at Durban, 11.10.1899. See also Switzer: The American Zulu Mission, p. 111.
188. S.N.A. 1/1/290 Minute papers for 1900: 1456 - '00, Petition of the trustees of the American mission reserves, 14.8.1900; A.B.M. 8 Committee Reports: Report of the trustees of the American mission reserves at the semi-annual meeting, 23.1.1901.
189. A.B.M. 23 Letters and Documents from the Natal Government: Copy of memorandum of meeting, 7.3.1902.
190. N.P.P. 190 Documents presented to the Legislative Assembly: 112, Return of land in Natal in course of alienation to and held in freehold by Indians and Natives, 1901.
191. Prohibition came in 1903 or 1904 (Marks: Reluctant Rebellion, p. 124). See also S.A.N.A.C., Vol. III, Evidence of Moor, p. 229, Questions 20979 - 20980.

communal, tribal or family system.¹⁹² In fact, Samuelson pointed out in 1901 that no African received individual title in the locations.¹⁹³ To back his argument for communal holdings Moor cited the example of the successful Driefontein settlement, started by Johannes Kumalo in the 1870's in the Klip River County, where 30 000 acres [12 146 ha] were held by Africans communally. Moor claimed that when land was sold to Africans they did not always pay their instalments and got into difficulties. He objected to the fact that they tended to sell their land to Indians or granted them permission to occupy or rent these lands and he gave the examples of the settlements at Edendale and at Groutville where this had happened.¹⁹⁴

The main reason for Moor's aversion to granting land freehold to the Africans was that he was convinced that if an African owned land the government would lose control of him and he would consider himself equal to the White man. He explained "*Under the freehold system you lose the control, you break down the tribal system, you break down practically all the laws by which we are now governing these people, and you are bringing about a condition of things by which each individual land-owner is going to become a law unto himself; and I say that these people have not yet attained a sufficient intellectual development to warrant us making any such step as that.*"¹⁹⁵ His view was: "My experience

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192. S.A.N.A.C., Vol. III, Evidence of Moor, p. 212, Question 20774.
193. Evidence before the Lands Commission 1900 - 1902, Samuelson, p. 11.
194. S.N.A. 1/1/302 Minute papers for 1903: 2190 - '03, Report of a meeting with Moor and a deputation re the Mission Reserves bill, 8.7.1903, pp. 6 - 7; S.A.N.A.C., Vol. III, Evidence of Moor, pp. 219 - 220, Questions 20866 - 20869.
195. L.A.D., 1903, Vol. 34, p. 35. See also S.A.N.A.C., Vol. III, Evidence of Moor, pp. 213 - 214, Question 20790; p. 220, Question 20876.

has proved to me that the Native in his present condition, and for a long time to come, must be governed as a subject race. In order to carry on such a form of government the land itself should be in the hands of the supreme power."¹⁹⁶

Moor advanced the leasehold system as the solution to the problem of land tenure for the Africans. At the Tugela irrigation scheme he had leased plots to the Africans subject to various rules and regulations and he favoured the implementation of the same system on the mission reserves.¹⁹⁷ Moor explained that a lease could be for 99 or 999 years and the government would have the authority to decide how the property should be devolved on the death of the leaseholder. He argued that if land was granted freehold the devolution of property posed problems. The law of primogeniture would apply and the eldest son would inherit the land with no provision for the minors in the family. This was one of the reasons why he objected to the Glen Grey Act of 1894 in the Cape Colony where individual land tenure was encouraged with the law of primogeniture applying to inheritance.¹⁹⁸ Moor claimed that the Africans who wanted land freehold had no answer to the question of succession¹⁹⁹ and that many Africans had in fact been grateful to him for bringing the issue to their attention.²⁰⁰

In February 1903 when he met the missionaries to discuss the mission reserves question Moor carefully explained his

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196. S.A.N.A.C., Vol. III, Evidence of Moor, p. 213, Question 20790.
197. L.A.D., 1903, Vol. 34, pp. 33 - 34; S.N.A. 1/1/302 Minute papers for 1903: 2190 - '03, Report of a meeting with Moor ..., 8.7.1903, pp. 9 - 10.
198. See for instance S.N.A. 1/1/302 Minute papers for 1903: 2190 - '03, Report of a meeting with Moor ..., 8.7.1903, pp. 4 - 6, 9; L.A.D. 1903, Vol. 34, pp. 34 - 35.
199. S.N.A. 1/1/302 Minute papers for 1903: 2190 - '03, Report of a meeting with Moor ..., 8.7.1903, pp. 4 - 5.
200. S.A.N.A.C., Vol. III, Evidence of Moor, p. 221, Question 20878.

aversion to freehold and C.W. Kilbon, an American missionary, supported him.²⁰¹ When Goodenough wrote to Moor in May 1903 suggesting amendments to the bill he did not raise the issue of land tenure. The Africans on the mission reserves however, objected to the fact that they could not buy land on the reserves.²⁰² In an attempt to resolve the issue the trustees of the American mission reserves, two missionaries from America, together with Lutuli, Makanya and the Rev. M. Sivetye sought an interview with Moor.²⁰³ The delegation, when it met Moor in July, failed to convince him that the word "sale" should be inserted in the bill. Taking a strong stand Moor informed the delegates: *"If you once get the word 'sale' in there, and during my administration I won't do it although it may be that others who come after me may do so, you are going to let in the flood gates."* He also stated that some members of the Legislative Assembly were not averse to the word "sale" being inserted in the bill; it was not unlikely that they meant sale to Whites.²⁰⁴ Despite the fact that they were not successful in changing Moor's view the missionaries felt that the meeting was not without its benefits because the African delegates could see that it was the government and not the missionaries who were responsible for their plight.²⁰⁵

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201. S.N.A. 1/1/300 Minute papers for 1903: 723 - '03, Proceedings of a conference convened by the Secretary for Native Affairs, 12.2.1903, pp. 18 - 19.
202. Switzer: The American Zulu Mission, p. 192.
203. S.N.A. 1/1/302 Minute papers for 1903: 2190 - '03, Goodenough - Moor, 29.6.1903.
204. S.N.A. 1/1/302 Minute papers for 1903: 2190 - '03, Report of a meeting with Moor ..., 8.7.1903, pp. 7 - 8.
205. A.B.M. 9 Committee Reports: Report of the trustees of the American mission reserves at the annual meeting, 1903.

The trustees and representatives of the Africans on the American mission reserves did not give up hope and presented a petition to the Legislative Assembly pleading that subsection (b) of section 15 should be altered to provide for the sale of land. Their argument was that this was provided for in the deeds of grant and in Act 25 of 1895. Furthermore, the bill of 1903 provided for the administration of the reserves as was intended by the deeds of grant.²⁰⁶ When the bill was being considered by the committee of the Assembly W.B. Morcom, the member for Pietermaritzburg, asked that, in view of the petition, section 15 be altered. Moor, who was now in opposition and no longer Secretary for Native Affairs, the Sutton ministry having replaced the Hime ministry during the 1903 parliamentary session before Moor saw the bill through all its stages, once more strongly objected to an amendment presenting his often repeated argument. The motion for an amendment was defeated²⁰⁷ and Act 49 of 1903 was passed without a clause providing for the sale of mission reserve lands. This omission did not escape the attention of the Ipepa lo Hlanga.²⁰⁸

Moor achieved his purpose as regards the mission reserves and he brought to finality a long standing issue. Thus the Africans on all the mission reserves who, according to Moor's estimate in 1903,²⁰⁹ numbered 26 976 were brought under the control of the Natal Native Trust or rather the ministry of the day. The original trustees relinquished their authority and the American missionaries, who had in the 1890's obstructed Moor's goal, accepted the transfer of

206. N.P.P. 664 Petitions presented to the Legislative Assembly: 78, 27.7.1903.

207. L.A.D., 1903, Vol. 35, pp. 253 - 254.

208. Ipepa lo Hlanga, 16.10.1903.

209. L.A.D., 1903, Vol. 34, p. 33.

authority. Despite their failure to change Moor's views on the land ownership issue they felt satisfied that their rights and that of the Africans had been safeguarded.²¹⁰ Unfortunately for him, Moor was not in office to see the Act put into effect in 1904 and this was left to his successor, George Leuchars. The Sutton ministry, when framing the rules provided for in the Act, raised the rent charged for every hut or place of abode on the mission reserve lands from 10 shillings to £3.²¹¹ This was to lead to further dissatisfaction and protest.²¹² Whether Moor would have raised the rent one can only speculate. Switzer, in assessing the effects of the transfer of the reserves to the Natal Native Trust, points out that the administration of the reserves by the Natal Native Trust was far from successful and that very little economic, social or political progress was made from 1903 to 1910.²¹³

Moor's location policy did not receive much criticism but his mission reserve policy, though eventually implemented, did generate tension amongst the missionaries and the occupants of the mission reserves. However the one aspect of his administration as Secretary for Native Affairs which aroused the emotions of sectors of the White colonial population and which was regularly discussed in parliament and in the newspapers was his labour policy as shall be shown next.

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210. Goodenough: Mission Lands: Glebes and Reserves, p. 86 (A.B.M. 49 Letters and Documents to the Natal Government: File 1904).
211. See N.G.G., Vol. LVI, No. 3419, 30.8.1904, Government Notice No. 574, section 41.
212. See Switzer: The American Zulu Mission, pp. 194 - 206.
213. Switzer: The American Zulu Mission, pp. 212 - 214.

CHAPTER FIVE

THE LABOUR QUESTION

The chronic grievance of the White colonists of Natal was the scarcity of labour and discontent and demands for remedial measures are evident not only in the period 1893 to 1903 but, as Welsh points out, throughout the period 1845 to 1910.¹ Moor was aware that for most Whites the "Native question" and the problem of labour were synonymous. He noted that "In the minds of nine people out of ten, the Native question is looked on from the labour point of view..."² By 1903, having had considerable experience as Secretary for Native Affairs, Moor commented that whenever there was a shortage of labour colonists brought up the question of policy relating to the Africans and demanded that matters should be taken in hand and not allowed to drift.³ The government was warned that their duty should be to see that there was a sufficient supply of labour in the colony.⁴ Moor as Secretary for Native Affairs was to be held responsible for policy that would ensure that the demands of the colonists were met.

In the 1850's and 1860's it was argued by the colonists that the locations policy encouraged the Africans to live on these tracts of land in idleness and there was no incentive to work. The colonists' energies were directed unsuccessfully towards opposing the location system.⁵ After the 1880's with increased industrialisation and the opening of the goldfields on the Witwatersrand, Africans from Natal

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1. Welsh: The Roots of Segregation, p.31.
 2. L.A.D., 1903, Vol. 33, p.94.
 3. L.A.D., 1903, Vol. 33, p.94.
 4. L.A.D., 1902, Vol. 31, p.38 (W. Pepworth, member for Klip River Division).
 5. See introduction.

migrated to the Transvaal where they received wages higher than those offered on the farms in Natal. In addition the completion of the Durban to Johannesburg railway line on 11 October 1895⁶ and the beginning of passenger traffic in the following month was expected to attract Africans to the goldfields since the difficulties and dangers of travelling by road were removed.⁷ In the ten years with which this study is concerned there were constant assertions by colonists that the Africans were not working and that their attempts to get the Africans to work were unsuccessful. Ironically, they also attempted to prevent the Africans from going to the Transvaal to work as this chapter will show.

In the 1890's the colonists involved themselves in anti-Indian protests and legislation and it is considered by some that because of this, very little attention was paid to the African population in this period.⁸ It seems, however, that the hostility of the Whites to the Indians made them more aware of the need to make the African a suitable labourer. As the Times of Natal stated "*Natal is face to face with the alternatives - either she must teach her Native to labour at constant employment, and thus become fit to replace Asiatics; or, she must be prepared to see her fair lands pass at no distant date into the possession of the Indians.*"⁹ Before examining Moor's response to the labour question it might be useful to look at what some colonists' views about the labour question were and what solutions were advanced to ensure a sound labour supply.

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6. Bulpin: Natal and the Zulu Country, p. 314.
 7. Diary of C.J. Smythe, entry, 10.11.1895 (Child : Charles Smythe, p. 153); Natal Witness, 30.10.1895 (Interview with S.O. Samuelson).
 8. Marks: Reluctant Rebellion, p. 10; Welsh: The Roots of Segregation, p. 229.
 9. Times of Natal, 3.4.1901 (Editorial).

In addition to the assertions of some colonists, for example, Sir Liege Hulett, a representative of the sugar industry and Secretary for Native Affairs in the Binns ministry, that there were a considerable number of Africans in the locations who did not stir themselves to turn out into the labour market¹⁰, it was also generally believed that the Africans had to be taught the value of labour. As the editor of the Natal Mercury commented, those Africans who had in earlier times sought refuge in Natal from the tyranny of their kings were living in idleness, a situation encouraged by the policy of the White government. "*One of the difficulties of the situation, therefore,*" he continued "*is to overcome an inbred disposition for idleness and irresponsibility on the part of these Natives ... Before the Natives of this colony take the position which they ought to occupy in the economy of labour, they must have implanted in their minds the idea that work is a necessary part of daily life; - it must be an instinct with them.*"¹¹ Others considered that the Africans owed it to the White colonists to work for they were enjoying the benefits of being under a White government.¹² It was also asserted that the first step towards civilizing people was to teach them to labour.¹³

Those who opposed the idea of Africans going to the gold-fields advanced social reasons. They claimed that the Africans became demoralised there and could freely obtain liquor which they could not do in Natal. It was thus in their own interests that they remain in Natal. It was asserted that Africans who went to Johannesburg brought

10. L.A.D., 1897-1898, Vol. 26, p. 112.

11. Natal Mercury, 26.7.1898 (Editorial).

12. L.A.D., 1902, Vol. 31, p. 38; Natal Witness, 18.12.1895 (Letter from A.E. Ingle); Natal Witness, 21.1.1899 (Editorial).

13. L.A.D., 1898, Vol. 27, p.661 (H. Fell, member for Umgeni Division).

back syphilis and other infectious diseases. Furthermore, Africans intermingled with White prostitutes and this would affect their respect for White women.¹⁴

Nevertheless, despite the concern expressed about the morality of the Africans, one member of the Legislative Assembly expressed the view that the real motive of the colonists was to retain the labour supply within the colony and to thus secure cheap African labour.¹⁵

In terms of their desire to prevent Africans resident in Natal from going to the Transvaal various suggestions were made, the most common being those concerning the pass regulations. Under Law 48 of 1884¹⁶ the Governor was empowered to make rules and regulations to control the entry and departure of Africans to and from Natal and passes were subsequently issued. Law 52 of 1887¹⁷ required Africans to pay one shilling for each pass issued when leaving or entering the colony. The idea of some colonists was that if the pass fee was increased Africans would be reluctant to leave Natal to go to Johannesburg or elsewhere to work and would remain to sell their labour within the colony. For this reason a motion that the pass fee be increased to £1 was introduced by C.J. Smythe and seconded by H.D. Winter, a future Secretary for Native Affairs, in the parliamentary session of 1894. They were unsuccessful for the motion was

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14. See for instance L.A.D., 1898, Vol. 27, pp. 556 (H. Fell, member for Umgeni Division); B.B.N.A. for 1895, Report of the Magistrate for Upper Tugela Division, p. 64; Natal Witness, 5.12.1895 (Letter from W. Craighead Smith). The Binns ministry expressed similar views (See G.H. 1034 Minutes Received from the Prime Minister: No. 19, 29.7.1898).
15. L.A.D., 1898, Vol. 27, p. 658 (R.M. Archibald, member for Alexandra County).
16. *"To provide for the better regulation of the passing and re-passing of Natives between Natal and the neighbouring States and Territories."*
17. *"To impose certain Fees on Passes issued under the Law No. 48, 1884."*

defeated by 21 to 11 votes.¹⁸ This matter was often discussed at the annual meeting of the Natal Farmers' Conference which put forward a definite recommendation in 1902 that the pass fee be increased.¹⁹

Colonists also desired to see the rules tightened for the issuing of outward passes. It was suggested, for instance, that if an African tenant supplied labour in lieu of rent, as was the case on most farms, he should not receive a pass to leave his magisterial division or the colony to work without the written consent of the landlord. Also, no African should be issued with a pass, to leave the colony, in another magisterial division unless he had received a pass from the Magistrate of his own division which stated that he left this division to seek work. The idea being that no Magistrate would issue such a pass if the division was in need of labour and so each division would thus retain its supply of African labour.²⁰

In all seriousness colonists also suggested that the Robinson ministry should try to secure the prohibition of the sale of liquor to Africans in the Transvaal²¹ as this would then lessen the attractiveness of the Witwatersrand to the Africans. The government was also asked to take action against labour touts who enticed Africans to leave their present occupations for better conditions of service on the Witwatersrand or elsewhere.²²

18. L.A.D., 1894, Vol. 22, pp. 275-276, 283.

19. Times of Natal, 26.2.1903. For Moor's response to these and to other demands to restrict the outflow of labour from Natal see pp.157 - 158.

20. G.H. 1545 General Memoranda Relating to Native Affairs: 313-'95, Deputation to the Government to discuss matters concerning the labour question, 12.12.1895, pp. 2-3.

21. G.H. 1545 General Memoranda Relating to Native Affairs: 313-'95, Deputation to the Government..., 12.12.1895, p.3.

22. G.H. 1545 General Memoranda Relating to Native Affairs: 313-'95, Deputation to the Government..., 12.12.1895, pp. 19-20, 23; Times of Natal, 29.11.1895 (Letter from "Delta").

An indication of the opposition of the colonists to the activities of labour agents and to the migration of Africans from the colony can be gauged from the uproar which ensued over the staging of a "South Africa Savage Show" at Earls Court in London in 1899. Africans from various parts of South Africa were selected for exhibition purposes and J.W. McKenzie, a labour contractor, supplied 54 Africans from Natal.²³ The Binns ministry had refused permission for these Africans to leave the colony for England but, in a shrewd move, outward passes were taken out by these men, ostensibly to work at Kimberley but they arrived at Cape Town and embarked for London²⁴ and thus outmanoeuvred the government. Reports on this show were unfavourable and cases of what was termed improper and indecent behaviour on the part of the Africans as well as a few English women were cited.²⁵ The Hime ministry, which by then had come into office, was asked to tighten up the pass regulations and impose restrictions on touting and labour agents.²⁶

Not content with preventing Africans from leaving the colony for labour purposes the colonists considered means by which a regular labour supply could be obtained and Africans induced to work within Natal. One of the suggestions was that the government should establish a labour

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23. C.S.O. 2580 Confidential Minute Papers: 211-'99, J.W. McKenzie - Moor, 21.9.1899; R. Brian (General Representative of the Savage South Africa Show) - J.W. McKenzie, 24.8.1899; Natal Mercury, 1.3.1899. For additional information about the show see E. van Heyningen: Savage South Africa (Janus, 1979, Section B, pp. 41-42).
24. Natal Mercury, 1.3.1899; L.A.D., 1899, Vol. 28, p. 672.
25. C.S.O. 2580 Confidential Minute Papers: 211-'99, Report from A.C. Bruce (New Scotland Yard) - Under Secretary of State (London), 28.8.1899; W. Holt White (Daily Mail, England) - Under Secretary of State, 17.8.1899; Natal Witness, 1.7.1899; 26.7.1899.
26. L.A.D., 1899, Vol. 28, pp. 671-674; Natal Witness, 9.8.1899 (Letter from "Disgusted").

bureau which would control and regulate the labour supply of the colony.²⁷ Some called for the general registration of the Africans in the colony. The idea of Sir Liege Hulett, for instance, was that if Natal was to have a stable labour supply they had to, in the first instance, know how many Africans were working both within and without the colony. Thus all Africans who desired to work would first have to be registered so that numbers could be estimated. The next step would be to find out how many Africans were not working and finally measures would be taken to get them to work.²⁸ It was suggested that the Africans' wants, their "*standard of comfort*", had to be increased to get them to work.²⁹ It was also suggested that the taxes paid by the Africans should be increased or that a new tax, a poll tax, should be imposed on, for instance, all African males between 15 and 50 years and if they worked for at least eight months of the year they would be entitled to a rebate.³⁰ Yet another idea was that a tax should be imposed on lands owned by absentee landlords which were in most cases occupied by African tenants. The landlords, it was supposed, would then raise the rents of their African tenants. These Africans would then, it was hoped, be forced to turn out into the labour market to earn their keep.³¹ It was also thought that the beer drinking of the Africans should be brought under

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27. G.H. 1545 General Memoranda Relating to Native Affairs: 313-'95, Deputation to the Government ..., 12.12.1895, p. 3. For Moor's responses to this and to other suggestions to ensure a regular labour supply see pp.133-156.
28. L.C.D., 1898, Vol. 7, pp. 4-5; L.A.D., 1898, Vol. 27, pp. 646-647.
29. F.S. Tatham: The Race Conflict in South Africa; an Enquiry into the General Question of Native Education, p. 28; Natal Mercury, 10.12.1895 (Editorial); Times of Natal, 14.2.1903 (Editorial).
30. L.A.D., 1902, Vol. 31, p. 37 (W. Pepworth, member for Klip River Division).
31. Marks: Reluctant Rebellion, p. 131, note 8; L.A.D., 1899, Vol. 28, pp. 402, 475.

strict control because this indulgence incapacitated them, rendering them unfit for work.³²

While these demands were being made by various sectors of the White colonial population the Africans had to endure a series of agricultural calamities. In 1895 lung-sickness broke out in the Putuli location.³³ Far more serious was the outbreak of rinderpest in 1897 for by 1898. although all cattle farmers were seriously affected the Africans, whose wealth lay in cattle, lost 86% of their cattle.³⁴ Reports of the devastation of crops in various divisions of the colony by locusts in 1895 became more widespread in 1896.³⁵ The Africans pleaded that they were penniless and unable to pay their hut tax and many were indeed faced with starvation.³⁶ On several occasions mealies had to be imported by the government and supplied to the Africans on account and at reasonable cost for in addition to the destruction of crops by locusts reports of drought were not uncommon.³⁷ The answer to their plight, the Africans were told, was to work and earn money to avoid starvation. In 1903 for instance, commenting on a food shortage amongst the Africans,

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32. G.H. 1545 General Memoranda Relating to Native Affairs: 313 - '95, Deputation to the Government ..., 12.12.1895, p. 3; L.A.D., 1897, Vol. 25, pp. 134-139.
33. S.N.A. 1/1/205 Minute papers for 1895: 805 - '95, Moor - Resident Magistrate of Estcourt, 5.7.1895.
34. Marks: Reluctant Rebellion, p. 128.
35. B.B.N.A. for 1895, Reports of the Magistrates of Umgeni Division, Lions River Division, Upper Umkomanzi, Ixopo, Estcourt and Dundee, pp. 23,27,30,36,52,89; S.N.A. 1/1/214 and S.N.A. 1/1/215 Minute papers for 1896, contain numerous reports on this subject.
36. See for example S.N.A. 1/1/214 Minute papers for 1896: 80 - '96, 12 Representatives of Chiefs of Upper Umkomanzi Division meet the Secretary for Native Affairs re hut tax, 5.3.1896.
37. See for instance S.N.A. 1/1/236 Minute papers for 1897: 91 - '97, Chief Udepa of the Umgeni Division requests mealies, 13.1.1897; S.N.A. 1/1/237 Minute papers for 1897: 168 - '97, Account for mealies supplied to Natives from October 1896 to January 1897; N.P.P. 199 Documents presented to the Legislative Assembly: 150, 7.5.1903.

the Times of Natal had this to say: "An opportunity now presents itself of restoring labour conditions to ... normal, and the pressure of economic necessity should be allowed to make itself felt ... If utilized in a proper way the present scarcity of food may prove a blessing in disguise."³⁸

The above indicates what some of the colonists required any government in power to do to ensure a constant labour supply in the colony. Moor however had his own views on the labour question and his actions were at times contrary to popular opinion. He considered it his duty to see to the welfare of the African worker. As a political official elected by White constituents, however, and as a member of the farming community, Moor had sometimes to yield to public opinion and to see to the interest of the White employer.

Moor had a refreshingly different theory as to the labour shortage in the colony. He vehemently denied that the Africans were not working and were sitting in the locations idling away the hours. He informed members of the Legislative Assembly that "The best of the whole of your unskilled labour in this Colony is the Native. He is producing your wealth, he is working in your factory, he is working on your railway, he is working at your docks, he is working in the towns, he is doing the work of horses in your streets, he is rocking the cradles of your children, and he is trimming the graves of your dead."³⁹ This view was similar to that expressed by the Inkanyiso Yase Natal and certain dissatisfied Africans who claimed that the colonists were thriving on their labour.⁴⁰ Moor claimed

38. Times of Natal, 9.4.1903.

39. L.A.D., 1902, Vol. 31, p. 109.

40. Inkanyiso Yase Natal, 1.2.1895; Ipepa lo Hlanga, 11.1.1901 (Letter from Kehlabakini). A translation of the latter is in S.N.A. 1/4/9 Confidential papers for 1901: 3-'01, Extracts from Ipepa lo Hlanga.

that those African men who were seen in the locations had all at some time during the year rendered labour in the colony. They could not be expected to work throughout the year and had to return to their homes to their wives and children "*in obedience to the strongest law of nature*" and also to cultivate their own lands and to see to the needs of their families. They were thus entitled to spend three to five months out of the labour market.⁴¹

Moor often quoted statistics to prove that the Africans were working. In 1897 he claimed that in the past one to one and a half years there were not more than 10% of those Africans capable of working who had not worked for some time either within the colony or outside.⁴² In 1902 he presented in the Blue Book for Native Affairs, an annual publication which he had been responsible for initiating in 1894,⁴³ a detailed statement of the distribution and number of Africans who had worked in the colony. It was found that a total of 201 640 Africans, a figure including both male and female and 17 000 Africans from states outside Natal, had worked in the colony in 1902.⁴⁴ His view was that the Africans in Natal were most industrious and stated that in 1903 it had been found that while one out of five of the population in Natal was working, in the Cape the figure was one out of eight and in Rhodesia one in ten.⁴⁵

Moor was convinced then that the shortage of labour was not caused by the refusal of the Africans to work but by the excessive demands for labour which exceeded the supply. He explained that over the past 15 to 20 years the

41. L.A.D., 1898, Vol. 27, p. 664.

42. Natal Mercury, 15.9.1897.

43. The appearance of the Blue Book for Native Affairs met with general approval. See L.A.D., 1895, Vol. 23, p. 136; Natal Mercury, 29.5.1895 (Editorial).

44. See Appendix 4.

45. L.A.D., 1903, Vol. 33, p. 95.

demand for labour in the whole of South Africa had increased following the development of the diamond mines, the goldfields, the coal mines, railways, other public works and industries. The demand had exceeded the supply and it was not fair to accuse the Africans of indolence for they were responsible for producing in South Africa mineral wealth worth £15 000 000 to £16 000 000 annually.⁴⁶ It was because of this conviction that the demand for labour was in excess of the labour supply, that Moor opposed suggestions for a labour bureau under the control of the Native Affairs Department. He believed that a labour bureau would only be of value if there was a large labour supply for whom employers would have to be found. In Natal such was not the case and the worker had no need to go to a bureau to find work so it would not be supported.⁴⁷ Moor's theory that the colony had all the labour it was ever going to get from Natal Africans was not popular for as the editor of the Natal Mercury commented "*If all questions were treated in this hopeless and helpless kind of manner, we should not make much progress. The colony is face to face with a serious difficulty as regards labour. There is a general opinion that the labour is in the colony but that a large portion of it is lying idle, and nothing Mr. Moor said disproves this.*"⁴⁸

Yet another theory of Moor's was that the labour in the colony was not being intelligently used. This idea developed after his visit to Australia in 1901 where he noted that one man was doing work which in Natal required four or five men. This was due to the use of good machinery and

46. L.A.D., 1897-8, Vol. 26, p. 115; L.A.D., 1898, Vol. 27, p. 664.

47. S.N.A. 1/1/313 Minute papers for 1904: 2032 - '04, Moor - Hime, 10.10.1901.

48. Natal Mercury, 23.7.1898 (Editorial).

skilled labour.⁴⁹ He made references to the "wicked waste of human labour"⁵⁰ in Durban and Pietermaritzburg where for instance in 1901 the two towns employed a combined total of 7500 Africans as riksha-pullers.⁵¹ Moor added that instead of rikshas trams should be used. So often did he voice his opposition to riksha-pulling that it was rumoured that he was going to introduce legislation to prohibit it.⁵² This he refused to confirm or deny⁵³ but nonetheless he did not introduce this legislation during the 1903 parliamentary session. His idea was not popular and it aroused the opposition of the Durban Riksha Owners' Association which claimed that £100 000 was involved in the whole industry.⁵⁴ The Natal Witness commented that "If 'good old Fred' thinks that he is going to settle the labour question, and keep the present Ministry in office, by an Act to prevent Natives from pulling rikshas, then he must be, what we never took him to be before - a softhead."⁵⁵ Yet another newspaper described the possibility of a bill to deal with riksha-pulling as a "legislative absurdity."⁵⁶

During the Anglo-Boer war and after, the position on the labour market was abnormal because of the high wages paid by the British military authorities.⁵⁷ Moor took several steps to alleviate the labour shortage. He noted that the military paid the Africans a minimum wage of £2 a month with the maximum at £5. In addition rations and clothing were

49. Natal Mercury, 4.4.1901.

50. Natal Witness, 12.12.1902.

51. B.B.N.A. for 1901, p. A61.

52. Natal Mercury, 4.2.1903 (Editorial); Times of Natal 4.2.1903 (Editorial); Natal Witness, 19.2.1903 (Editorial).

53. Times of Natal, 4.2.1903.

54. Natal Mercury, 7.2.1903 (Letter from Hyam and Clark, Secretaries, Durban Riksha Owners' Association).

55. Natal Witness, 19.2.1903 (Editorial).

56. Natal Mercury, 4.2.1903 (Editorial).

57. See the Magistrates' reports in the B.B.N.A. for 1901 and 1902.

supplied. This was a considerable increase over the 10 or 30 shillings they would earn on a farm.⁵⁸ This was not favourably regarded by White local employers for as one Magistrate pointed out, before this Africans worked at least for six to eight months to obtain the money they required but now they could earn it in half that time.⁵⁹ In June 1901 Moor brought the matter up and asked that Lord Kitchener, who was acting as High Commissioner for Lord Milner, regulate the wages. The military authorities however were only prepared to lower their wages if all the large employers of labour did likewise.⁶⁰ The Hime ministry was in favour of holding a conference with the Cape Colony, Basutoland, Orange River Colony and the Transvaal at which the matter could be discussed.⁶¹ The High Commissioner however suggested that Natal should discuss the rate of wages informally with the military authorities since there was no time for a conference of all the colonies and to this suggestion Moor agreed.⁶²

In December 1901 Godfrey Lagden, the Commissioner for Native Affairs in the Transvaal, together with Hime, Moor and Charles Saunders of Zululand met and it was agreed that action should be taken to stabilise the labour market with the co-operation of the military authorities.⁶³ Subsequently a meeting was held at Newcastle on 23 January 1902

58. Natal Mercury, 21.9.1901.

59. B.B.N.A. for 1902, Report of the Magistrate of Krantz-kop, p. A26.

60. Reported in G.H. 1330 Copies of Letters Despatched to the High Commissioner: Natal No. 340, McCallum - Milner, 8.11.1901; Natal Mercury, 21.9.1901.

61. G.H. 1330 Copies of Letters Despatched to the High Commissioner: Natal No. 340, McCallum - Milner, 8.11.1901.

62. G.H. 706 Received from the High Commissioner for South Africa: Telegram 25, Milner - McCallum, 18.11.1901; Papers 1291 - '01. Moor - Hime, 20.11.1901.

63. G.H. 706 Received from the High Commissioner for South Africa: Papers 1291 - '01. re telegram 25, enclosed report of meeting with Godfrey Lagden, 20.12.1901.

at which Moor and Governor McCallum represented the Natal government, with representatives of the military authorities, the mining interests, the landing and forwarding agents, the agricultural interests and the householders also present. It was agreed that instead of the high wages paid by the military, which local employers of labour had to meet if they wanted Africans to work for them, a standard wage of 30 shillings a month was desirable. However if this reduction in wages was made the Natal Africans might strike in protest. Moor therefore pointed out that this reduction was subject to the possibility of Natal obtaining labour from Portuguese East Africa. His idea was that in the event of a strike they would not be in dire straits and would have other labour resources available. This would also deter the Natal Africans from any such action.⁶⁴

Moor's plan to introduce labour from Portuguese East Africa was a logical outcome of his theory that the demand for labour in Natal far exceeded the supply and that the Natal Africans were already working. If Natal, as Moor was convinced, had exhausted her own labour supply, the colony had to look beyond its borders. Moor however was afraid that if they introduced labour from the East Coast these workers would at the end of their contracts remain in Natal increasing the African population.⁶⁵ This the Natal government did not want. They had been successful in the past in obtaining indentured labour from India but there was no law to compel the labourers to return to their mother country on expiry of their contracts. To avoid a similar problem with Portuguese labour Moor had a solution and he was influenced partly at least by his Australian visit where he

64. G.H. 1546 General Memoranda Relating to Native Affairs 1881 - 1907: 76 - '02, Minutes of Native Labour Conference held at Newcastle on 23.1.1902, pp. 12 - 14.
 65. L.C.D., 1901, Vol. 10, pp. 81 - 82.

had been interested to note that Queensland, in terms of its Kanaka Act, sent back to their homes the indentured Kanaka labourers when their obligations were fulfilled. This had to be guaranteed by the employers.⁶⁶

In preparation for a large scale importation of labour from the East Coast Moor, In June 1901, introduced in parliament a bill "*To regulate the introduction of labourers belonging to the aboriginal tribes of Africa.*"⁶⁷ In terms of the bill those who wished to obtain labour from the East Coast would have to apply for a licence to do so. The Africans were to be brought in under contracts which had to be registered. At the end of their period of service they would have to return to their own country. To ensure that the terms of agreement were carried out the prospective employer would have to enter into a bond supported by a money deposit or some other security. Moor's proposal was not approved and the bill was rejected by the Legislative Council when a motion that it be read six months later was carried. The regulations under the bill were considered too severe on the employer who would lose the deposit supporting his bond if he failed to return the labourers he had imported. Employers would then, it was argued, be reluctant to introduce labour from the East Coast.⁶⁸

Despite the rejection of Moor's bill the Natal government was anxious to import labourers from the East Coast. In

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66. L.C.D., 1901, Vol. 10, p. 82; Natal Mercury, 16.3.1901. For more details about Kanaka labour see A.K. Langridge: The Queensland Kanaka Labour Traffic since 1885; J.G. Paton: Slavery under the British Flag; Correspondence and Protest against Kanaka Labour Traffic.
67. For the bill see N.G.G., Vol. LIII, No. 3176, 21.5.1901. For Moor's introductory speech see L.A.D., 1901, Vol. 30, p. 464; L.C.D., 1901, Vol. 10, pp. 81 - 82.
68. L.C.D., 1901, Vol. 10, pp. 84 - 86.

December 1901 Lord Milner concluded the modus vivendi agreement with the Portuguese government whereby, in exchange for labourers supplied to the Transvaal, the Portuguese would be allowed to send a certain number of trucks for civil traffic from Delagoa Bay to the Transvaal. Milner also concluded a secret agreement on behalf of Natal permitting the colony to recruit labour from the Portuguese territory. This arrangement would be considered as part of the Transvaal's labour agreement.⁶⁹

It would seem that Milner's negotiations provided the solution to the labour problems of both the Transvaal and Natal. This was however not to be so. Natal proposed to introduce 5000 Africans from the Portuguese territories in view of the agreement⁷⁰ but ran into difficulties since the Governor General of Mozambique claimed that preference had first to be given to the Transvaal mines.⁷¹ The latter however were not successful in obtaining labour because they had cut their wages from 50 shillings a month to 30 or 35 shillings and encountered resistance from the Africans on the East Coast.⁷² In July 1902 Moor, while acting Prime Minister, took advantage of a meeting he had with Milner to ask the latter to attend to the problem of recruiting labour when he visited Delagoa Bay in August. He informed Milner that he was not surprised that the Transvaal, in view of the low wages it was offering, could not obtain its labour requirements.⁷³ In August, while at Delagoa Bay,

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69. S.N.A. 1/4/10 Confidential papers for 1902: 57 - '01, Milner - McCallum, 23.12.1901; British Consulate General - Governor General, Lourenco Marques, 18.12.1901.
70. G.H. 1330 Copies of Letters Despatched to the High Commissioner: Natal No. 3, McCallum - Governor General of Mozambique, 3.1.1902.
71. S.N.A. 1/4/10 Confidential papers for 1902: 12 - '02, R. Beningfield - Moor, 9.4.1902.
72. D.J.N. Denoon: *The Transvaal Labour Crisis, 1901-6* (Journal of African History, 1967, Vol. VIII, No. 3, pp. 482, 484-5).
73. P.M. 91 Confidential Minute Papers: 178 - '02, Transcript of notes of interview with the High Commissioner, 14.7.1902, paragraphs 153 - 161.

Milner met Reuben Beningfield, an auctioneer and land agent who had contacts with officials in Delagoa Bay and whom Moor had appointed⁷⁴ to act on behalf of the Natal government in negotiating a favourable labour deal with the Portuguese authorities. Milner informed him that he would not oppose Natal's attempts to recruit labour but he could not force the hand of the Governor General of Mozambique. The latter however was adamant that he would not permit Natal to recruit labour and that she must wait until a conference of the South African colonies and Delagoa Bay was held.⁷⁵

Moor's scheme for the importation of Portuguese labour was thus not successful. The Pass Officer at the Point, Durban, reported that from 1 August 1902 to 31 December 1903, 18 licences under Law 13 of 1859 had been issued to introduce labour from the East Coast. The area from which it was hoped to secure labour extended from Inhambane to as far as Egypt. The demand was for 5050 workers but only 1000 were eventually obtained. Beningfield managed to obtain 459 Africans from the Portuguese territory of Inhambane.⁷⁶

Yet another idea of Moor's to ensure a stable labour supply was to ensure that there was adequate and suitable accommodation for those who worked in the towns. In 1902 it was estimated that on an average the number of Africans who worked as togt labourers daily in Durban was 5070 and 1218 in Pietermaritzburg. In addition a daily average of 1878 riksha-pullers were employed in Durban and 719 in Pietermaritzburg.⁷⁷ The newspapers regularly drew attention to

74. G.H. 706 Received from the High Commissioner for South Africa: Papers 1291 - '01 re telegram 25, letter, Moor - R. Beningfield, 3.1.1902. Reported also in Natal Witness, 14.1.1902.

75. S.N.A. 1/4/10 Confidential papers for 1902: 12 - '02, Beningfield - Moor, 29.9.1902.

76. B.B.N.A. for 1903, pp. 83-84.

77. See Appendix 4. By 1904 it was estimated that 4% of the Africans in Natal were urbanized (Z.A. Konczacki: Public Finance and Economic Development of Natal, 1893 - 1910, p. 5).

the fact that many of those Africans who worked in the towns lived in stables, out-houses or special structures provided by the large employers of labour. These were overcrowded with little or no ventilation; some were condemned as insanitary and potential health hazards. The Times of Natal, for instance, undertook an investigation of accommodation facilities in Pietermaritzburg and reported appalling conditions.⁷⁸ In a somewhat emotional editorial titled "*In Darkest Maritzburg*" the facilities were denounced: "*Huddled together like pigs in a sty, with but slight or no ventilation, what little air there is poisoned by the exhalations from scores of human bodies, and foetid with the disgusting odour of sweated, much-worn garments, it is a matter for wonder that long ere now, in one or other of these awful pest-houses, some ghastly plague has not been hatched, and swept forth to carry death and destruction in its train throughout the length and breadth of the City.*"⁷⁹ The press called upon the municipalities of Durban and Pietermaritzburg to remedy the situation citing the exemplary locations outside the towns of Cape Town, East London, Grahamstown and Kingwilliamstown.⁸⁰ The Times of Natal later pointed out that since the toggt workers had to pay a monthly tax of 2 shillings and 6 pence the municipalities should use this for their benefit and provide comfortable living quarters.⁸¹ One reason underlying the call for locations to be set up outside the towns was that it was considered undesirable for the White residents to have a large African population within, the behaviour of which left much to be desired.⁸²

78. Times of Natal, 17.12.1901; 18.12.1901.

79. Times of Natal, 17.12.1901 (Editorial).

80. See for example Natal Mercury, 6.4.01 (Editorial); 19.9.1902 (Editorial); Natal Witness, 26.11.1901 (Editorial); Times of Natal, 22.11.1901 (Editorial).

81. Times of Natal, 20.2.1903 (Editorial).

82. Times of Natal, 16.11.1901 (Editorial); 9.5.1902 (Editorial).



In 1902, Act 28⁸³ which provided for the regulation of togt labour in the boroughs was passed. In terms of this Act municipalities could promulgate by-laws providing that all togt labourers were to reside in compounds or other specified places. Private compounds would have to be subject to the municipalities' approval and inspection. In addition the by-laws could provide rules for the management of such compounds. Once a compound was provided people were prohibited from housing togt labourers elsewhere. This measure had been introduced by the government on behalf of the municipalities. When moving the second reading of the bill in the Legislative Assembly Moor put forward his view about what type of facilities the municipalities should provide. He hoped that the buildings constructed would not be mere barracks. What Moor envisaged was a large area set aside for the Africans with cottages, well laid out streets, adequate lighting and water, within easy reach of tramways. The idea was that Africans could live in this reserved area with their families and the facilities provided would encourage them to work in the towns.⁸⁴ The Natal Mercury agreed optimistically that if the Africans were comfortable they would not long to go back to their kraals.⁸⁵

In 1903 Moor took a greater interest in the matter urging the municipalities to take steps towards establishing locations just outside the towns. In January 1903, noting the spread of bubonic plague in Durban, he suggested that the time was appropriate to set up a residential location for African workers outside the town. Poor and insanitary accommodation facilities were frowned upon even more so

83. "To make better provision in regard to the Togat labour system in Boroughs."

84. L.A.D., 1902, Vol. 31, p. 370.

85. Natal Mercury, 22.4.1902 (Editorial: "Overcrowding and the Labour Supply").

because of the plague.⁸⁶ The Durban Town Council, when informed of Moor's suggestion, was not enthusiastic about providing facilities outside the town but favoured the construction of barracks within the town.⁸⁷

In March 1903 one of the resolutions passed at the Inter-Colonial Conference, which Moor attended on behalf of Natal, was that if they wanted an increased labour supply attention had to be paid to the circumstances under which the Africans worked and attention was drawn to the exemplary residential locations of the Cape Colony.⁸⁸ On his return to Natal Moor drew the attention of other members of the Hime ministry to this.⁸⁹ He then asked the Cape government for information about the location which was situated four miles [6km] out of Cape Town. Subsequently he received a detailed explanation of the whole scheme which provided schools, churches and shops in addition to accommodation.⁹⁰

On 8 April 1903 Moor addressed the Durban Town Council on the need for a residential location for the town workers and their families.⁹¹ The matter gained urgency when, in May, the Health Officer for Natal, Ernest Hill, submitted

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86. S.N.A. 1/1/299 Minute papers for 1903: 237 - '03, Moor - Colonial Secretary, 22.1.1903; S.N.A. 1/4/12 Confidential papers for 1903: 17 - '03, Moor - Mayors of Durban and Pietermaritzburg, 30.1.1903.
87. Natal Mercury, 10.2.1903.
88. S.N.A. 1/4/12 Confidential papers for 1903: 62 - '03, Minutes of Meetings of the Inter-Colonial Conference, March 1903, p. 11, resolution VI.
89. G.H. 694 Confidential Despatches Received from the High Commissioner for South Africa: Moor - Hime, 16.4.1903 (with papers re despatch No. 36, 31.5.1902).
90. S.N.A. 1/4/12 Confidential papers for 1903: 34 - '03, Moor - Prime Minister (Cape Town), 9.4.1903; Prime Minister (Cape Town) - Moor, 16.4.1903.
91. S.N.A. 1/4/12 Confidential papers for 1903: 17 - '03, Notes of meeting between the Town Council and the Secretary for Native Affairs, 8.4.1903.

a report, which was supported by Moor, underlining the necessity for a location and the poor facilities in the towns.⁹² Negotiations between the Durban Town Council and the government reached a deadlock when the former insisted that the government and not the Council should accept responsibility for establishing a location outside the borough. Moor would not accept this and he advised that the government should take no action until the Town Council agreed to bear its share of the cost and accept responsibility.⁹³

Moor made more progress with the Pietermaritzburg Town Council. He addressed the Council at their invitation in June 1903.⁹⁴ With Moor's co-operation the municipality drew up a draft bill⁹⁵ which was passed as Act 2 of 1904.⁹⁶ At first Moor had recommended that Act 28 of 1902 should be amended so as to incorporate the new proposals but the Attorney General advised that they were so different that they could stand as separate measures.⁹⁷ The new Act was not a government measure but was introduced by E.M. Greene, a member of the Legislative Assembly.⁹⁸

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92. S.N.A. 1/1/301 Minute papers for 1903: 1634 - '03, Health Officer for the Colony - Colonial Secretary, 16.5.1903; Moor - Colonial Secretary, 21.5.1903.
93. S.N.A. 1/4/12 Confidential papers for 1903: 17 - '03, Mayor of Durban - Moor, 6.6.1903; Moor - Hime, 15.7.1903; Moor - Mayor of Durban, 18.7.1903.
94. S.N.A. 1/4/12 Confidential papers for 1903: 17 - '03, Statement by Moor at a meeting of the Town Council of Pietermaritzburg, 22.6.1903.
95. S.N.A. 1/1/302 Minute papers for 1903: 2197 - '03, Mayor of Pietermaritzburg forwards draft bill relating to the establishment of Native Locations, 1.7.1903.
96. "To enable Town Councils to establish Native Locations."
97. S.N.A. 1/1/302 Minute papers for 1903: 2197 - '03, Moor - Attorney General, 1.7.1903; 9.7.1903; Attorney General - Moor, 13.7.1903.
98. See L.A.D., 1903, Vol. 35, pp. 299, 429.

Moor's policy on the question of accommodation for town workers was clearly formulated but in its implementation, as has been shown, he met with difficulties. In 1903 when faced with the criticisms of members of the Legislative Assembly, in particular the members for Durban, on matters relating to his department, Moor was driven to angry retort. In response he drew attention to the intransigence of the borough of Durban regarding his attempt to ensure a good labour supply in the towns.⁹⁹ Nevertheless when he left office that year he was glad to report that some progress was at least being made by Pietermaritzburg and that the legal machinery was established.¹⁰⁰ Moor was unable to see his dream of an African residential location outside the two towns realised. Evidence given before the South African Native Affairs Commission indicated that as yet no locations had been established and that Durban had instead erected barracks.¹⁰¹ Moor stated that had he remained in office he would have forced the issue.¹⁰² In 1907 the Natal Native Affairs Commission drew attention to the matter and recommended that advantage be taken of Act 2 of 1904 to establish these locations.¹⁰³

There were obviously other aspects of the labour question apart from the accommodation problems of the towns. Moor, reacting to various demands or suggestions made by sectors of the White colonial population,¹⁰⁴ introduced, while a member of the Home ministry, certain measures solely for the benefit of the White employer.

99. L.A.D., 1903, Vol. 33, p. 95.

100. L.A.D., 1903, Vol. 35, pp. 299 - 300.

101. S.A.N.A.C., Vol. III, Evidence of R.C. Alexander, pp. 640 - 641, Questions 28166, 28171; Evidence of R. Jameson, p. 744, Questions 30038 - 30039.

102. S.A.N.A.C., Vol. III, Evidence of Moor, p. 232, Question 21020.

103. N.N.A.C., Report, p. 38, paragraph 92.

104. See pp. 136 - 137.

Moor was not enthusiastic about the idea of registering African labour believing that the Africans would resent being tied down by documents that they did not understand, and the labour market would be adversely affected by the whole system. He put forward this argument when in 1898, Sir Liege Hulett introduced a bill, which was later withdrawn, which among other things provided that no African could be employed unless he had been registered and had received a registration ticket.¹⁰⁵ However, in 1901, in response to public demands, as he himself explained,¹⁰⁶ Moor introduced an Act "*To facilitate the identification of Native Servants.*"¹⁰⁷ It provided that all Africans entering the labour market, except those who rendered labour in lieu of rent, would have to take out an identification pass and that a register of passes issued would be kept. Moor still asserted that this registration of labour was not going to increase the labour supply and correctly predicted that at first the labour market would be dislocated.¹⁰⁸ The purpose of the measure, he explained, was to afford protection to the employers against absconding servants but the registration would be carried out with no hindrance to the Africans and they would not be charged for the pass. A fee would only be imposed if the African lost his pass and applied for a duplicate.¹⁰⁹

Between 1 June 1902, when the Act came into operation,¹¹⁰ and the end of April 1903, 91 949 permanent identification

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105. L.A.D., 1898, Vol. 27, pp. 664 - 665. For the bill see N.G.G., Vol. L, No. 2948, 3.5.1898.
106. L.A.D., 1901, Vol. 30, pp. 459 - 460; L.C.D., Vol. 10, 1901, p. 111.
107. Act 49 of 1901.
108. L.A.D., 1901, Vol. 30, p. 460; L.C.D., 1901, Vol. 10, p. 112. For the immediate effect of the Act on the labour supply see for instance Natal Witness, 11.6.1902.
109. L.A.D., 1901, Vol. 30, pp. 460, 565; L.C.D., 1901, Vol. 10, p. 112.
110. N.G.G. Vol. LIV, No. 3230, 11.2.1902, Government Notice No. 89.

passes were issued and 43 959 temporary passes as provided by the Act were issued.¹¹¹ Moor remarked that it would not be long before all the available African labour was registered and that the Africans were co-operating since they perceived that the measure was also in their interests.¹¹² One of the frequent complaints in this period was that parents were losing control of their children¹¹³ thus weakening one of the strong links in the social system of the Africans. In the interests of the Africans, the Act stipulated that no child under 15 years of age could take out an identification pass and thus go out to work without the consent of their parents or guardian. When the Act was made operative Moor instructed the police not to prosecute those unregistered Africans who were still working and reported in June 1903 that not one African had been prosecuted.¹¹⁴ Shula Marks cites this as an example of the fact that Moor was not an extremist who carried out severe actions as were his successors after 1903.¹¹⁵ While Marks' general assessment of Moor is accurate, he himself explained his motive on this occasion which revealed that it was not so much his concern for the African as his fear that the imposition of the penalties would cause them to leave their employment. This would affect the already strained labour market and upset the employers.¹¹⁶ Africans who did not take out a pass to work would be committing an offence but no penalty was provided in the Act for the employers of such Africans. This was regarded as a flaw in the Act and an amendment became necessary when several Magistrates as well

111. L.A.D., 1903, Vol. 33, p. 367.

112. L.A.D., 1903, Vol. 33, pp. 367 - 368.

113. See for instance L.A.D., 1897 - 8, Vol. 26, p. 117; S.N.A. 1/1/290 Minute papers for 1900: 1447 - '00, Report of Samuelson on matters relating to Native Affairs, 20.2.1901; B.B.N.A. for 1895, Report of the Magistrate of Weenen, p. 59.

114. L.A.D., 1903, Vol. 33, p. 367.

115. Marks: Reluctant Rebellion, pp. 22 - 23.

116. L.A.D., 1903, Vol. 33, p. 367.

as the Natal Farmers' Conference pointed out the necessity of penalising the employer in addition to the unregistered African.¹¹⁷ This amendment was introduced by Moor in 1903.¹¹⁸

While the registration of the births and deaths of exempted Africans was dealt with by Law 16 of 1867 and that of those Africans who married according to Christian rites by Act 5 of 1896¹¹⁹ legislation to enforce registration of the births and deaths of the greater section of the African population was lacking. In response to calls for the registration of the African population and criticism about the lack of accurate statistics Moor introduced a measure which passed as Act 25 of 1902¹²⁰ and which provided for the registration of births and deaths and regulations were subsequently issued.¹²¹

Colonists saw a link between excessive beer drinking and the quality and availability of labour. 876 Africans were charged with drunkenness in 1899 and in 1902 the number soared to over 2000.¹²² Moor noted that the sale of Native beer amongst the Africans was on the increase and that there were a number of illicit establishments outside the boroughs and townships. He disapproved of the indiscriminate sale of Native beer especially in areas where the Africans were there to work for the White man. He put forward the proposal in

117. B.B.N.A. for 1902, Reports of the Magistrates of Umgeni, Weenen, Inanda and Pietermaritzburg City, pp. A12, A21, A49, A55; Times of Natal, 26.2.1903; Natal Witness, 12.12.1902.

118. Act 3 of 1904 "To amend Act No. 49, 1901 ..." For Moor's introductory speech see L.A.D., 1903, Vol. 33, pp. 366 - 368.

119. "To amend Laws No. 16, 1867, and 46, 1887, *Registration of Births and Deaths*."

120. "To amend the Code of Native Law."

121. N.G.G., Vol. LIV, No. 3291, 9.12.1902, Government Notice No. 799.

122. G.H. 1547 General Memoranda Relating to Native Affairs: Report on the question of supplying liquor to the Africans,

1902 that the only way to control this was to impose a licence for the sale of beer outside the boroughs and townships and to have these establishments under police supervision.¹²³ This was rejected by the Legislative Council because it was asserted that the granting of licences meant legalising the sale of beer which would subsequently increase to the detriment of both the employers and the Africans. This was contrary to Natal's policy of preventing Africans from obtaining liquor.¹²⁴

By 1903 in another attempt to increase the labour supply it was suggested that the taxes, in particular the hut tax paid by the Africans, should be increased.¹²⁵ Moor was not prepared to increase the hut tax nor would he on principle impose a poll tax which he regarded as a most objectionable tax.¹²⁶ Though a bill to impose a tax on lands held by absentee landlords was introduced in 1899 it was subsequently withdrawn, the matter being left for the con-

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123. L.A.D., 1902, Vol. 31, pp. 465 - 466; L.C.D., 1902, Vol. 11, pp. 84 - 85. The bill was titled "*To regulate the Sale of Native Beer outside Boroughs and Townships*" (See N.G.G., Vol. LIV, No. 3241, 11.4.1902).
124. L.C.D., 1902, Vol. 11, pp. 85 - 88. Governor McCallum was also opposed to Moor's proposals (See G.H. 1546 General Memoranda Relating to Native Affairs: 452 - '02 McCallum - Prime Minister, 31.8.1903).
125. G.H. 1232 Copies of Despatches to Secretary of State: No. 52, McCallum - Secretary of State, 4.3.1903; Times of Natal, 14.2.1903 (Editorial); 27.2.1903 (Editorial); 13.7.1903 (Editorial). The hut tax was last increased in 1875 from 7 shillings per hut per year to 14 shillings (See Konczacki: Public Finance and Economic Development of Natal, pp. 32 - 33. For the motives behind its introduction see p. 146).
126. Natal Witness, 13.9.1897. He strongly opposed the imposition of the poll tax in 1905, a tax which was the immediate cause of the Bambata rebellion in 1906 (See L.A.D., 1905, Vol. 39, pp. 666 - 667, 817 - 818; L.A.D., 1906, Vol. 40, p. 217). However once he was Prime Minister he refused to abolish it (See L.A.D., 1909 - 1910, Vol. 49, pp. 678 - 679).

sideration of the Lands Commission.¹²⁷ In 1903 Moor stated that the Africans contributed £164 000 annually in direct taxation and £31 000 in fines and various fees to the revenue of the colony.¹²⁸ The Prime Minister had stated that in an effort to increase the labour force the government would consider an increase in the tax paid by the Africans¹²⁹ and in 1903 Moor, despite his statement on the Africans' contribution to the revenue, saw fit to introduce a measure to increase the tax paid by squatters on crown lands from £1 to £2 per hut per year.¹³⁰ Explaining his decision Moor stated that the contribution of the squatters was far less than those Africans on private lands who rendered labour in lieu of rent and the Africans in the locations who were called out for labour on public works according to the isibalo system¹³¹ as provided by section 36 of the Code of Native Law. The squatters on the crown lands were generally excluded from the isibalo and Moor argued that their rent should be increased so as to make their contribution to the colony equal to the other Africans.¹³² Thus Law 41 of 1884 "*To provide for the Collection of Rent from Native Squatters or Occupiers of Crown Lands*", which had imposed the tax in the first place in response to demands to increase the labour supply,¹³³ was amended to provide for the increase.

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127. See N.G.G., Vol. LI, No. 3019, 19.5.1899, Bill No. 20; L.A.D., 1899, Vol. 28, pp. 385 - 389.
128. L.A.D., 1903, Vol. 33, p. 96.
129. Times of Natal, 12.2.1903.
130. Act 48 of 1903 "*To amend the Squatters' Rent Law of 1884.*"
131. The isibalo or compulsory labour system began in 1848 (Welsh: The Roots of Segregation, pp. 122 - 123). See Appendix 3 for the number of Africans supplied to the Public Works Department in terms of the isibalo.
132. L.A.D., 1903, Vol. 33, p. 132. For Moor's views on the isibalo see S.N.A. 1/1/180 Minute papers for 1894: 70 - '94, Moor - Colonial Secretary, 18.7.1894; S.A. N.A.C., Vol. III, Evidence of Moor, p. 223, Question 20910.
133. S.T. van der Horst: Native Labour in South Africa, pp. 112 - 113.

The one point on which Moor differed considerably from most of the Natal colonists was his refusal to impose restrictions on the Africans to prevent the migration of Natal labour to the goldfields.¹³⁴ He enquired of members of the Legislative Assembly: "*Are these Natives of ours to be 'cabin'd, cribb'd, confin'd at every turn? Are we to be everlastingly having these pinpricks?*"¹³⁵ His attitude was that the only thing that God had given the African to make a living was his labour and that the colonists should not deprive him of the right to go to the labour market which paid the highest wages.¹³⁶ He stated that the Africans needed to earn money to pay rents to their landlords and asserted that it was unfair to demand these rents yet restrict the Africans in their attempt to earn the money.¹³⁷ In addition Moor felt that travel was good for the Africans and he saw to it that the railway facilities for them were adequate.¹³⁸ Instead of placing restrictions on the Africans which would cause dissatisfaction he directed the attention of the farmers to the system of labour in lieu of rent which operated on the farms and which he disapproved of. He recommended to the farmers that they pay their labourers at the market price and make honest transactions with them if they wanted to keep and attract African labour.¹³⁹

Because he was reluctant to place undue restrictions on the Africans who chose to work in the Transvaal Moor opposed suggestions that the pass fees to leave the colony should

134. For the colonists' view on this matter refer to pp.133-134.

135. L.A.D., 1903, Vol. 34, p. 102.

136. See for instance L.A.D., 1897 - 1898, Vol. 26, p. 115; L.A.D., 1903, Vol. 34, p. 102.

137. L.A.D., 1894, Vol. 22, p. 282.

138. L.A.D., 1896, Vol. 24, p. 282; S.N.A. 1/1/201 Minute papers for 1895: 521 - '95, Moor - Colonial Secretary, 30.4.1895; S.N.A. 1/1/208 Minute papers for 1895: 1186 - '95, Moor - Minister of Lands and Works, 3.10.1895.

139. L.A.D., 1894, Vol. 22, p. 282.

be increased.¹⁴⁰ His views contrasted sharply with that of Sir Liege Hulett who, during the period of the Binns ministry, categorically stated that his policy was to keep the available labour within the colony¹⁴¹ and directed his attention to restricting the movement of African youth out of the colony.¹⁴² Moor regarded Hulett's pass regulations as "*miserable*."¹⁴³

Moor's policy regarding the migration of Natal labour to the goldfields and the sensitivity of the colonists to this question involved him in a controversy in 1895. In 1894 Moor informed members of the Legislative Assembly that the government could come to the assistance of those Natal Africans in Johannesburg by providing facilities for them to send down their money to their relatives. As the matter stood they tended to keep their money with them and they could be robbed or it could be squandered. If the government could help the Africans to save their money this would be to their benefit and also to the colony for more money would make its way to Natal.¹⁴⁴ Acting promptly on this idea the Native Affairs Department sent out a circular

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140. L.A.D., 1894, Vol. 22, p. 282; Natal Witness, 7.3.1895; C.S.O. 1461 Minute papers for 1896: 2036 - '96 with 1802 - '96, Impendhle Farmers' Association recommends increase in pass fee to leave the colony, Moor - Colonial Secretary 20.4.1896. For suggestions to increase the pass fees, see pp. 133 - 134.
141. L.A.D., 1899, Vol. 28, p. 49.
142. See section 82 of the bill "*To make provision for the registration of Native Labour, and to amend the Law regarding the Entry and Departure of Natives and Touting for Labourers*" (N.G.G., Vol. L, No. 2948, 3.5.1898); L.A.D., 1897 - 1898, Vol. 26, p. 112; L.C.D., 1898, Vol. 7, pp. 5 - 6. See also section 28 (b) of Hulett's pass regulations (N.G.G., Vol. LI, No. 3004, 21.2.1899, Government Notice No. 106).
143. L.A.D., 1899, Vol. 28, p. 47. These pass rules were subsequently cancelled and new ones were introduced during the term of the Hime ministry (See N.G.G., Vol. LI, No. 3030, 12.7.1899, Government Notice No. 363).
144. L.A.D., 1894, Vol. 22, p. 282.

to the Resident Magistrates and Administrators of Native Law in the colony in November 1894 asking for comments on the feasibility of an officer being appointed in Johannesburg to see to the interests of the Natal Africans.¹⁴⁵

Of the 23 replies received only 6 were completely against the whole idea, while 2 had reservations. J.C.C. Chadwick, the Resident Magistrate at Ixopo, was enthusiastic about the idea pointing out that, in his opinion, the Africans would be glad if the government went forward with their plan and would see it as a paternalistic gesture. It would be beneficial for the revenue of the colony and many Africans who had failed to pay their hut tax and were in Johannesburg could be traced by this officer when appointed. Those who were against the scheme advanced the argument that the Africans would not avail themselves of the facilities, would still squander their money, that their losses were greatly exaggerated and there were only a few cases of robbery. It would involve more work for the Magistrates, they argued, who would be turned into financial agents forwarding money to the relatives in their districts. There was no need for the government to involve itself in expenditure for what was the private affair of those Africans who chose to work out of the colony thus diminishing the local labour supply; finally, the appointment of an officer would have the effect of encouraging more Africans to leave the colony.¹⁴⁶

Encouraged by the support of most of the Magistrates Moor ignored these objections. By the end of 1894 10 466 passes

145. S.N.A. 1/4/4 Confidential papers 1890 - 1897:
3 - '95, Confidential Circular 20 - '94, S.N.A. - Resident Magistrates and Administrators of Native Law, 16.11.1894.

146. S.N.A. 1/4/4 Confidential papers 1890 - 1897:
3 - '95, Replies of Magistrates to Circular 20 - '94. The Magistrates of Estcourt, Krantzkop, Umgeni Division, Polela, Umlazi and Mapumulo were against the idea while the Magistrates of Lions River Division and Alfred had reservations.

had been taken out by Africans to go to the Transvaal.¹⁴⁷ There was thus a sufficiently large number to warrant the appointment of an officer there. The Inkanyiso Yase Natal also called on the government to allow Africans to go to the goldfields only if they were assured of protection, pointing out the demoralizing influences there, the easy availability of liquor and the neglect of African workers.¹⁴⁸ Negotiations with the Transvaal government began in February 1895 and it was ascertained that they had no objections to Natal's proposal of appointing an officer to see to the interests of the Natal African.¹⁴⁹ On 3 September 1895 Moor recommended the appointment of John Sydney Marwick, a clerk in the Native Affairs Department, whose salary would be paid out of the annual £10 000 reserved vote for the Africans. This was agreed to.¹⁵⁰

On 12 October 1895 Marwick was appointed "*to act as the Representative at Johannesburg of the Department of the Secretary for Native Affairs, to whom Natives of Natal may go in case they require advice, or assistance in times of sickness, or through whom they may communicate with their relatives in Natal.*"¹⁵¹ He was bound by the condition laid down by the Transvaal government that he would "*not interfere in Native Affairs or appear as Agent for the Natives in any of the Courts of this State ...*"¹⁵²

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147. S.N.A. 1/4/4 Confidential papers 1890 - 1897: 3 - '95, Return of the number of passes to leave the colony for the Transvaal ... for the year ending 31.12.1894.
148. Inkanyiso Yase Natal, 15.2.1895.
149. S.N.A. 1/4/4 Confidential papers 1890 - 1897: 3 - '95 Colonial Secretary (Natal) - State Secretary (Pretoria), 11.2.1895; State Secretary (Pretoria) - Colonial Secretary (Natal), 11.4.1895.
150. S.N.A. 1/4/4 Confidential papers 1890 - 1897: 3 - '95, Moor - Colonial Secretary, 3.9.1895.
151. N.G.G. Vol. XLVII, No. 2759, 15.10.1895, Government Notice No. 472.
152. S.N.A. 1/4/4 Confidential papers 1890 - 1897: 3 - '95, State Secretary (Pretoria) - Colonial Secretary (Natal), 14.9.1895.

Marwick was informed that he would be attached to the office of the Natal Government Railway Agent in Johannesburg and would receive instructions from the Under Secretary for Native Affairs with whom he would have to communicate.¹⁵³ Magistrates were instructed to inform Africans, who applied for passes for the Transvaal, of the new service and to advise them to use the office.¹⁵⁴

With the news of this appointment the press came out in strong opposition. The Times of Natal accused the government of encouraging the Africans to leave the colony when labour was needed and worse still, to migrate to the Transvaal where they received high wages and were exposed to negative social and moral effects. With an air of utter disbelief the editor exclaimed "*It is inconceivable to many that a Responsible Government Ministry, that a Ministry of colonists, could have dealt the colony so unkind a blow.*"¹⁵⁵ The government, the editor advised, should direct its energies to keeping labour within the colony. The editor was unable to comprehend the actions of the government for considerable money had been expended on bringing in Indians to work while African labour was encouraged to leave the colony.¹⁵⁶ The Natal Witness echoed these sentiments stating that "*The whole colony is crying out against the 'Indian Invasion', and yet the Government is taking a step which is calculated to drain the labour market of Native servants and render the importation of coolies more necessary than ever, if our leading industries are not to collapse.*"¹⁵⁷ The editor was further angered by the fact that in Johannesburg the appointment was well received for it was anticipated

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153. S.N.A. 1/4/4 Confidential papers 1890 - 1897: 3 - '95, Private Under Secretary - J.S. Marwick, 8.10.1895 (draft copy).
154. S.N.A. 1/1/209 Minute papers for 1895: 1229 - '95, Circular 9 - '95, S.N.A. - Resident Magistrates, 15.10.1895.
155. Times of Natal, 29.10.1895 (Editorial).
156. Times of Natal, 23.10.1895 (Editorial).
157. Natal Witness, 21.10.1895 (Editorial).

that now more Natal Africans would be attracted to their markets. The fact that Marwick was to be paid out of the £10 000 special vote was also criticised for it was argued that the money was set aside for the improvement and betterment of the African and not for maintaining agencies in other states.¹⁵⁸

Cries about the shortage of labour followed and the lack of labour was attributed to the creation of the office. For instance, Theodore Woods, a political opponent of Moor in Weenen County, claimed that once the appointment had been made every single African had deserted his farm to go to the Transvaal.¹⁵⁹ It was pointed out that the local labour market was dislocated and that large firms and the coal mines were being affected and housewives were having difficulty in obtaining domestic servants.¹⁶⁰ One employer of labour commented that the only other time when there had been a similar shortage of labour had been in 1879 and 1880 during and after the Anglo-Zulu war.¹⁶¹ The Durban Chamber of Commerce called on the government to take action to alleviate the critical shortage of labour.¹⁶² The Natal Witness pointed out in all fairness that yet another reason for the diminished labour supply was that Africans had left their work to go to their farms to plant their mealies and would be there for at least two to three months.¹⁶³

On the other hand the Inkanyiso Yase Natal and the Natal Mercury applauded the appointment of Marwick¹⁶⁴ and the con-

158. Natal Witness, 1.11.1895 (Editorial).

159. Natal Mercury, 16.12.1895.

160. Natal Witness, 13.11.1895 (The Native Exodus); 18.11.1895.

161. Times of Natal, 19.11.1895.

162. C.S.O. 1445 Letters Received in 1895: 5683 - '95, Secretary, Durban Chamber of Commerce - Colonial Secretary, 13.11.1895.

163. Natal Witness, 18.11.1895.

164. Inkanyiso Yase Natal, 18.10.1895; Natal Mercury, 25.10.1895 (Editorial); 14.12.1895 (Editorial).

troversty raged, letters to the newspapers discussing the issue continued to pour in.¹⁶⁵ In response to these protests the Inkanyiso Yase Natal commented: "It appears to be the common idea with colonists that, in attending to Native interests [the] Government is running counter to the wishes of the White man ... we sincerely trust that [the] Government will turn a deaf ear to all but the dictates of its own conscience."¹⁶⁶ It has been shown in chapter three that Moor considered his position as Secretary for Native Affairs as one involving a conflict of interests, for though elected by Whites he had to see to the interests of the Africans. Here was one such situation where an action taken by him for the benefit of the Africans was seen as detrimental to White interests.

The tide of opposition died down when in April 1896 the influential Natal Farmers' Conference supported Marwick's appointment noting that the remittal of money to Natal by the Africans was for the benefit of the colony.¹⁶⁷ In the same month in parliament F.A.R. Johnstone, the member for Newcastle Division, noted that he knew he was in the minority in opposing the appointment of Marwick but pointed out that 25% more Africans than usual had left the upper districts of the colony to work in Johannesburg.¹⁶⁸ Moor won the support of members of the Legislative Assembly and during the 1897 parliamentary session, at the request of Henry Bale, he confidently produced a statement which showed that from November 1895 to 25 March 1897 a total of £40 481 10s 11d

165. See for instance Natal Mercury, 13.12.1895 (Letter from T.B. Curson); Natal Witness, 1.11.1895 (Letter from E.M.K.); 13.11.1895 (Letter from J.W. McKenzie); 5.12.1895 (Letter from W. Craighead Smith); 18.12.1895 (Letter from A.E. Ingle); Times of Natal, 26.10.1895 (Letter from "A Farmer").

166. Inkanyiso Yase Natal, 15.11.1895.

167. Natal Mercury, 13.4.1896.

168. L.A.D., 1896, Vol. 24, pp. 45 - 46.

had been remitted, by the Africans, via the Johannesburg office to Natal.¹⁶⁹ From 1 July 1897, in a move to make the agency self-supporting, an idea supported by the Natal Farmers' Conference,¹⁷⁰ Marwick was authorised by Moor to charge Africans a fee for transmitting money to Natal.¹⁷¹

Marwick acted as agent not only for Natal but for Zululand also.¹⁷² By 1897 he had two assistants, G.D. Wheelwright and H.B. Wallace and in 1898 Wheelwright assumed control over a branch established at Germiston.¹⁷³ So successful was Moor's idea that the Cape government expressed interest in the system and with the advice and assistance of the Natal government and its agency, established its own in 1898.¹⁷⁴ By this time Basutoland also had an agent in the Transvaal and the Bechuanaland Protectorate was taking the initiative in establishing its own agency.¹⁷⁵

When criticisms had been levelled at the government over the appointment it was not only the principle that was objected to but some also criticised the choice of the representative and questioned the government's motive. Allegations were made that Marwick's appointment was "*a political plum to satisfy his political relations*" - this referring to his familial ties with the Under Secretary for Native Affairs and H. Nicholson, a member of the Legislative Assembly and supporter of the government. Furthermore Marwick's brother

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169. L.A.D., 1897, Vol. 25, pp. 57 - 58; N.P.P. 176 Documents presented to the Legislative Assembly: 101, 1897. For the remittals per year see Appendix 3 which also gives the number of Natal Africans who went to the Transvaal for labour purposes.
170. Natal Witness, 2.12.1897.
171. S.N.A. 1/1/272 Minute papers for 1897: 2968 - '97, Moor - Marwick, 21.6.1897.
172. B.B.N.A. for 1895, p. 10.
173. B.B.N.A. for 1897, p. 31; B.B.N.A. for 1898, p. A54.
174. C.S.O. 1540 Minute papers: 8661 - '97, Prime Minister's Secretary (Cape Town) - Private Under Secretary (Natal), 10.12.1897; Secretary (Cape Town) - Private Under Secretary (Natal), 21.1.1898.
175. B.B.N.A. for 1898, p. A57.

was a labour agent in Johannesburg and his uncle was J.W. McKenzie, the labour contractor.¹⁷⁶ The fear then existed that the office would be used by these labour agents for recruiting Natal labour but "*why should Natal be a Native breeding warren for the Transvaal labour market?*"¹⁷⁷ One comment made was that "*the whole thing smacks unpleasantly of private influence and official favouritism. Either the Natal Government have [sic] allowed themselves to be duped, or they have deliberately played into the hands of a private clique.*"¹⁷⁸

Was this so? A nagging doubt exists as to whether Moor was initially taken in by McKenzie who sent at least 600 Africans annually to the goldfields.¹⁷⁹ Moor had been in communication with McKenzie and in August 1894 the latter had suggested the idea of an agency, which he obviously intended to use as a recruiting agency, and had suggested that Marwick be appointed. McKenzie had hoped to supervise the working of the office.¹⁸⁰ McKenzie was not appointed by the Natal government in any capacity but Marwick was. This was despite the applications submitted by E.M. Richardson, who had several times acted as Administrator of Native Law, and D. Giles, the Resident Magistrate of Upper Tugela Division.¹⁸¹ The government's decision, Prime Minister Robinson explained, was determined by the fact that Marwick was well known to

176. Natal Witness, 30.11.1895 (Letter from "Pills").
See also Times of Natal, 5.11.1895 (Letter from "Lancer").

177. Times of Natal, 26.10.1895 (Letter from "A Farmer").

178. S.N.A. 1/1/212 Minute papers for 1895: 1554 - '95, Marwick - Samuelson, 14.12.1895, enclosed article from The Critic, 13.12.1895.

179. C.S.O. 1416 Letters Received: 6507 - '94, J. McKenzie - Colonial Secretary, 10.12.1894.

180. S.N.A. 1/4/4 Confidential papers for 1890 - 1897: 3 - '95, J. McKenzie - Moor, 21.8.1894.

181. S.N.A. 1/4/4 Confidential papers for 1890 - 1897: 3 - '95, E.M. Richardson - Moor, 4.2.1895; D. Giles - Moor, 20.11.1894.

the Africans and was proficient in their language. He was "*an officer of tact ... deserving of confidence.*"¹⁸² One wonders what the reaction of the farmers, other colonists and the press would have been had they known of McKenzie's communication with Moor.

Whatever the circumstances surrounding the genesis of the office were, Moor refused to allow it to be used for recruiting purposes. In the very month that he was appointed, Marwick informed the Under Secretary for Native Affairs that he wished to send out a circular to the managers of the mines near Johannesburg inquiring as to the number of labourers required and the conditions of employment so that when Natal Africans came to Johannesburg Marwick would be able to pass on this message. The government rejected this suggestion on the grounds that Marwick was not a labour agent and that the proposed circular was not part of his duties.¹⁸³ In 1896, when certain Magistrates reported that locusts had destroyed the crops of the Africans, who thus needed to earn money to buy food, the Native Affairs Department wrote to Marwick to find out if there was a demand for labour. Circulars were then sent out to a few Magistrates informing them that there was a demand for surface and underground workers on the mines if the Africans were interested.¹⁸⁴ This action was taken for the benefit of the Africans and not for the Johannesburg labour market.

182. S.N.A. 1/4/4 Confidential papers 1890 - 1897: 3 - '95, Colonial Secretary (Natal) - State Secretary (Pretoria), 7.9.1895.

183. S.N.A. 1/1/210 Minute papers for 1895: 1346 - '95, Marwick - Under Secretary for Native Affairs, 30.10.1895; Private Under Secretary - Moor, 7.11.1895; Moor - Marwick, undated.

184. S.N.A. 1/1/216 Minute papers for 1896: 204 - '96, Secretary for Native Affairs - Marwick, 13.2.1896; Circular 5 to Magistrates, 18.2.1896.

There is no doubt that Moor considered that the Johannesburg office would be beneficial to the Natal Africans and so it was. Marwick assisted them in several ways besides looking after their money. He visited the Africans who were sick or injured in hospital and helped them to apply for compensation for injuries received at work. He wrote letters for the Africans at a charge of one shilling. He helped to trace Africans in the Transvaal if, for instance, their relatives in Natal needed them or were worried about them.¹⁸⁵ In 1897 he received 833 complaints from Africans that their wages were being withheld by their employers, referring these to the public prosecutor.¹⁸⁶ In addition, after 1896, Marwick's office began issuing railway tickets to Africans returning to Natal.¹⁸⁷

Marwick's office was of the greatest assistance to the Africans in the months preceding the outbreak of the Anglo-Boer war in October 1899. From as early as June 1899, African messengers were sent out to the mining areas to reassure the Natal Africans and to dispel fears.¹⁸⁸ Moor and Marwick were perturbed about the situation as the Natal Africans looked to the office for guidance.¹⁸⁹ He advised Marwick that the Africans should continue with their work normally.¹⁹⁰ In August his opinion was that hostilities

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185. See for instance S.N.A. 1/1/223 Minute papers for 1896: 978 - '96, Report of Marwick for week ending 20.6.1896; S.N.A. 1/1/225 Minute papers for 1896: 1185 - '96, Report of Marwick for week ending 18.7.1896; B.B.N.A. for 1897, p. 24.
186. B.B.N.A. for 1897, p. 23.
187. B.B.N.A. for 1896, p. 21; B.B.N.A. for 1897, p. 23.
188. S.N.A. 1/1/284 Minute papers for 1899: 255 - '99, Report relative to the exodus of Natal Natives from the South African Republic, October 1899, by J.S. Marwick.
189. Reported in G.H. 1362 Copies of Telegrams Despatched to the High Commissioner for South Africa: No. 1, Governor - High Commissioner, 24.8.1899.
190. S.N.A. 1/4/6 Confidential papers for 1899: 18 - '99, Moor - Marwick, 13.6.1899.

would not eventuate and he certainly hoped not. If however the war did break out the Africans would have to be left to their own resources and make their own decisions.¹⁹¹ Marwick, however, had other ideas and by September he realised that the office could be used both to help the Africans to send their money to Natal as fast as possible and to assist them to leave the Transvaal. Between 28 September and 6 October £9876 13s Od was remitted.¹⁹² Moor once more advised Marwick that the Africans should remain in the Transvaal and that their protection by that government should be secured.¹⁹³ Marwick, following his own idea, began to take steps to get the Natal Africans out of the country, for not only was their safety not guaranteed, but at least 5000 were already unemployed.¹⁹⁴

Marwick's first plan was to get the Africans away by railway but, when faced with the fact that all traffic to Natal had come to a standstill and that the railway offices were closed, he realised that the only way was by road and on foot.¹⁹⁵ Moor strongly disapproved of this idea and advised Marwick to "*Keep cool - Get your books in order.*"¹⁹⁶ Marwick was determined to carry out his plan and even suggested that he be suspended from his office so as not to embarrass the Native Affairs Department.¹⁹⁷ Ultimately

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191. S.N.A. 1/4/6 Confidential papers for 1899: 18 - '99, Moor - Marwick, 23.8.1899.
192. S.N.A. 1/1/284 Minute papers for 1899: 255 - '99, Report relative to the exodus by ... J.S. Marwick.
193. S.N.A. 1/4/6 Confidential papers for 1899: 70 - '99, Telegram, Moor - Marwick, 25.9.1899; Moor - Marwick, 4.10.1899.
194. S.N.A. 1/4/6 Confidential papers for 1899: 84 - '99, Marwick - Under Secretary for Native Affairs, 5.10.1899.
195. S.N.A. 1/1/284 Minute papers for 1899: 255 - '99, Report relative to the exodus ... by J.S. Marwick.
196. S.N.A. 1/4/6 Confidential papers for 1899: 70 - '99, Telegram, Moor - Marwick, 4.10.1899.
197. S.N.A. 1/4/6 Confidential papers for 1899: 84 - '99, Telegram, Marwick - Under Secretary for Native Affairs, 5.10.1899.

his arrangements were approved by Moor and he set out on foot with about 7000 Africans from the Transvaal; the journey was safely undertaken within ten days.¹⁹⁸

This successful exodus and Marwick's concern for the Africans was acclaimed in Natal, the Africans particularly appreciating his efforts.¹⁹⁹ Total credit for this initiative is due to Marwick especially in view of Moor's negative attitude. However, Moor must receive the credit for the existence of the office without which the African workers would have had to fend for themselves.

After the Johannesburg office was closed Marwick was employed in the Native Affairs Department at Pretoria through which remittances of money to Natal were continued.²⁰⁰

In October 1901 Moor admitted that the Johannesburg office had indirectly attracted Natal Africans to labour in the Transvaal and expressed the opinion that he did not see the need for a similar service now that the Transvaal was under the British government.²⁰¹ Moor informed the Magistrates, in 1902, that the Transvaal government had set up an office called "Entumeli" which would remit money to Natal via the Natal Native Affairs Department and that Africans should be informed of this.²⁰² The Natal government contributed to

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198. S.N.A. 1/4/6 Confidential papers for 1899: 84 - '99, Telegram, Moor - Marwick, 5.10.1899; Moor - Marwick, 6.10.1899; S.N.A. 1/1/284 Minute papers for 1899: 255 - '99, Report relative to the exodus ... by J.S. Marwick.
199. See G.H. 1229 Despatches to Secretary of State: No. 160, Hely-Hutchinson - Chamberlain, 23.10.1899; S.N.A. 1/1/284 Minute papers for 1899: 255 - '99, Report relative to the exodus ... by J.S. Marwick; Natal Witness, 17.10.1899.
200. Report of the Secretary for Native Affairs for 1899 and 1900, p. 3.
201. S.N.A. 1/1/313 Minute papers for 1904: 2032 - '04, Moor - Hime, 10.10.1901.
202. B.B.N.A. for 1902, Moor - Magistrates, 24.7.1902, p. B68.

the maintenance of the remitting agency but this was later discontinued when the remittances declined considerably.²⁰³ As regards the appointment of Marwick and the establishment of the agency at Johannesburg in 1895, Moor had this to say in 1907: "... if there is one thing which, during the past Administrations in which I had the honour to hold a portfolio, I pride myself upon as regards the Native Department, it was the inauguration and perfection of the work that was done by that Agency in Johannesburg."²⁰⁴ So popular was the service that the Natal Native Congress in 1907 pleaded that it be revived and in January 1908 Moor, who was in office not only as Minister for Native Affairs but also as Prime Minister, acceded to the request.²⁰⁵

It was not only the drift of Natal Africans to the Transvaal that annoyed the colonists but also the activities of labour touts. While, as mentioned earlier, Moor refused to place restrictions on the Africans to prevent them from going to the Transvaal he did take action against the labour touts in a move to appease the farmers. In response to a deputation of seven colonists, who met Sir John Robinson and Moor on 12 December 1895 to discuss the critical shortage of labour, the government decided to introduce legislation to control touting.²⁰⁶ Thus the Labour Tout Regulation Act²⁰⁷ provided that any person who wished to tout for labour in a

203. N.N.A.C., Evidence of S.O. Samuelson, p. 659.

204. L.A.D., 1907, Vol. 43, p. 503.

205. S.N.A. 1/1/369 Minute papers for 1907: 1561 - '07, Address to Moor by Natal Native Congress, 20.6.1907; Interview between Moor and members of the Natal Native Congress, 22.6.1907; L.A.D., 1908, Vol. 45, p. 333.

206. G.H. 1545 General Memoranda Relating to Native Affairs: 313 - '95, Deputation to the Government to discuss matters concerning the labour question, 12.12.1895; C.S.O. 1448 Letters: 6324 - '95, Notes of meeting with deputation, 12.12.1895, Private Under Secretary - Attorney General, 22.5.1896.

207. Act 36 of 1896 "To regulate the system of Touting for Natives in Natal to do work or labour beyond the borders of the Colony."

particular division would have to obtain a licence from the Magistrate of that division. Once licenced he would still not be allowed to tout on private farms or other premises without the owner's written consent; neither would he be allowed to persuade a servant to seek other work by offering better wages or other inducements. A penalty would be imposed for the violation of any of these. It was possibly this measure which protected the employers of labour from touts that led to the acceptance of Marwick's appointment.

In 1899, in the wake of the "South Africa Savage Show"²⁰⁸ when antagonism towards labour agents was strongest, Moor promised members of the Legislative Assembly that he would consider sterner measures to remedy the situation.²⁰⁹

Acknowledging that it was in response to public demands Moor replaced the 1896 measure with the Touts Act of 1901.²¹⁰ One of the most important provisions of the Act was section 6 which prohibited any person from touting for or engaging Africans for labour to be rendered outside Natal. Moor made it clear that he was not preventing Africans from working outside the colony but if they did so it must be of their own initiative and that labour touts should have no hand in this.²¹¹ The Aborigines Protection Society commended this action of the Natal government since they were opposed to touting and the evils of migratory labour and the suggestions from the Transvaal that large parts of British Africa should be used as recruiting grounds to satisfy the demands of the mining industry.²¹²

208. Discussed on p. 135.

209. L.A.D., 1899, Vol. 28, pp. 672 - 673.

210. Act 46 of 1901 "To repeal and re-enact with amendments, the Labour Tout Regulation Act, 1896." See L.C.D., 1901, Vol. 10, p. 59 for Moor's reason for the Act.

211. L.A.D., 1901, Vol. 30, p. 108; L.C.D., 1901, Vol. 10, p. 59.

212. Native Labour in South Africa; a Report of a Public Meeting, jointly convened by the Aborigines Protection Society and the British Foreign Anti-Slavery Society, 1903, pp. 4 - 6, 10.

Moor soon found that the inclusion of section 6 was unpopular in the Transvaal where it was regarded as "*offensive and unfriendly*."²¹³ In addition the Inter-Colonial Conference of 1903 resolved that all the British territories in South, Central and East Africa should permit the recruiting of labour.²¹⁴ Moor reviewed the ill-considered section 6 and noted that Natal recruited 11 711 workers from the Cape Colony in 1902 and was dependent on neighbouring states for at least 17 000 labourers a year. If Natal then persisted in her policy of prohibiting recruiting in her own area other states would retaliate. He was eager for unity amongst the South African colonies and now felt that Natal should be generous enough to remove this prohibition on touting.²¹⁵ Moor therefore proposed in 1903 to repeal section 6. The other members of the Hime ministry were reluctant to consent to this legislation which they claimed would be "*of a contentious character*" but eventually conceded when faced by an adamant Moor who was bent on removing the restriction.²¹⁶ Moor, however, did not easily convince the members of the Legislative Assembly and though the bill received a second reading it did not pass through the committee of the House and was dismissed.²¹⁷ Needless to say Moor introduced this measure, not for the benefit of the White employers in Natal, nor for the benefit of the Natal Africans, but solely for the benefit of the mining interests in the Transvaal.

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213. P.M. 37 Minute papers for 1903: 443 - '03, Hime - Moor, 16.2.1903, Enclosed cuttings from The Star, 10.2.1903. See also Natal Mercury, 3.2.1902.
214. S.N.A. 1/4/12 Confidential papers for 1903: 62 - '03, Minutes of Meetings of the Inter-Colonial Conference, March 1903, p. 11, resolution IX.
215. L.A.D., 1903, Vol. 34, pp. 97 - 98, 101 - 102.
216. G.H. 694 Confidential Despatches from the High Commissioner for South Africa: Moor - Hime, 16.4.1903; Secretary, Prime Minister - Moor, 15.5.1903; Moor - Secretary, Prime Minister, 19.5.1903; Moor - Hime, 22.5.1903, Secretary, Prime Minister - Moor, 28.5.1903 (with papers re despatch No. 36, 31.5.1902).
217. L.A.D., 1903, Vol. 34, pp. 102, 257 - 259.

In this chapter it has been seen that various interest groups placed pressure on the government of the day to see that their labour demands were met. Moor stood in the middle trying to maintain a delicate balance between the White employers and the objects of their attention, the Africans. Concessions to the demands of the White employers of labour are more noticeable during Moor's term of office in the Hime ministry than in the Robinson and Escombe ministries. The Robinson ministry followed a cautious policy and this was probably because responsible government had just been conferred and they wanted the Africans to accept this without feeling unduly threatened. Robinson very clearly stated that there were limits to the restrictions that could be placed on the Africans and that the Africans were also British subjects who had rights and privileges.²¹⁸ Hime however had been a member of the Binns ministry whose Secretary for Native Affairs, Sir Liege Hulett, was determined to solve the colonists' labour problems by controlling the movements of the Africans. Hime when asked to form a ministry in 1899 had, for political reasons, replaced Hulett with Moor.²¹⁹ Moor then became a member of a ministry which was more amenable to suggestions to place restrictions on the Africans.

As already shown the labour market was not stable in the early 1900's. Moor failed to provide sufficient labour from the East Coast and his statements about saving labour, by doing away with rikshas for instance, were made the subject of ridicule. As desired by the colonists Moor provided for the registration of African labour, prohibited touting for

218. G.H. 1545 General Memoranda Relating to Native Affairs: 313 - '95, Deputation to the Government to discuss matters concerning the labour question, 12.12.1895, pp. 28 - 29.

219. This is explained in chapter one.

labour within Natal for work outside the colony and raised the tax paid by squatters. A balance was obviously not easy to maintain. However, it can be convincingly argued that Moor's understanding of Natal's labour problems was far greater than that of the average colonist who blamed the chronic shortage of labour on the indolence of the Africans. Moor's speeches defending the Africans are numerous and he told members of the Legislative Assembly that if they "... *thought this thing out, [they] would be rather ashamed of the arguments they are using in connection with this man [the African] and his industry in South Africa.*"²²⁰

As Secretary for Native Affairs Moor was bound to become involved in contentious issues, the labour question being just one, though major, issue. Yet another was his policy regarding courts for the administration of justice for the Africans and the role of lawyers in the system as will be shown in the next chapter.

220. L.A.D., 1903, Vol. 34, p. 102.

CHAPTER SIXOF COURTS AND LAWYERS

In Natal, as already seen in chapter two, there were two sets of laws. Likewise, a dual judicial system prevailed. The situation in 1893 was that Whites and Indians could have access to the Magistrates' courts and to the Supreme Court. In addition there were four courts specially for the Africans.¹ The lowest courts were those of the African Chiefs which dealt with civil cases or as Escombe explained "*with all garden disputes and minor matters corresponding somewhat with offences against by-laws in more pretentious communities.*"² The courts of the Administrators of Native Law³ heard appeals from the courts of the Chiefs and tried civil cases. Criminal cases were dealt with in the same way as those of White offenders and before the ordinary courts of law. A Native High Court heard appeals from the courts of the Administrators of Native Law and could also try certain criminal cases. It could for instance deal with cases of faction fighting or the stealing or maiming of cattle; the Attorney General could refer to it certain cases for prosecution. The Court of Appeal had the same status for the Africans as had the Supreme Court for the Whites and Indians. Moor had definite views about these judicial organs as well as about issues such as the effects of frequent litigation on the African and the role of lawyers in the whole judicial system.

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1. See Law 26 of 1875 (N.G.G., Vol. XXVIII, No. 1608, 12.9.1876). For a useful explanation of the judicial system for the Africans see L.A.D., 1895, Vol. 23, pp. 49 - 50.
 2. L.A.D., 1895, Vol. 23, p. 50.
 3. In terms of section 48 of the Courts Act of 1898 the title of Administrator of Native Law was replaced by that of Magistrate.

One of the first of many judicial matters that came to Moor's attention, when he was Secretary for Native Affairs, was the constitution of the Court of Appeal which comprised the Chief Justice or one of the puisne Judges of the Supreme Court, the Judge of the Native High Court and the Secretary for Native Affairs. In 1894 Moor informed the Attorney General that the Court of Appeal was due to sit on 15 February and he expressed disapproval at having to be a member of it since he occupied a political office as Secretary for Native Affairs and favoured the separation of political and judicial functions. He explained further that the Court of Appeal could deal with a case and set aside a decision in which he, as Secretary for Native Affairs, had perhaps had a part in taking. As a member of the Appeal Court he could only dissent from the judgement of the other two members of the Court. Moor considered the situation as not being good policy because it would confuse the Africans who would not know that he had dissented and consequently they would not understand how the Secretary for Native Affairs as a Judge helped condemn or reverse a decision which he himself had taken.⁴ The Inkanyiso Yase Natal in fact had drawn attention to this undesirable situation two months before the first ministry of Natal had been appointed, stating that the new government would have to review the situation.⁵

Moor was unable to extricate himself from this judicial predicament immediately since Escombe, though accepting the principle of the advisability of separating judicial and executive powers, informed him that in terms of the existing law he would have to sit on the Court when it met. Escombe compared Moor's position with that of the Lord Chancellor

4. S.N.A. 1/1/181 Minute papers for 1894: 147 - '94, Moor - Escombe, 7.2.1894.

5. Inkanyiso Yase Natal, 11.8.1893.

of England who was a member of a cabinet as well as a Judge, admitting however that this was an exception to the accepted rule of separating the functions of office.⁶

Bound by the law Moor, together with J.W. Shepstone, the Judge of the Native High Court, and Sir Walter Wragg, the first puisne Judge of the Supreme Court, sat on the Court of Appeal in the February session of 1894.⁷

The obvious solution to Moor's awkward position was to alter the law and this the Robinson ministry did. Not only was Moor relieved of his responsibility as a judicial officer but the Court of Appeal itself was abolished.⁸ The Supreme Court was thereafter to hear appeals from the Native High Court. The Natal Mercury hailed this measure as " ... a first step towards that assimilation of Native Law with the ordinary laws relating to the administration of justice in this colony ..." ⁹ This comment was given more meaning by Escombe's speech explaining the need to abolish the Court of Appeal. In addition to pointing out the desirability of separating the office of Secretary for Native Affairs from judicial matters, Escombe made an important statement of the Robinson ministry's policy regarding the judicial system. They felt, he stated, that the laws affecting Africans and those affecting Whites as well as the system of the administration of the laws should be gradually assimilated. By abolishing the special Court of Appeal and replacing it with the Supreme Court they were making their first move for now Whites and Africans would have one court that was supreme.¹⁰

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6. S.N.A. 1/1/181 Minute papers for 1894: 147 - '94, Escombe - Moor, 9.2.1894.
 7. See Natal Mercury, 17.2.1894.
 8. By Act 2 of 1894 "To amend Law No. 26, 1875, the Native Administration Law, 1875 " (See N.G.G., Vol. XLVI, No. 2685, 30.6.1894).
 9. Natal Mercury, 12.4.1894 (Editorial).
 10. L.A.D., 1894, Vol. 22, p. 283.

He later stated that their ultimate goal was to see all the subjects of Natal under one law only.¹¹ Escombe was not espousing a new policy or principle, since Law 26 of 1875, which established the various courts to hear African cases and which also provided for the codification of customary law, had as its goal as the title indicated "... *the gradual assimilation of Native Law to the Laws of the Colony.*" This law had been enacted in the aftermath of the Langalibalele affair and it repealed Ordinance 3 of 1849 "*with all its obscure and vague provisions.*"¹² It had been hoped that the codification of customary law would make assimilation easier.¹³

Another very important step taken by the Robinson ministry, designed to minimise the differences in the judicial systems in Natal for African and White, was Act 13 of 1895 "*To abolish the Native High Court ...*"¹⁴ In addition to the desirability of doing away with yet another special court, in Escombe's opinion the functions of this court did not justify its existence, since these could easily be taken over by other existing courts.¹⁵ The Supreme Court then took the place of the Native High Court¹⁶ and the number of Judges was increased to cope with the additional work.¹⁷ Cases of faction fighting could now be tried in the courts of the Magistrates.¹⁸

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11. L.A.D., 1895, Vol. 23, p. 51.
 12. Welsh: The Roots of Segregation, p. 155. Ordinance 3 of 1849 is referred to in chapter two.
 13. Welsh: The Roots of Segregation, p. 158.
 14. See N.G.G., Vol. XLVII, No. 2749, 13.8.1895 for the Act. For a discussion of the Native High Court see E.S. Henochsberg: The Passing of the Natal Native High Court (South African Law Journal, August 1954, Vol. 71, Part 3, pp. 221 - 231).
 15. L.A.D., 1895, Vol. 23, pp. 49 - 51.
 16. See section 11 of Act 13 of 1895 and section 7 of Act 39 of 1896 "*To consolidate the Laws relating to the Supreme Court ...*"
 17. See Act 35 of 1895 "*To increase the number of Judges of the Supreme Court.*"
 18. See Act 11 of 1896 "*To provide for the Trial of Faction Fighting amongst Natives.*"

Moor was opposed to constant appeals from the lower courts to the higher courts because, if the decisions of the lower courts were reversed, Africans would cease to respect these courts and their status would be diminished.¹⁹ With the abolition of the Native High Court there would be direct appeal from the courts of the Administrators of Native Law to the Supreme Court. Moor asserted that it was the endless appeals against its decisions that had led to the final curtain for the Native High Court.²⁰ One case which had attracted considerable attention in 1895 before the demise of the Native High Court was that of Mshiwe Ngubane who appealed against the decision of Chief Hemuhemu who seized a heifer from him just because Ngubane was a Christian. The Native High Court supported the decision of the Chief. Ngubane then took the case to the Supreme Court which un-animously decided in his favour, condemning the action of the Chief and reversing the decision of the Native High Court.²¹ This case strengthened the argument in favour of the abolition of the Native High Court.²² It stood as an example of how a decision of the Native High Court could be reversed by the Supreme Court ultimately causing Africans to lose confidence in their special court.

The abolition of the Native High Court and the attempt to move towards the assimilation of the two judicial systems was an important step. What was Moor's role in this? It has been shown that Moor believed that Africans had to be governed separately and further he had implicit faith in

19. See for instance L.A.D., 1895, Vol. 23, p. 190. Moor's concern for the status of the government and its institutions is shown throughout this chapter.

20. L.A.D., 1898, Vol. 27, p. 481.

21. Natal Witness, 27.11.1895.

22. See G.H. 1228 Despatches to Secretary of State: No. 127, Hely-Hutchinson - Chamberlain, 29.11.1895.

the Code of Native Law.²³ One is inclined to believe that the abolition of the Native High Court bore the strong stamp of Harry Escombe. It was Escombe and not Moor who stated that their long term goal was to see all the inhabitants of Natal under one and the same law. Moor's attitude towards the Native High Court was however made most clear when the Binns ministry reversed the policy of the Robinson and Escombe ministries and resuscitated the Native High Court in 1898.²⁴ The genesis of the Native High Court, its abolition by the Robinson ministry and its revival by the Binns ministry represents, as F. Mason comments, "*One of the most curious chapters in Natal judicial history ...*"²⁵ It also reveals differences in opinion between Moor and Escombe, who were now in opposition, on one hand, and Binns, his Attorney General, Henry Bale, and the Secretary for Native Affairs, Sir Liege Hulett, on the other. This was not the first or only issue on which Moor and Hulett had different views.²⁶

There were several reasons why the Binns ministry revived the Native High Court. It was argued that the Africans were not happy with the long delays that followed when their cases went from the Magistrates' courts to the Supreme Court. The opinion expressed was that African cases were not being seen to promptly and preference was given to cases involving Whites.²⁷ The cost of appeal to the Supreme Court was high.²⁸

23. See chapter two.

24. By Act 49 of 1898 "*To amend the Laws relative to the Administration of Justice.*" It was better known as the Courts Act of 1898.

25. F. Mason: Native Policy in Natal; Past and Future, p. 28.

26. This is shown in chapter five.

27. L.A.D., 1898, Vol. 27, pp. 382, 447 (Henry Bale and Sir Liege Hulett).

28. L.A.D., 1898, Vol. 27, p. 447 (Hulett).

The Supreme Court was a sophisticated system of justice, the intricacies of which, the Africans, who preferred a more informal and simple system, did not easily understand.²⁹ As one member of the Legislative Assembly, supporting the Binns ministry's move, commented: "*The Supreme Court is the outcome ... of the highest civilisation, and that the conditions of the highest civilisation should be brought to bear upon a people still in barbarism is a condition that is not likely to work at all.*"³⁰

Africans, it was pointed out, were different from the Whites so they should have a special court whose judges understood them and their laws. The system of trial by jury in the Supreme Court was a failure, it was argued, since the jurors tended to be lenient and knew little about Africans. There were cases of miscarriages of justice and some cases were dismissed on merely technical grounds.³¹

With regard to the declared policy of the Robinson ministry of ultimately aiming at one set of laws in Natal, Henry Binns had this to say: "*If we imagine that in this colony we are going to assimilate Native law and European law we shall be miserably mistaken, because we shall no more do it than break down the caste perhaps in India.*"³² The Attorney General in milder tones explained that they were not placing obstacles in the way of the assimilation of the laws. Assimilation would involve a slow and long process over the years. If the laws were to be assimilated these would have to be placed on the statute book.³³

29. L.A.D., 1898, Vol. 27, pp. 381 - 382 (Bale).

30. L.A.D., 1898, Vol. 27, p. 387 (J. Baynes, member for Ixopo).

31. L.A.D., 1898, Vol. 27, pp. 381 - 383, 447 (Bale and Hulett).

32. L.A.D., 1898, Vol. 27, p. 390.

33. L.A.D., 1898, Vol. 27, p. 383.

Moor and Escombe were unconvinced by the arguments put forward in favour of the revival of the Native High Court. When the measure was put before the Legislative Assembly, the Attorney General had no sooner concluded his introductory speech³⁴ than Moor and Escombe rose in strong opposition. Moor denounced the proposal as "*a radical measure.*"³⁵ He advised the Binns ministry to give the system a chance and commented that they were reversing the policy of the previous government after being in office for only a short while. He admitted that the Escombe ministry had been aware of the problems in the Supreme Court before they left office. The solution they would have considered would have been to increase the number of judicial officers of the Supreme Court with men who would be knowledgeable about African matters. They would never have considered a revival of the Native High Court. With regard to the delays in having cases heard Moor admitted that this was also a problem of accommodation while Escombe explained that while the judges were sometimes free to hear cases there were no rooms available.³⁶ Moor conceded that the Africans were unhappy because they could not follow the court proceedings since they were conducted in English. The solution he advanced to this was to allow interpretation throughout the case or to have the judge address the Africans in their own language. Moor strongly asserted that a Native High Court was not necessary and that Africans would be happy if they knew that the Supreme Court was for both Africans and Whites and that there was no differentiation. He commented that the African population was in a transitional stage and there were Africans who were moving away from old traditions towards the customs and laws of the White colonists and

34. L.A.D., 1898, Vol. 27, pp. 381 - 384.

35. For Moor's views see L.A.D., 1898, Vol. 27, pp. 386 - 387, 481 - 482.

36. L.A.D., 1898, Vol. 27, p. 384.

these Africans could not be denied access to the Supreme Court. It was preferable then that all Africans should have access to one court. If there were two courts there would be unnecessary difficulties and legal confusion. As a last resort Moor was prepared to accept the creation of a branch of the Supreme Court to deal with African cases but under no circumstances did he favour a completely separate court.

Escombe advanced similar arguments in opposing the measure claiming that they should direct attention to improving the operation of the Supreme Court instead of creating differences between Whites and Africans. He condemned the fact that Africans would be denied the right of trial by jury in the new Native High Court something which they enjoyed in the Supreme Court.³⁷

Escombe and Moor's efforts were in vain. The Courts Act of 1898 came into operation on 15 June 1899³⁸ and a new Native High Court was subsequently appointed.³⁹ Sir Liege Hulett, however, later admitted that the revival of the Native High Court had not been a success and that appeals from the Magistrates' courts should go directly to the Supreme Court, if they wanted to do away with the traditional laws of the Africans.⁴⁰

Though Moor declared his support for the policy of assimilating the judicial systems by supporting the abolition of the Native High Court one becomes even more convinced that

37. L.A.D., 1898, Vol. 27, pp. 384 - 385.

38. N.G.G., Vol. LI, No. 3021, 30.5.1899, Proclamation 58.

39. See N.G.G., Vol. LI, No. 3025, 20.6.1899, Government Notice No. 313.

40. S.A.N.A.C., Vol. III, Evidence of Hulett, p. 182, Question 20397.

it was more Escombe's policy than Moor's when one considers Moor's attempt to solve the judicial problems which ensued on the death of a Chief. Two issues arose when a Chief died: who was to be the new Chief and who was to inherit the property of the deceased Chief? Moor stated that the question of heirship was a difficult one because of the polygamous involvements of the Chiefs who generally failed to select one chief wife from their several wives. Every wife, including the younger ones, then expected one of her progeny to be the new Chief. There were then several hopeful claimants to the chieftainship.⁴¹ The problem was compounded by the fact that the person who was appointed the new Chief did not necessarily inherit the deceased Chief's property. This situation, Moor explained, arose after the statutory enactment of the Code of Native Law in 1891.⁴² The Supreme Chief was, in terms of this law, empowered to appoint all Chiefs⁴³ and the Secretary for Native Affairs, rather than any judge or Administrator of Native Law, would enquire into cases of succession to the chieftainship.⁴⁴ The unlucky claimants, however, sometimes disputed the rights of the new Chief to the property of the deceased Chief. These inheritance disputes, unlike the succession issue, came within the jurisdiction of the courts of law.⁴⁵ The courts, Moor stated, had declared that the Supreme Chief had no right to decide as to who should inherit the property.⁴⁶ Moor found this situation to be most unsatisfactory.

Moor thought it undesirable that the courts of law should decide the issue of heirship because this could conflict with the decision of the Supreme Chief as to the successor.

41. L.A.D., 1900, Vol. 29, p. 142.

42. L.C.D., 1900, Vol. 9, p. 46.

43. This is explained in chapter two.

44. See section 58 of the Code.

45. See L.A.D., 1900, Vol. 29, pp. 141 - 142, 185.

46. L.C.D., 1900, Vol. 9, p. 48.

He cited cases where this had, in fact, happened. There was, for instance, the dispute in the Upper Umkomanzi Division after the death of Chief Bidhla. This case had its origins in pre-responsible government days but it continued into the responsible government era and came to the attention of the Robinson ministry. What had happened was that the Supreme Chief had proclaimed one Dhlangane as the successor to Bidhla but had not declared who was to be the heir. The Native High Court on deciding the heirship proclaimed Gcokota as the true heir. Dhlangane claimed that he should be the heir in view of the Supreme Chief's appointment and Gcokota claimed he should be the new Chief in view of the Native High Court's decision.⁴⁷ In the case of the death of Chief Musi of the Amaqwabe tribe, Moor explained, there were two claimants, Siziba and Meseni. While Meseni was appointed the new Chief, Siziba was declared the heir to the property by the courts.⁴⁸ The Attorney General stated that there were no such problems in Zululand where the Supreme Chief proclaimed both heir and successor.⁴⁹

Moor opposed this state of affairs in Natal since the authority of the Supreme Chief and that of the government were being affected by this litigation, their decisions being challenged by the courts. Referring to this matter of litigation Moor warned members of the Legislative Assembly " ... *it is belittling your Government, and it is belittling your Supreme Chief, ... it is also belittling all your institutions ... and it brings contempt on the authorities all round.*"⁵⁰ The efficacy of the tribal system depended on the ability of the participants to maintain their authority and carry out their duties. Governor Walter Hely-

47. See L.A.D., 1900, Vol. 29, pp. 141 - 142; L.C.D., 1900, Vol. 9, p. 47.

48. L.C.D., 1900, Vol. 9, pp. 47 - 48.

49. L.A.D., 1900, Vol. 29, p. 185.

50. L.A.D., 1900, Vol. 29, p. 142.

Hutchinson had brought the matter of the appointment of Chiefs to the attention of the Robinson ministry in 1895 but they had decided not to alter the system at that time.⁵¹ Moor took up the issue in 1900 declaring it to be urgent.⁵²

Moor stated that it was in the interests of the Africans that he put an end to all this litigation. Litigation was very expensive and the tribes involved were adversely affected by the disputes. In addition to the depletion of their cattle by rinderpest and lack of crops due to drought conditions, these tribes were impoverished and torn apart as a result of the disputes that followed the deaths of their Chiefs.⁵³

Moor's solution to this problem came in the form of a bill amending the Code of Native Law in 1900.⁵⁴ It proposed that the Supreme Chief make a final decision as to the heir, thus removing heirship disputes from the jurisdiction of the courts. The Secretary for Native Affairs would however, in terms of section 2 of the bill, first investigate the case in any way he chose to. Moor explained that his proposal would not be new or strange for he was reverting to a mode of operation which had prevailed in the time of Sir Theophilus Shepstone. The idea was to have the matter informally settled in the form of an "*indaba*" while sitting under a tree with the tribe⁵⁵ and not in the courts.

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51. S.N.A. 1/1/192 Minute papers for 1894: 1203 - '94, Hely-Hutchinson - Robinson, 11.11.1895; Robinson - Hely-Hutchinson, 12.2.1896.
52. L.A.D., 1900, Vol. 29, p. 141; L.C.D., 1900, Vol. 9, pp. 49 - 50.
53. L.A.D., 1900, Vol. 29, p. 142; L.C.D., 1900, Vol. 9, p. 49.
54. For the bill at its second reading see N.G.G., Vol. LII, No. 3102, 19.5.1900.
55. L.C.D., 1900, Vol. 9, p. 50.

He stated " ... we want finality. Finality is what will settle this trouble. If the Natives knew that the Government has decided, and there is no loop-hole or back door by which they can upset the decision, they will accept it willingly and cheerfully ..." ⁵⁶ Moor himself later described his proposal as "contentious" ⁵⁷ since he was faced with opposition in both the Legislative Assembly and Council. It was only after much persuasion, explanation and compromise that the bill was eventually passed by both these Houses.

Objections to the bill were raised for various reasons. It was considered undesirable to interfere with the provisions of the Code of Native Law. An important matter involving the amendment of the Code needed the serious consideration of all members of the House and when the bill was being considered attendance in the Legislative Assembly was poor. The parliamentary session of 1900 was, furthermore, to deal with only very urgent matters. It was therefore suggested that the bill be withdrawn from that session. ⁵⁸ Some argued that the Africans had a right to settle disputes of property in the courts ⁵⁹ and that in terms of the bill the Supreme Chief or the government was going to assume powers which only a judiciary should have. ⁶⁰ Sir John Robinson, Moor's former colleague, opposed the measure for he objected to the fact that too many changes were being made.

56. L.A.D., 1900, Vol. 29, p. 142.

57. L.A.D., 1901, Vol. 30, p. 722.

58. L.A.D., 1900, Vol. 29, pp. 143 - 144 (T. Woods, member for Weenen County); L.A.D., 1900, Vol. 29, p. 187 (Baynes); L.C.D., 1900, Vol. 9, p. 52 (G.M. Sutton).

59. L.A.D., 1900, Vol. 29, p. 144 (Woods).

60. L.A.D., 1900, Vol. 29, p. 143 (Woods); p. 187 (Baynes).

He explained that the Native High Court had only been appointed the previous year and now this new bill proposed alterations which would remove its jurisdiction over cases of heirship.⁶¹ One of the more serious objections to the bill was that it was impinging on the rights of the voiceless Africans who would now be deprived of the right to appeal, a right to which British subjects were entitled.⁶²

Section 2 of the bill which dealt with the role of the Secretary for Native Affairs in the inquiry proved to be the most unpopular. The sweeping powers granted to the Secretary for Native Affairs to investigate any case of disputed heirship as he thought fit was frowned upon. It was pointed out that while they had ample confidence in Moor this might not be the case with another Secretary for Native Affairs.⁶³ To satisfy members of the Legislative Assembly Moor compromised and accepted the suggestion of the Attorney General that section 2 should be altered so as to provide for the appointment of a commission to investigate any dispute that might arise.⁶⁴ It was this proposed amendment by the Attorney General and his detailed explanation of the necessity for the bill which won support for the measure from some members of the Legislative Assembly.⁶⁵ Sutton, a former colleague of Moor's, in opposing the bill in the Legislative Council expressed dissatisfaction at this amendment

61. L.A.D., 1900, Vol. 29, p. 170.

62. L.A.D., 1900, Vol. 29, p. 143 (Woods); p. 187 (Baynes); L.C.D., 1900, Vol. 9, p. 53 (Sutton).

63. L.A.D., 1900, Vol. 29, p. 143 (Woods).

64. See L.A.D., 1900, Vol. 29, pp. 186, 189. Compare section 2 of Act 1 of 1901 "To amend the Code of Native Law" with section 2 of the bill at second reading.

65. L.A.D., 1900, Vol. 29, p. 188 (F. Johnstone, member for Newcastle and W. Palmer, member for Durban County).

because it was undesirable that the Secretary for Native Affairs be relieved of any responsibility in the matter.⁶⁶ Moor dealt with this objection by promising that he or the Under Secretary for Native Affairs would be a member of each commission of inquiry.⁶⁷

Though the bill passed through both the Legislative Assembly and Council objections came from other sources. The Ipepa lo Hlanga much later criticised the fact that the Legislative Council, which was there supposedly to see to the interests of the Africans and to prevent misguided legislation, had accepted the bill.⁶⁸ The Business Committee of the Natal Missionary Conference petitioned against the bill⁶⁹ and the Aborigines Protection Society requested the Secretary of State for the Colonies not to assent to the measure.⁷⁰ They were, however, unsuccessful for the bill was approved in December 1900.⁷¹ Moor, in fact, had stressed the importance of the bill claiming that it was "*indispensable in order to maintain the tribal system and to support the authority of the Governor as Supreme Chief.*" He pleaded that the measure should be sanctioned without delay.⁷²

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66. L.C.D., 1900, Vol. 9, p. 52.
 67. L.C.D., 1900, Vol. 9, pp. 59 - 60.
 68. Ipepa lo Hlanga, 11.3.1904.
 69. See N.G.G., Vol. LII, No. 3110, 19.6.1900 for the petition.
 70. G.H. 198 Numbered Despatches from Secretary of State: No. 230, 18.8.1900, Enclosed letter, H.R. Fox Bourne, Secretary of the Aborigines Protection Society - Joseph Chamberlain, 24.7.1900; No. 231, 1.11.1900, Enclosed letter, Fox Bourne - Under Secretary of State, 25.10.1900.
 71. See N.G.G., Vol. LIII, No. 3147, 15.1.1901, Proclamation No. 2.
 72. G.H. 198 Numbered Despatches from Secretary of State: Moor - Hime, 29.11.1900 (with papers re Despatch No. 231, 1.11.1900).

Commenting on the passage of Act 1 of 1901 the Natal Witness stated: "*The fact is that with regard to our Natives we are shirking our plain duty of endeavouring to bring them under the same law as the European, and all our legislation rather tends, on the contrary, to the crystallisation of barbarous and even immoral savage custom.*"⁷³

These last few words are reminiscent of Moor's own views on legislation and the Africans, which he voiced before he occupied the responsible position of Secretary for Native Affairs.⁷⁴ Act 1 of 1901 could hardly be considered to be a progressive piece of legislation. This measure indicates Moor's opposition to cases of appeal by Africans and his preference for a more primitive judicial system where a case could be autocratically decided and sealed with finality. This was a far cry from the White judicial system which allowed cases of appeal. It indicates the fact that Moor believed that Africans should be treated differently from Whites since their circumstances were different. This differential treatment was also for the Africans own good or so Moor believed.

In accordance with the provisions of Act 1 of 1901 Samuelson, the Under Secretary for Native Affairs, J.O. Jackson, an Acting Judge of the Native High Court and J.Y. Gibson, the Magistrate of Umvoti Division, were appointed in May 1901 to investigate the question of heirship of the deceased Chief Umngcanga and Chief Umbila of the Umvoti Division.⁷⁵ Similar appointments were made to deal with other such cases and S.O. Samuelson later informed the Natal Native Affairs Commission that the system was not successful. While Moor had promised that the Native Affairs Department would be represented on the advisory board, Samuelson informed the Com-

73. Natal Witness, 13.11.1900 (Editorial).

74. See introduction, p. 8.

75. N.G.G., Vol. LIII, No. 3164, 19.3.1901, Government Notice No. 133.

mission that this was not kept to in later years; generally Magistrates were appointed and there was no involvement by the Native Affairs Department.⁷⁶ His brother R.C.A. Samuelson considered the system an unjust one for it seems that inexperienced men were appointed to investigate the disputes which were by no means simple. The injustice was compounded by the fact that there was no provision for appeal.⁷⁷

Another issue which indicated Moor's preference for governing Africans differently and his paternalistic attitude was the question of the use of lawyers in the judicial system in cases which involved Africans. In chapter five it was seen that Moor antagonised a small interest group, the riksha owners. He now antagonised another interest group, the lawyers. In the days of Sir Theophilus Shepstone, Etherington points out, David Dale Buchanan, a lawyer and editor of the Natal Witness, tried to represent Africans in cases which went before the courts. He was quite unsuccessful and was informed that the laws of the Africans made no provision for lawyers.⁷⁸ It was after 1891 that Africans increasingly sought and attained representation by lawyers in the courts.⁷⁹ Moor was in favour of reverting to the early days of administration where lawyers had no role in the judicial system for Africans. The Natal Witness described the aversion to lawyers as the "*latest fad*"

76. N.N.A.C., Evidence of Samuelson, p. 15.

77. Samuelson: Long Long Ago, p. 191.

78. Etherington: The Rise of the Kholwa in South East Africa, p. 27.

79. See Report of the Native Suitors Commission, p. 6, paragraph 32 (For the Report see N.G.G., Vol. LV, No. 3308, 10.3.1903, Government Notice No. 193 or N.P.P. 197 Documents presented to the Legislative Assembly: 98, 30.4.1903. In this chapter the page references to the report are as those given in Document 98 in N.P.P. 197).

of people who considered themselves to be interested in the well-being of the Africans.⁸⁰ Moor however, had definite reasons for his attitude.

It was during the debate on his bill dealing with the heirship issue in 1900 that Moor indicated his aversion to lawyers. He claimed that the only people who benefitted from the disputes over succession and heirship were the lawyers. He stated that it was these lawyers who opposed his bill for they would in terms of its proposals not be allowed to interfere in these matters and that lawyers were "*reaping the golden harvest out of the ruin of these people ...*"⁸¹ Moor argued that Africans themselves were not happy with the role of lawyers and that the general belief was that all one had to do to win a case was to have enough money to secure the service of a lawyer. The outcome of a case was determined not by who was right but by who had the most money.⁸² Moor later told the South African Native Affairs Commission that lawyers delayed the quick settlement of cases and that extensive litigation taxed the Africans financially. Africans, he pointed out, were used to justice being administered informally without delay.⁸³ The Attorney General observed in 1900 that Africans believed that lawyers had considerable power and they could even reverse a decision made by the Supreme Chief.⁸⁴ Here lay the most important reason for Moor's attitude. It was undesirable that the authority of the Supreme Chief, his ministers, and their institutions should be challenged if the tribal system was to be maintained. Moor was accused of being

80. Natal Witness, 27.12.1901 (Editorial).

81. L.C.D., 1900, Vol. 9, p. 49.

82. L.C.D., 1900, Vol. 9, p. 59.

83. S.A.N.A.C., Vol. III, Evidence of Moor, p. 223, Question 20912.

84. L.C.D., 1900, Vol. 9, p. 55.

"... too sweeping in his denunciation of the legal profession ..." ⁸⁵ However he was to antagonise the legal profession further.

When the Native High Court was reconstituted it was provided that advocates and attorneys who practised in the Supreme Court would also be allowed to practise in the Native High Court. The proviso attached to this allowed for a bill of costs between party and party and also between attorney and client which would be taxed according to a specific tariff which the court would decide on. ⁸⁶ In an effort to discourage Africans from employing lawyers to plead their cases the Hime ministry, of which Moor was a member, proposed in 1901 among several other amendments to the Courts Act of 1898, to repeal this proviso and insert a new proviso which would not allow party and party costs to be charged by advocates and attorneys. Fees would only be charged as between attorney and client which would still be taxed by the court. ⁸⁷ The proposed amendment, the Attorney General stated, was made on the recommendation of the Judges of the Native High Court and the idea of not allowing party and party costs was that if the African felt the need for a lawyer he should pay for this whether he won or lost a case. Africans should be encouraged to present their own cases rather than to seek the assistance of lawyers. ⁸⁸ The prime motive, then, behind the amendment was to discourage the appearance of lawyers in the Native High Court. If party and party costs were not allowed Africans would be reluctant to go to a lawyer because they would know beforehand that no matter what the

85. Natal Witness, 13.11.1900 (Editorial).

86. See section 76 of the Courts Act of 1898.

87. See section 2 of the bill "To amend the Courts Act of 1898" (N.G.G., Vol. LIII, No. 3183, 25.6.1901).

88. L.A.D., 1901, Vol. 30, pp. 655 - 656.

outcome of the case was they would be still faced with the responsibility of paying their lawyer.

The Natal Witness saw the suggested amendment as the work of Moor: "*Of course, the bold Roman hand of the Secretary for Native Affairs is clearly traceable in this, for Mr. Moor, in his capacity of guide, philosopher, and friend to the Native, makes no secret of his antipathy to the lawyer ...*"⁸⁹ When the relevant section of the bill was being considered by the committee of the House of Assembly Moor stated that he was convinced that African opinion would reveal their preference for pleading their own cases. He claimed, for instance, that Africans were happy with the Native Affairs Department's new mode of dealing with the question of heirship by which a commission of inquiry was appointed. Without the presence of lawyers the Africans would be saved unnecessary expense.⁹⁰ In fact, the interpreter of the Native High Court, R.A. Marwick, claimed that African opinion indicated that they were not in favour of party and party costs but only attorney and client costs. It did not seem fair to the Africans that the successful litigant should have his costs paid by the unsuccessful one. Africans preferred an informal, simple judicial system and could present their cases themselves. If a litigant needed a lawyer it was only fair he should bear the costs himself.⁹¹

Understandably the proposed amendment raised the hackles of the legal profession. E.M. Greene, who was the President of the Natal Law Society as well as a member of the Legislative Assembly, claimed that the measure was "*casting aspersions on the legal profession.*" He admitted the desirability of keeping the costs of litigation as low as possible but argued

89. Natal Witness, 23.7.1901 (Editorial).

90. L.A.D., 1901, Vol. 30, p. 722.

91. See L.A.D., 1901, Vol. 30, pp. 721 - 722 for Marwick's report.

that if a man won a case it was only right that the unsuccessful litigant be penalised by paying the costs of the successful party.⁹² In direct contrast to the attitude of the lawyers there were members of the Legislative Assembly like J.F. Rethman and E.A. Brunner who wished to see a far more extreme amendment which would totally bar lawyers from representing Africans in the court in civil cases.⁹³ To deal with these opposing views Moor suggested that the government's measure should be passed as it stood but promised that they would appoint three men to investigate the whole question of the appearance of lawyers for Africans and the costs involved. They would endeavour to find out the opinions of the Africans and thereafter members of the House could consider the issue.⁹⁴

Moor's suggestion of a commission of inquiry was well received but he failed to convince certain members of the Legislative Assembly that the controversial provision of the bill should be passed. F.S. Tatham, a member of the legal profession and the representative in the House for Pietermaritzburg, advised that in view of Moor's proposal the controversial amendment should not be passed. If the commission reported that it was in the interests of Africans that lawyers be barred from the court they would accept the finding.⁹⁵ Faced also with the extreme attitude of Brunner, the member for Eshowe, the Attorney General favoured the expunging of the offending section from the bill. The commission promised by Moor would then investigate the issue.

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92. L.A.D., 1901, Vol. 30, pp. 656 - 657. See also the report of the annual meeting of the Natal Law Society in the Times of Natal, 13.11.1901.
93. L.A.D., 1901, Vol. 30, pp. 660, 719 - 720, 724.
94. L.A.D., 1901, Vol. 30, p. 722.
95. L.A.D., 1901, Vol. 30, pp. 723 - 724.

Brunner accepted this and section 2 was deleted from the bill.⁹⁶

Three months later, in October 1901, Moor asked ministers to consider his recommendation for a commission to investigate the question of the use of advocates and attorneys by Africans in Natal and the question of costs.⁹⁷ He added that the commission members would be J.C.C. Chadwick, the Magistrate of Umgeni Division, T.J. Allison, an attorney whose name had been suggested by the Natal Law Society,⁹⁸ and S.O. Samuelson, the Under Secretary for Native Affairs. The Native Suitors Commission was subsequently appointed in December 1901.⁹⁹

The commissioners visited and heard evidence from Pietermaritzburg, Estcourt, Ladysmith, Dundee, Greytown, Bulwer, Ixopo, Upper Umzimkulu, Harding, Port Shepstone, Umzinto, Durban, Verulam, and Stanger.¹⁰⁰ They did not however visit Zululand though they communicated with Charles Saunders, the Chief Magistrate and Civil Commissioner.¹⁰¹ Evidence in Natal was taken from 240 witnesses: the Judge President of the Native High Court, 15 Magistrates, 77 Chiefs and Acting Chiefs, 64 Headmen who, like Chiefs, were empowered to hear civil cases,¹⁰² 65 kholwa and other Africans,

96. L.A.D., 1901, Vol. 30, p. 725. The bill passed as Act 47 of 1901 "To amend the Courts Act, 1898."

97. See C.S.O. 2813 Report, Correspondence and Annexures of the Native Suitors Commission: Moor - Colonial Secretary, 30.10.1901.

98. See C.S.O. 2813 Report, Correspondence and Annexures of the Native Suitors Commission: Clerk (Secretary for Native Affairs Department) - H.C. Campbell, 8.10.1901.

99. See N.G.G., Vol. LIII, No. 3222, 24.12.1901.

100. Report of the Native Suitors Commission, p. 2, paragraph 4.

101. Report of the Native Suitors Commission, p. 7, paragraph 35.

102. See section 4 of Act 13 of 1894 "To amend the Code of Native Law ..."

7 White private individuals and 11 lawyers.¹⁰³ Thus those who would try cases, those who were ordinary Africans and potential suitors, and the subjects of the investigation, the lawyers, were given an opportunity to present their points of view.

The evidence indicated that most of the Chiefs, Acting Chiefs, and Indunas or Headmen were against the appearance of lawyers in civil cases over which they had jurisdiction but were prepared to concede the necessity for lawyers in criminal cases over which they had no jurisdiction.¹⁰⁴ Their dislike for lawyers could be explained by the fact that Africans who received an unfavourable verdict in their Chief's court could appeal to their Magistrate's court and they frequently employed lawyers to plead their cases. These lawyers were on occasions successful in securing a reversal of the Chief's decision. This upset the Chiefs because they felt that their authority was being adversely affected.¹⁰⁵ In fact it was stated that the employment of lawyers resulted in Africans being contemptuous of all authority. As one Chief informed the commissioners: "*... neither you, or [sic] the Magistrate, or [sic] any Government officer has any prestige among the Natives. You are all down. The lawyer now takes precedence over all of you.*"¹⁰⁶ Some Magistrates also pointed out that those Africans who took their cases to the higher courts tended to be disrespectful towards the lower courts.¹⁰⁷

103. Report of the Native Suitors Commission, p. 2, paragraph 5; p. 16.

104. Report of the Native Suitors Commission, p. 3, paragraph 18. For the Commission's analysis of the evidence see Appendix 5.

105. Report of the Native Suitors Commission, pp. 3 - 4, paragraphs 19 - 22.

106. C.S.O. 2810 Evidence of the Native Suitors Commission: Chief Tom Fynn, p. 307.

107. C.S.O. 2810 Evidence of the Native Suitors Commission: P.W. Shepstone, p. 340; J. McLaurin, pp. 468 - 469.

The Chiefs preferred their subjects to go directly to the Magistrates without lawyers¹⁰⁸ and disliked the idea of being cross-examined by the lawyers.¹⁰⁹ The advent of lawyers, it was argued, was an innovation of the White people to African society.¹¹⁰

The usual arguments, that lawyers encouraged litigation, that Africans were drained of their money and that the quick settlement of cases was delayed, were advanced.¹¹¹ Some witnesses pointed out that Africans could easily present their own cases for most cases were simple.¹¹² Some argued that lawyers encouraged Africans to tell lies and that the latter considered that the person who presented the tallest stories and who had plenty of money would win his case.¹¹³ It was asserted that Africans did not understand what was meant by a plea of not guilty.¹¹⁴ Mhlwenga, an Induna, stated: *"The word that is much relied upon by the Natives now is the word 'deny'. That word has been brought into being by the lawyers ... Even if a man has done a thing he is told to deny it."*¹¹⁵

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108. See for instance C.S.O. 2810 Evidence of the Native Suitors Commission: Pata, p. 41; Chief Miskofini, p. 130; Acting Chief Dhlukulwana, p. 381; Chief Matomele, pp. 396 - 397.
109. C.S.O. 2810 Evidence of the Native Suitors Commission: Joseph Fynn, pp. 415 - 416.
110. C.S.O. 2810 Evidence of the Native Suitors Commission: Chief Tom Fynn, p. 306.
111. See for instance C.S.O. 2810 Evidence of the Native Suitors Commission: Donald Strachan, p. 273; Chief Tom Fynn, p. 306; Acting Chief Dhlukulwana, p. 386; C.S.O. 2811 Evidence of the Native Suitors Commission: Gwazununa, p. 656.
112. C.S.O. 2810 Evidence of the Native Suitors Commission: R.M. Archibald, p. 494; C.S.O. 2811 Evidence of the Native Suitors Commission: W.R. Saunders, p. 721.
113. C.S.O. 2811 Evidence of the Native Suitors Commission: W. Thomson, pp. 564 - 565; Evidence of Funga, p. 607.
114. C.S.O. 2811 Evidence of the Native Suitors Commission: J.L. Knight, p. 897.
115. C.S.O. 2810 Evidence of the Native Suitors Commission: Mhlwenga, p. 324.

The evidence of those witnesses who were against lawyers and whose views were similar to those of Moor, is significant. Just as significant is the evidence of those who saw some merit in having lawyers appear for Africans in the courts. These indicate that had Moor chosen to bar lawyers from appearing for Africans he would have offended certain Africans who would have interpreted his paternalistic move as an act of injustice. The Natal Native Congress, for instance, declared its opposition to any moves to bar lawyers from African cases and on hearing of the commission decided to send as witnesses, the President of the Congress, Martin Lutuli, H.C.C. Matiwane who was the Secretary and S. Nyongwana, an executive member.¹¹⁶

It was pointed out by some witnesses that the African Chiefs would naturally be against lawyers who appeared for their people in cases of appeal against acts of injustice carried out by these Chiefs. These Chiefs in opposing lawyers were not representing the opinion of their people.¹¹⁷ In fact, several Chiefs admitted that though they were against lawyers they were not speaking for their people who would have to be consulted.¹¹⁸ One lawyer indicated that three out of four cases that he dealt with were appeals from the decision of a Chief.¹¹⁹ Matiwane informed the commissioners that in the past orators were present at the deliberation of a case before a Chief and they paid careful attention so that if and when a Chief made an error they could intervene. This

116. See Natal Mercury, 4.6.1902.

117. C.S.O. 2811 Evidence of the Native Suitors Commission: H.H. Pepworth Waller, pp. 574, 577; G.H. Hulett, p. 824; H.C.C. Matiwane, p. 924.

118. See Report of the Native Suitors Commission, p. 5, paragraph 28.

119. C.S.O. 2811 Evidence of the Native Suitors Commission: H.H. Pepworth Waller, p. 574.

custom had now died out.¹²⁰ Africans then needed lawyers to protect them and this idea was strongly expressed in the evidence of one Dhlozela. In expressing his abhorrence for the idea of barring lawyers from African cases he stated that if this was ever implemented there would be widespread dissatisfaction which would culminate in bloodshed because their Chiefs were not good and just people: "*I say that lawyers are the pillars that support the world, and from whom we get our salvation because they assist the person who is being skinned by the very Chiefs you have called here as witnesses.*"¹²¹

The evidence of witnesses indicated that the Magistrates and Chiefs were perceived by the ordinary African as being on the same side.¹²² Sometimes the Magistrates were hasty and did not hear all the evidence. In other cases there were delays before a case was seen to. To obtain a good and prompt hearing, it was argued, Africans sought the services of lawyers.¹²³ Martin Lutuli explained that in some cases the Magistrates were not friendly and appeared stern and an African who was nervous tended to be made even more so and consequently would not plead his case satisfactorily. A more confident party would in this case make a more favourable impression. If the timid or scared African obtained a lawyer his interests would be seen to.¹²⁴

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120. C.S.O. 2811 Evidence of the Native Suitors Commission: Matiwane, p. 916.
 121. C.S.O. 2810 Evidence of the Native Suitors Commission: Dhlozela, p. 255.
 122. Report of the Native Suitors Commission, pp. 4 - 5, paragraph 26; C.S.O. 2811 Evidence of the Native Suitors Commission: Matiwane, p. 925.
 123. C.S.O. 2810 Evidence of the Native Suitors Commission: Qaijana, p. 265; C.S.O. 2811 Evidence of the Native Suitors Commission: A.W. Wray, p. 594.
 124. C.S.O. 2811 Evidence of the Native Suitors Commission: M. Lutuli, pp. 1017 - 1018.

Mahlombe, an Acting Chief of the Amanxumali tribe explained why he favoured lawyers: "How can we refuse to employ men who will accompany us to the court of the lions, and who are not afraid to stand up before the lions ... the Government sometimes appoints men who do not understand us, and who do not know our language, men who are like lions in their ways, and what are we to do in such a case if we cannot get a lawyer to stand by us when we appear before such a man."¹²⁵

Matiwane, while aware that the question before the commissioners did not involve the exempted African since the Commission was concerned with examining the need for lawyers in courts that administered customary law, drew attention to the fact that there were a large number of unexempted Africans who were involved in business and held shares in land companies. Many were storekeepers. Lawyers would be needed at some time by these Africans to draw up contracts or to settle matters when differences emerged in business between, for instance, partners.¹²⁶

The Native Suitors Commission published its report in March 1903 with Samuelson submitting a separate report. Samuelson had in fact decided to submit his own report even before the commissioners met to draw up their final resolutions and recommendations.¹²⁷ From their analysis of the evidence Chadwick and Allison did not feel the need to recommend that lawyers be barred from appearing for African suitors in the courts that administered customary law. They could recommend no other ways in which African suitors could be represented other than by lawyers.¹²⁸ Samuelson, in contrast,

125. C.S.O. 2811 Evidence of the Native Suitors Commission: Acting Chief Mahlombe, p. 1050.

126. C.S.O. 2811 Evidence of the Native Suitors Commission: Matiwane, pp. 910 - 912.

127. See Report of the Native Suitors Commission, p. 7, paragraph 36.

128. Report of the Native Suitors Commission, pp. 7 - 8, paragraph 37 (a) and (c).

recommended the extension of the practice operating in Zululand to Natal.¹²⁹ In Zululand Africans were not allowed representation by lawyers and had to plead their own case. The court would only permit representation if it was evident that legal assistance was necessary. Generally in criminal cases Africans were permitted lawyers if they wished. In civil cases however the general rule was that Africans pleaded their own case.¹³⁰

Samuelson stated that as long as Africans appeared before separate courts and were under special laws it was in the interests of all that they should not freely employ lawyers to represent them. It was not good for the authority of the government to be questioned in any way through these lawyers. If authority was not maintained the Africans would become uncontrollable. Samuelson noted that Africans were not so obedient or controllable though he did not directly blame the legal profession for this change. He claimed that the interests of the Africans were seen to by the courts of law and there was no need for lawyers. He, however, drew attention to the shortcomings in the Magistrates' courts which emerged from the evidence and which could be rectified. Like Moor he cited the success of Act 1 of 1901 which settled heirship disputes without lawyers and without unnecessary expense. While there were Africans involved in trade who would on some occasions need legal assistance Samuelson asserted that the number of such cases was insignificant. To support his recommendation for withdrawing legal assistance he cited the evidence of those witnesses opposing the appearance of lawyers for Africans.¹³¹

129. Report of the Native Suitors Commission, p. 26.

130. See C.S.O. 2813 Report, Correspondence and Annexures of the Native Suitors Commission: C. Saunders - Chairman of Commission, 20.1.1902; enclosed section 41 of Zululand Proclamation II of 1887.

131. Report of the Native Suitors Commission, pp. 22 - 29.

Even before the report of the Native Suitors Commission had been issued the Hime ministry, which had to formulate policy in the newly annexed districts of Natal, regulated the appearance of lawyers in these Northern Districts in accordance with the practice in Zululand. Africans appearing before the courts of the Magistrates in civil cases were to plead their own cases. Permission would have to be obtained if the African needed legal assistance and the court would decide whether such assistance was necessary.¹³² One senses the influence of Moor in this matter. He later declared that it was regrettable that the policy that was implemented in the Northern Districts and Zululand did not operate in Natal.¹³³ The restriction imposed was supported by the Magistrates of Vryheid and Utrecht but was not popular with the Natal Law Society nor with the Judges of the Native High Court who asserted that there should be a consistent policy and that the practice in Natal should prevail in the new districts also.¹³⁴

The Hime ministry did not act on Samuelson's minority report. In July 1903, a month before leaving office, Moor advised the Prime Minister that this matter needed their serious consideration. The occasion that evinced this concern was the reversal of Magistrates' decisions by the Native High Court in certain appeal cases involving members of the tribe of Lewis Ogle. Moor condemned the outcome of the appeals which let off the defendants in most cases and in other instances reduced the severity of the sentence. He commented

132. N.G.G. Vol. LV, No. 3299, 27.1.1903, Proclamation 9, 1903, section 4.

133. S.A.N.A.C., Vol. III, Evidence of Moor, p. 223, Questions 20912 - 20913.

134. See S.N.A. 1/1/299 Minute papers for 1903: 881 - '03, re section 4 of Proclamation 9, 1903.

that this was " ... disastrous to the prestige and authority of the Government and the effect thereof will be most detrimental and injurious to the future order and good conduct of the Natives ..." He expressed irritation at lawyers and increased litigation: "Nothing is more calculated to bring the Government and its officers into contempt with the Natives than this intervention of third parties ..." and he added that in his opinion the government would be failing in their duty to the Africans and the whole colony if it ignored the matter and did not consider Samuelson's minority report.¹³⁵

Moor was thus unsuccessful in preventing Africans from employing lawyers to plead their cases in courts administering customary law. He firmly believed that it was not only in the government's interest that lawyers should not represent Africans but that it was also in the interests of the Africans. Moor's stand was strongly supported by the Natal Native Affairs Commission which reported in 1907 that African opinion indicated that lawyers should be barred from civil cases. The Commission recommended that this be done in the Magistrates' courts.¹³⁶ Moor's fervent adherence to the tribal system and its basic tenets, together with his protective attitude towards the Africans, accounts for his views on this important question of legal representation. However well-meaning Moor's objectives may have been and notwithstanding the report of Commission, had he been successful he would have been responsible for entrenching further the differences in the judicial systems for Whites and Africans. Moor, as seen above, had to satisfy himself in 1903 with a strongly worded minute to Hime and when he left office the whole question of legal representation was added to the growing list of unresolved issues.

135. S.N.A, 1/1/302 Minute papers for 1903: 2013 - '03, Moor - Hime, 1.7.1903.

136. N.N.A.C., Report, p. 30, paragraph 79.

CONCLUSION

By August 1903 Natal had enjoyed ten years of responsible government during which four ministries had held office. The Native Affairs Department had been controlled by Moor for eight of the ten years.

Commenting on the policy followed in Natal, with regard to the Africans since responsible government, Robinson stated that " ... the principles laid down by the statesmen who founded the colony are as faithfully observed under the rule of the colonists as they were under the rule of the Crown."¹ Moor was not a Shepstone but under him the Native Affairs Department adhered firmly to the Shepstonian system. Shula Marks, with some accuracy, describes Moor as being "pre-eminently a White supremacist in the Shepstone tradition ...",² remarking also that the dual system of administration in Natal had been advanced in the 1840's as a practical and necessary solution to the whole question of administration but the colonists in maintaining it "made a virtue out of necessity."³

It has been shown that Moor believed that the tribal system was the only effective means by which the Africans could be governed. The authority of the Supreme Chief, the Secretary for Native Affairs and the African Chiefs had to be maintained. Moor saw the Code of Native Law as an effective instrument through which absolute control over the Africans could be achieved. Following in the Shepstone tradition he discouraged the system of exemption from customary law which had been

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1. Robinson: A Life Time in South Africa, p. 324.
 2. Marks: Reluctant Rebellion, p. 21.
 3. Marks: Reluctant Rebellion, p. 119.

provided so as to make it possible for Africans to turn their backs on traditionalism and tribal life. Likewise, Moor was opposed to granting the franchise to the Africans. He totally opposed the idea of land being held in freehold and this became a major issue on the mission reserves.

Moor then was reluctant to bring about or encourage change. He tended to treat the Africans as if African society was in a vacuum and assiduously implemented a policy conceived in the environment of the 1840's. The Natal Witness⁴ as well as the Times of Natal⁵ drew attention to what they perceived as a major deficiency in the policy of the Native Affairs Department. They argued that the whole social environment was changing and that the Africans themselves were changing. The policy of the Department would have to be adjusted to take cognisance of this change. Moor, as seen in chapter two and three, believed that it would take centuries for the Africans to reach the same stage of development as the White colonists. His solution to the problems faced by that educated class of African which belonged neither with African tribal society nor with the White settler community, was that this class should remain with their fellow Africans until they had all reached the same level of development. The Native Affairs Department, under Moor's direction, related more easily to the kraal African than to the educated African, the exempted African or the kholwa.

While it is easy to criticise Moor and his Department for not implementing or recognising change, chapter two indicates that the colonists in general were not prepared to accept change. An issue as to whether an exempted African could

4. Natal Witness, 19.1.1901 (Editorial).

5. Times of Natal, 14.3.1902 (Editorial).

walk in the streets of a town after dark was blown up by the colonists out of all proportion and was made a major issue. In view of the attitude of the majority of the colonists it seems unlikely that any Secretary for Native Affairs could have implemented a progressive policy even if he had wished to.

If one of Moor's criticisms of the past administration of the colony was that they had kept the Africans "*in a state of savagery and heathenish barbarism*"⁶ then one of the ways in which he could have remedied the situation was to provide education for the Africans. Education should have been Moor's concern for two reasons: firstly, its value as an agent of socialisation and secondly, £10 000 had been set aside annually not only for the general welfare of the Africans but also specifically for their education and this vote formed part of the Native Affairs Department's annual budget. However an anomalous situation arose where Moor and the Native Affairs Department took no action towards the advancement of African education.

In 1894 Moor had been appointed to the Council of Education,⁷ a body which had ten years earlier been given control of African education.⁸ Shortly afterwards this Council ceased to exist, all its powers and responsibilities being hereafter entrusted to the Governor of Natal.⁹ In addition there was to be a Minister of Education; Sir John Robinson being the first to hold this office. Moor was unhappy about the new

6. See introduction, p. 8.

7. N.G.G., Vol. XLVI, No. 2654, 9.1.1894, Government Notice No. 8.

8. In terms of Law 1 of 1884 "*For the promotion of Elementary Education among the Children of the Native Population*" (N.G.G., Vol. XXXVI, No. 2055, 22.4.1884).

9. See Act 5 of 1894 "*To amend the Laws relating to Education*" (N.G.G., Vol. XLVI, No. 2686, 3.7.1894).

arrangement since he now had no say in determining education policy but yet was responsible for the £10 000 reserved vote part of which was to be spent on African education. Eventually he was relieved of responsibility for that part of the £10 000 reserved for African education.¹⁰ In an angry minute written during his term of office in the Hime ministry Moor remarked bitterly: "*Native education is not under my control. I have strongly expressed my views on this question, and so did my predecessor Mr. Hulett, but I have been overruled by my colleagues.*"¹¹ His frustration felt at the situation is particularly obvious in the case of the request by John Dube for financial assistance from the government for his school at Ohlange. While Moor recommended that aid be granted Dube's application was refused.¹²

Although the government annually provided grants for African schools in Natal these were inadequate and the whole burden of African education was left to the mission societies. The Africans, unaware of Moor's unfortunate position, blamed him and the Native Affairs Department for the deficiencies in the education offered to African children and they realised that whatever education they did receive was as a result of missionary rather than government effort. They wanted to know whether the Native Affairs Department had ever pleaded for the establishment of government schools for the Africans.¹³

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10. G.H. 1550 General Memoranda Relating to Native Affairs: 771 - '07, Report by Samuelson, 24.12.1907, p. 11.
 11. S.N.A. 1/1/290 Minute papers for 1900: 1447 - '00, Moor - Hime, 12.4.1901.
 12. S.N.A. 1/4/10 Confidential papers for 1902: 36 - '02, Moor - Minister of Education, 10.6.1902; Minister of Education - Moor, 16.9.1902.
 13. Ipepa lo Hlanga, 14.12.1900 (Translation in S.N.A. 1/4/9 Confidential papers for 1901: 1 - '01, Article in Ipepa lo Hlanga).

Between 1893 and 1903 not a single African school had been established by the government. By contrast in 1895 there were 22 government schools in Natal of which 20 were for Whites and 2 for Indians¹⁴ and by 1904 there were 41 government schools: 34 for Whites, 5 for Indians and 2 for Coloureds.¹⁵ Moor and other members of the Hime ministry had intended to establish government schools for the Africans¹⁶ but their intentions had remained unfulfilled. The Africans also wished to know what was Moor's responsibility for the much resented regulation of 1895 which affected the grants given to schools providing industrial training.¹⁷ The Africans wanted to be informed about the stand of the Native Affairs Department on African education but Moor maintained a deafening silence as accusations were heaped on his Department.

While the Natal Witness criticised Moor for not observing the changed circumstances of the Africans it also noted that Moor was following Shepstone's system the success of which had hinged on Shepstone's personality. Moor and other political leaders, it was asserted, did not have these qualities of personality nor the special relationship with the Africans.¹⁸ Moor, it was argued, rarely visited the locations while Africans calling at the offices of the Native Affairs Department saw Samuelson instead of Moor.¹⁹ In fact

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14. Report of the Superintendent of Education of Natal for 1895, p. 3.
 15. Report of the Superintendent of Education of Natal for 1904, p. 21.
 16. See G.H. 1550 General Memoranda Relating to Native Affairs: 771 - '07, Report by Samuelson, 24.12.1907, pp. 8 - 9.
 17. Natal Witness, 24.9.1897 (Letter from "Umuntu Ka Kwini").
 18. Natal Witness, 19.1.1901 (Editorial).
 19. Natal Witness, 19.3.1897 (Editorial).

Samuelson noted in 1907 that one of the significant grievances of the Africans, emerging from the Natal Native Affairs Commission (1906 - 1907), was that since 1893 the officials of the government had appeared impersonal to the Africans. The Commission then stressed the importance of personal relationships with the Africans.²⁰ Moor, like Shepstone, adopted a paternalistic attitude towards the Africans but he obviously did not have the same relationship that Shepstone had with the Africans.

In all fairness to Moor, while he did not sit under the trees solving the problems of the Africans with them, as Shepstone had done, he did at least make his Department accessible to the Africans and he stressed that they had the right to approach his office.²¹ In fact he was criticised by J.G. Maydon for this policy: "*... we do say that the Office of Native Affairs is the resort of every discontented, not only Chief and Headman, but even ordinary Native, who comes and brings around complaints; and whether he gets them altered or not he does at least get them listened to, and by that means alone he is encouraged to complain, and encouraged in discontent.*"²² In this matter then Moor seems, despite his good intentions, to have satisfied neither the Africans nor the colonists.

Moor, as seen in chapter four, used part of the reserved vote to improve the position of the Africans in the locations. It was in the locations that he tried to remedy the policy of the past administration. He had pointed out that the locations were locked away from civilisation and he tried to change this by building roads and encouraging progressive

20. G.H. 1550 General Memoranda Relating to Native Affairs: 811 - '07, Samuelson on the recommendations of the N.N.A.C., p. 10.

21. L.A.D., 1903, Vol. 33, p. 96.

22. L.A.D., 1903, Vol. 33, p. 90.

farming methods. Moor, in formulating his location policy, was also concerned about reducing friction between African and African as well as between African and White. Hence he defined boundaries between tribes and fenced the locations. The Africans were also under the strict control of the Natal Native Trust. To a large extent Moor had attained his objectives and he was confident that he had achieved positive results with his location policy.

With the appointment of the first responsible government ministry in 1893 some colonists speculated about possible changes in "Native policy" now that colonists themselves could decide on it, but it was not long before they realised that there were to be no dramatic changes. It seemed that the new government was following the same pattern of administration that they had criticised in pre-responsible government days. In 1893 Moor was not recognised for being an authority on African matters but as a result of his subsequent experience in the Department he was ultimately respected for his knowledge of the African and the Native Affairs Department.²³ However, he and the government were accused for following a policy of "Let things slide",²⁴ "a laissez faire policy",²⁵ "a policy of drift",²⁶ "masterly inactivity",²⁷ and "apathetic indifference."²⁸ Moor's policy, it was claimed, was motivated by the prayer "Give peace in our time, O Lord."²⁹ While there were those critics who gave serious thought to the "Native question" and wanted the Native

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23. See for instance Natal Mercury, 7.6.1901 (Editorial); Times of Natal, 14.3.1902 (Editorial).
 24. Natal Witness, 11.7.1901 (Editorial).
 25. Natal Mercury, 21.6.1899 (Editorial); Natal Witness, 10.10.1901 (Editorial).
 26. Natal Witness, 11.9.1901 (H.H. Janion at Weenen).
 27. Times of Natal, 14.3.1902 (Editorial).
 28. L.A.D., 1899, Vol. 28, p. 248 (Pepworth).
 29. Natal Witness, 17.9.1901 (Letter from H.E. Stainbank).

Affairs Department at least to recognise the changing circumstances amongst the Africans and to see its duty as being far more complex than controlling the Africans there were those who linked the whole question with the unsatisfactory labour situation. The duty of the Native Affairs Department, this latter group maintained, was to civilise the Africans so as to make them aware of the value of work.

It has been shown in chapter five that Moor dismissed criticisms of "Native policy" as being directly related to the labour issue. He also referred to the "Native question" as an "ever-standing dish"³⁰ that was served at every parliamentary session. He commented: " ... it has occurred to me that when anybody ... wishes to fling an irresponsible brick about, the Native policy or the Native is a handy man to throw at."³¹ Moor had, however, to face the fact that many colonists looked to the Native Affairs Department to solve their labour problems and this created a conflict situation for him.

R.D. Clark points out that a satisfactory "Native policy" would be found if two questions were borne in mind: what was good for the Africans and what was good for the colonists?³² Moor found that the answers to these questions, particularly with regard to the labour issue, were too diverse to enable him to provide a solution which would satisfy both race groups. It was on this issue that the political nature of his office hindered him in his formulation of policy. He could not ignore his obligation to the White electorate or his duty to the African people and in chapter five Moor's attempts to walk the tightrope between the White colonists

30. L.A.D., 1902, Vol. 31, p. 109.

31. L.A.D., 1901, Vol. 30, p. 185.

32. R.D. Clark: The Native Problem; a Lecture, p. 6.

and the Africans are described. His labour policy was free from any desire to burden the African with increased taxes or pass fees or to impose new taxes. He refuted the colonists' accusations that the Africans were indolent. He looked beyond the borders of the colony to solve the colony's labour requirements because the demand for labour in Natal was in excess of the local labour supply. Public pressure and the failure of his attempts to obtain labour from Portuguese East Africa resulted in the increase of the tax payed by the squatters.

Apart from being sensitive to the opinions of the White electorate Moor also had to contend with the fact that, in addition to being in charge of the Native Affairs Department he was a member of a ministry whose support he needed to implement his policy. As a result of this Moor could not abolish the system of exemption, he could not control African education and he could not resolve the mission reserves issue to his satisfaction in 1897. Moor had to also accept the stalemate in the mission reserves question in 1897 because the Escombe ministry was replaced by the Binns ministry. This was another fact that Moor had to face that his position in the Department was not permanent or secure. His suggested solution to this problem and to the problem of providing adequate representation for the Africans was that the Secretary for Native Affairs should occupy a permanent position but as seen in chapter three his suggestion was not put into effect.

While there were some Africans who respected Moor for his honesty and forthright manner of dealing with them³³ there

33. See for instance Natal Mercury, 15.6.1899 (Letter from J. Mapumulo).

were others who were sadly disillusioned. One African commented bitterly in 1897:-

"Our thanks are due to the Moor-Samuelson regime for the following:-

- 1) Withdrawal of grants to industrial schools.
- 2) Discouragement of exemption.
- 3) Reduction of Native education.
- 4) The mis-spending of £10 000.
- 5) Rejection of competent Zulu interpreters ..."³⁴

The last point referred to the fact that it was the policy of the government not to employ Africans in the civil service as a result of which Africans who would have made suitable interpreters were not appointed in the courts. Yet another African commented " ... rather than a blessing ... responsible government is a curse to the colony ..." and he hoped "that the final legislation on Natives will ever be retained by the imperial government."³⁵ He was obviously referring to the powers of the imperial government, in terms of the Constitution Act, over bills affecting Africans.

The representative of the imperial government in Natal, the Governor, did not have any significant influence over the ministry with regard to "Native affairs." He could offer advice but the ministry did not feel obliged to accept his suggestions although he was Supreme Chief. This can be seen when in 1893 Hely-Hutchinson recommended very strongly that a Shepstone be appointed as Under Secretary for Native Affairs and the ministry appointed Samuelson instead. In

34. Natal Witness, 24.9.1897 (Letter from "Umuntu Ka Kwini").

35. Natal Witness, 19.12.1902 (Letter from "Umuntu Onosizi").

1895, also, the Governor, as seen in chapter six, brought the problems of succession and inheritance to the attention of the ministry but Moor took up the issue only five years later.

Before he left Natal in 1901 Hely-Hutchinson informed the Hime ministry that they had no recognisable "*Native policy*." The Governor's statement was made in Moor's absence and he, when informed about it, reacted angrily. He pointed out to the Prime Minister, with some justification, that "*the late Governor should not have waited until the eve of his departure ... to give expression of his views as to the absence of a Native policy, and then to do so in the absence ... of the responsible minister. It behoved him as Supreme Chief over the Native population to have drawn the attention of his ministers to the absence of Native policy, and to have indicated for their consideration measures of amelioration or administration.*"³⁶ Hely-Hutchinson, as far as one can ascertain, did not have any altercation with Moor during his governorship in Natal and his remarks must have come as a shock to Moor.

In chapter three it was shown that while Moor was against the idea of inviting the African Chiefs to meet the Duke and Duchess of Cornwall and York during their visit to Natal Governor McCallum thought otherwise and as Supreme Chief invited the Chiefs. This was a minor issue. A more serious issue was the fact that the Governor disapproved of Moor's decision to finance his projects in the locations from part of the reserved vote for the Africans instead of spending the money in a way that would benefit all the Africans in the colony. McCallum could not stop Leuchars from following the same policy although he voiced his disapproval.

36. S.N.A. 1/1/290 Minute papers for 1900: 1447 - '00, Moor - Hime, 12.4.1901.

The Secretary of State for the Colonies was appealed to on two occasions. The Aborigines Protection Society applied to him to disallow Act 1 of 1901³⁷ and Act 47 of 1903³⁸ because they believed these would be hurtful to the African population. Despite these appeals both measures were granted the royal sanction. Governor McCallum, in fact, referred to the protest of this society as an "effusion of irresponsible busybodies."³⁹

On two occasions the Legislative Council prevented the passage of Moor's bills as shown in chapter five. The refusal of these bills, which dealt with the importation of labour from the East Coast and the licensing of the sale of Native beer, was hardly significant to the African population.

Despite the powers of the Legislative Council, the Governor and the Secretary of State for the Colonies to prevent discriminatory legislation and to protect the rights of the Africans the Cattle Stealing Act of 1898 was passed, the Africans lost the right to appeal to the courts in disputes concerning inheritance and the Africans on the mission reserve lands lost the right to secure land in freehold, a right which they had possessed since the mission reserves were granted. The squatters had to pay an increased tax.

In 1906, looking back on his years as Secretary for Native Affairs, Moor commented: " ... when I left that office the government of this colony had the confidence of 90 per cent

37. See chapter six.

38. G.H. 223 Numbered Despatches from Secretary of State: No. 82, 10.7.1903 enclosed letter from H.R. Fox Bourne - Secretary of State, 23.6.1903. Act 47 of 1903 is discussed in chapter two.

39. G.H. 223 Numbered Despatches from Secretary of State: McCallum - Hime, 3.8.1903 with papers re Despatch No. 82, 10.7.1903.

of the Natives of Natal ..."⁴⁰ Two years after Moor left office a poll tax was imposed on the Africans and in 1906 the Africans in Natal rebelled in what was the most serious uprising in the history of the colony. Commenting on the causes of the rebellion Professor Brookes mentions the "laissez-faire" policy followed in Natal and strongly asserts that "The ineptness, and indeed bankruptcy of Natal policy, had brought about the 'rebellion'."⁴¹ Moor then must bear some responsibility for the rebellion. Welsh in fact states that "In the 1890's and early 1900's Natal showed every sign of being a society that was running head-long into a major racial conflagration."⁴² There was dissatisfaction amongst the Africans and there were even rumours in 1902 and 1903 of an uprising amongst the Africans in Natal and Zululand.⁴³ However, an understanding of the rebellion must be sought in an examination of what Marks terms the "excesses of the Leuchars and Winter régimes."⁴⁴ This is corroborated in the comments of an African in 1905: "We black people began to complain about the way we were governed when Gebuza ka Somsewu [Henrique Shepstone] entered office. He was succeeded by Mismolo [Moor], and times were better. But now there is a restlessness in the hearts of all the people."⁴⁵

40. L.A.D., 1906, Vol. 41, p. 7.

41. Brookes: White Rule in South Africa 1835 - 1910, pp. 65 - 66.

42. Welsh: The Roots of Segregation, p. 294.

43. S.N.A. 1/4/10 Confidential papers for 1902 and S.N.A. 1/4/12 Confidential papers for 1903 contain numerous minute papers regarding these rumours.

44. Marks: Reluctant Rebellion, p. 22.

45. Webb and Wright (eds): The James Stuart Archive ... II, Interview with Madikane ka Mlomowetole, 27.5.1905, p. 54.

Moor, speaking in 1906, advised members of the Legislative Assembly that the causes of the 1906 rebellion must be investigated and removed so that they may live at peace with the Africans.⁴⁶ At the end of 1906 when Moor became Prime Minister as well as Minister for Native Affairs, it was left to him to pick up the threads of "*Native policy*" and to introduce reforms. His resignation from the position of Secretary for Native Affairs in 1903 closed the door on the eight years that he was Secretary for Native Affairs in pre-rebellion Natal which has been the concern of this dissertation.

46. L.A.D., 1906, Vol. 40, p. 25.

APPENDIX 1ELECTION RESULTS OF WEENEN COUNTY 1893 TO 1902¹

1893	F.R. Moor	255	}	successful candidates
	H.D. Winter	225		
	J.H. Wallace	209		
	T. Woods	197		
	E.J. Turner	119		

1897	H.D. Winter	279	}	successful candidates
	F.R. Moor	191		
	T. Woods	173		
	A.K. Murray	165		
	J.H. Wallace	125		
	J.G. Hattingh	82		

1901	H.D. Winter	258	}	successful candidates
	F.R. Moor	249		
	G.R. Richards	217		
	J.H. Wallace	150		
	C.B. Lloyd	137		
	T. Woods	98		
	H.H. Janion	95		
	W. Stockil	47		

1902	H.D. Winter	341	}	successful candidates
	F.R. Moor	324		
	G.R. Richards	311		
	J.H. Wallace	167		
	C.B. Lloyd	73		
	C. Peniston	51		

1. Compiled from Natal Mercury, 22.9.1893; 29.9.1897; 28.9.1901; 19.12.1902; Natal Witness, 30.9.1897; 19.12.1902; Times of Natal, 28.9.1901; 18.12.1902.

APPENDIX 2

Table showing the number of Africans exempted from customary law from 1865 to 30 April 1903 in terms of Law 28 of 1865.¹

	No. of petitions for exemption received	No. of exemptions granted			Total no. of Africans exempted
		Men	Women	Children	
1865 to 31.12.1893		363	258	631	1252
1894		18	10	26	54
1895		Nil	Nil	Nil	Nil
1896		11	7	17	35
1897		36	22	58	116
1898	66	22	12	32	66
1899	46	12	7	4	23
1900	23	10	8	11	29
1901	31	4	5	7	16
1902	32	Nil	Nil	Nil	Nil
1. 1.1903 to 30.4.1903		Nil	Nil	Nil	Nil
Total 1894 to 30.4.1903		113	71	155	339
Total 1865 to 30.4.1903		476	329	786	1591

1. Compiled from B.B.N.A., 1894 - 1898; 1901 - 1903; N.P.P. 199 Documents presented to the Legislative Assembly: 151, 12.5.1903; N.P.P. 200 Documents presented to the Legislative Assembly: 250, 23.7.1903, p. E.

APPENDIX 3

(Compiled from B.B.N.A., 1895 - 1898; 1901 - 1903; Report of the Secretary for Native Affairs for 1899 and 1900; N.N.A.C., Evidence, p. 1008.)

	No. of Africans supplied to the Public Works Department in terms of the isibalo.	No. of Africans from neighbouring states who took out passes in terms of <u>Law 48 of 1884</u> to work in Natal.	No. of Africans from Natal who took out passes in terms of <u>Law 48 of 1884</u> to work out of Natal	No. of passes issued to Natal Africans to go to the Transvaal (of these for labour purposes in brackets).	Money remitted to Natal from the Transvaal via the Agency.
1895	3514	9 099	26 233	20 811	£ 428 4s 4d
1896	3612	16 692	31 380	26 487	£ 30 314 7s 9d
1897	3798	11 433	25 299	20 092	£ 27 204 7s 0d
1898	4105	5 808	17 549	18 604 (16 386)	£ 22 968 15s 7d
1899	3568	7 714	8 040	10 525 (7 582)	£ 23 986 8s 6d
1900	3298	8 950	394	43 (13)	£ 2 228 5s 9d
1901	3929	3 726	122	34 (16)	£ 2 169 9s 3d
1902	4227	16 680	2 884	3 664 (2 628)	£ 3 276 10s 9d
1903	4599	21 504	23 200	25 249 (21 550)	£ 16 809 8s 7d

APPENDIX 4

STATEMENT OF THE APPROXIMATE NUMBER OF NATIVES WHO ENTERED SERVICE IN THE COLONY DURING THE YEAR 1902. ¹

Description of Service.	Daily average.	Number entering service.
DOMESTIC AND OTHER SERVICE NOT INCLUDED ELSEWHERE:—		
(1) Rural Districts	22,000	44,000
(2) *Durban ... ..	...	25,000
(3) *Pietermaritzburg ... ..	...	14,000
TOGT OR DAY LABOUR:—		
(1) *Durban, †60,853 Monthly Licenses	5,070·4	15,200
(2) *Pietermaritzburg, †14,626 Monthly Licenses	1,218	3,650
RICKSHA PULLING:—		
(1) *Durban, †22,540 Monthly Licenses	1,878	5,630
(2) *Pietermaritzburg, †8,627 Monthly Licenses	719	2,150
AGRICULTURE	14,510	29,000
COAL MINES	2,278	4,500
FACTORIES (Rural Districts)	1,700	3,500
POLICE	1,400	1,400
PUBLIC WORKS DEPARTMENT	3,570	7,200
MILITARY ... ..	...	13,250
RAILWAYS AND RAILWAY WORKS ... ..	...	31,860
HARBOUR WORKS	650	1,300
Total ... ..	...	201,640

NOTE.—These figures include about (1) 17,000 natives from adjoining States, (2) natives of all ages, male and female.

It is probable that some natives have entered service more than once during the period covered by this statement, but it is impossible from available data to ascertain their numbers.

* Information obtained from the Municipal Authorities.

† The number of natives entering this employment is computed on an average duration of service of four months.

1. Reproduced from B.B.N.A. for 1902, p. B55.

APPENDIX 5An Analysis of the Evidence of
the Native Suitors Commission¹

	In favour of lawyers	In favour but qualified	Against	Neutral	Total
Magistrates	8	5	2		15
	(6)		(9)		(15)
Whites in- cluding lawyers	11		5	2	18
	(12)		(6)		(18)
Chiefs, Acting Chiefs, Repre- sentatives of Chiefs, Indu- nas and Head- men.	29	23	64	11	127
	(36)		(105)		(141)
Ordinary African	39	8	25	7	79
	(34)		(31)		(65)
Judge Presi- dent of the Native High Court	1				1
			(1)		(1)
Totals	87	36	96	20	240
	(88)		(152)		(240)

1. Compiled from the Report of the Native Suitors Commission, pp. 2, 6, 16. The figures given by Samuelson appear below those of Allison and Chadwick and are within brackets.

APPENDIX 6Principal Legislation Relating Directly or Indirectly to the Natal Africans (1894 - 1903)

Act 1 of 1894 "To Provide for the Consolidation and Regulation of the Police Forces of the Colony."

Act 2 of 1894 "To amend Law No. 26, 1875, the Native Administration Law, 1875."
(Discussed in chapter six. It was repealed by Act 13 of 1895.)

Act 5 of 1894 "To amend the Laws relating to Education."
(See conclusion.)

Act 13 of 1894 "To amend the Code of Native Law, and to repeal Law No. 21, 1878."

Act 29 of 1894 "To amend the Fencing Law, 1887."
(Discussed in chapter four.)

Act 40 of 1894 "To regulate the relative rights of Masters and their Native Servants, and to provide protection for such servants."

Bill 19 of 1894 "To free certain Exempted Natives from the operation of Borough By-laws passed under Section 4 of Law No. 15 of 1869."
(Discussed in chapter two.)

Act 7 of 1895 "To repeal and to re-enact, with certain amendments, the Law No. 12, 1864, entitled Law 'To enable certain Natives to dispose of Immovable Property, and to regulate the Devolution of Immovable Property in cases of Intestacy.'"
(See chapter two.)

Act 13 of 1895 "To abolish the Native High Court and the Court established by Law No. 10, 1876, and to transfer the jurisdiction thereof."
(Discussed in chapter six. It was repealed by Act 1 of 1899.)

Act 25 of 1895 "To regulate the use of mission reserves."
(Discussed in chapter four. It was repealed by Act 49 of 1903.)

Act 35 of 1895 "To increase the number of Judges of the Supreme Court."
(See chapter six.)

Bill 48 of 1895 "To provide for the Regulation and Management of Associations of Natives which have acquired or may hereafter acquire property."
 (Introduced by F.S. Tatham, member for Pietermaritzburg. Order was discharged after receiving a second reading in the Legislative Assembly.)

Act 5 of 1896 "To amend Laws No. 16, 1867, and 46, 1887, Registration of Births and Deaths."
 (See chapter five.)

Act 11 of 1896 "To provide for the Trial of Faction Fighting amongst Natives."
 (See chapter six.)

Act 21 of 1896 "To amend Law No. 10, 1876."
 (It was known as the Spoor Act of 1896 and was repealed by Act 1 of 1899.)

Act 23 of 1896 "To amend the Law relating to Stock Thefts."
 (Repealed by Act 1 of 1899.)

Act 24 of 1896 "To amend Section 5 of Law No. 10, 1876."
 (Repealed by Act 1 of 1899.)

Act 36 of 1896 "To regulate the system of Touting for Natives in Natal to do work or labour beyond the borders of the Colony."
 (Discussed in chapter five. It was repealed by Act 46 of 1901.)

Act 37 of 1896 "For the better management of Native locations."
 (Discussed in chapter four.)

Act 38 of 1896 "To amend and consolidate the Laws regulating the sale of Intoxicating Liquors."
 (See chapter two.)

Act 39 of 1896 "To consolidate the Laws relating to the Supreme Court of the Colony of Natal."
 (See chapter six.)

Act 40 of 1896 "To amend the Code of Native Law."
 (See chapter four.)

Bill 22 of 1896 "To provide for the Regulation and Management of Associations of Natives which have acquired or may hereafter acquire property."
 (Introduced by F.S. Tatham. Order was discharged by Tatham himself when he moved that the chairman leave the chair thus closing discussion on the bill in the committee of the whole House of the Legislative Assembly.)

Act 6 of 1897 "To amend the Law with regard to Trespass."
 (See chapter four.)

- Act 8 of 1897 "To repeal, and to re-enact with amendments, sub-section (b) of section 254 of the Code of Native Law, and section 16 of the Native Code Amendment Act, 1896."
- Act 9 of 1897 "To amend Act No. 11, 1896, entitled Act 'To provide for the Trial of Faction Fighting amongst Natives.'"
- Act 12 of 1897 "To extend the operation of the 'Fencing Law of 1887,' in respect of Native locations."
(Discussed in chapter four.)
- Act 37 of 1897 "To provide for the Annexation to the Colony of Natal of the Territory of Zululand."
(See introduction.)
- Act 5 of 1898 "For the regulation of Native Assemblies."
- Act 49 of 1898 "To amend the Laws relative to the Administration of Justice."
(Discussed in chapter six. See also chapter two. It was better known as the Courts Act of 1898.)
- Bill 52 of 1898 "To make provision for the registration of Native Labour, and to amend the Law regarding the Entry and Departure of Natives and Touting for Labourers."
(See chapter five.)
- Act 1 of 1899 "For the better prevention of the Crime of Cattle Stealing and Kindred Crimes."
(See chapter two. It was known as the Cattle Stealing Act of 1898.)
- Act 35 of 1899 "To amend the 'Masters and Servants' (Native) Act, 1894'."
- Bill 20 of 1899 "To impose a tax upon Lands belonging to Absent Owners."
(See chapter five.)
- Act 1 of 1901 "To amend the Code of Native Law."
(Discussed in chapter six.)
- Act 15 of 1901 "To amend Law No. 5, 1859, entitled Law 'For preventing the Sale of Gunpowder and Firearms to, and prohibiting the possession of the same by Natives.'"
- Act 46 of 1901 "To repeal and re-enact with amendments, the Labour Tout Regulation Act, 1896."
(Discussed in chapter five.)
- Act 47 of 1901 "To amend the Courts Act, 1898."
(See chapter six.)



- Act 49 of 1901 "To facilitate the Identification of Native Servants."
(Discussed in chapter five.)
- Act 50 of 1901 "To amend the Master and Servants' (Native) Act, 1894."
- Bill 40 of 1901 "To regulate the introduction of labourers belonging to the aboriginal tribes of Africa."
(Discussed in chapter five.)
- Act 25 of 1902 "To amend the Code of Native Law."
(See chapter five.)
- Act 26 of 1902 "To empower the Natal Native Trust to take or grant the use of water from rivers flowing through Trust Lands."
(See chapter four.)
- Act 27 of 1902 "To empower the Natal Native Trust to raise a Loan of Fifty Thousand Pounds Sterling, for the purposes of Irrigation."
(Discussed in chapter four.)
- Act 28 of 1902 "To make better provision in regard to the Togat labour system in Boroughs."
(Discussed in chapter five.)
- Bill 38 of 1902 "To regulate the Sale of Native Beer outside Boroughs and Townships."
(Discussed in chapter five.)
- Act 44 of 1903 "To amend the Law relating to the Marriage of Natives by Christian Rites."
(Discussed in chapter four.)
- Act 47 of 1903 "To amend the Code of Native Law."
(Discussed in chapter two.)
- Act 48 of 1903 "To amend the Squatters' Rent Law of 1884."
(Discussed in chapter five.)
- Act 49 of 1903 "To make better provision for the control and use of mission reserves."
(Discussed in chapter four.)
- Bill 57 of 1903 "To amend the Touts Act, 1901."
(Discussed in chapter five.)
- Act 1 of 1904 "To amend the Cattle Stealing Act, 1898."
(See chapter two. It was introduced in the 1903 parliamentary session.)

Act 2 of 1904 "To enable Town Councils to Establish Native Locations."

(Discussed in chapter five. It was introduced in the 1903 parliamentary session.)

Act 3 of 1904 "To amend Act No. 49, 1901, entitled Act 'To facilitate the Identification of Native Servants.'"

(Discussed in chapter five. It was introduced in the 1903 parliamentary session.)

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