

A SURVEY OF
**RACE RELATIONS
IN SOUTH AFRICA**

1957—1958

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LEGISLATION OF 1958

	Page
ACTS	
Criminal Procedure Amendment Act, No. 9/58	219
Electoral Laws Amendment Act, No. 30/58	10
Native Trust and Land Amendment Act, No. 41/58	134
Natives Taxation and Development Act, No. 38/58	77
Separate Representation of Voters Amendment Act, No. 2/58	1
Special Criminal Courts Amendment Act, No. 18/58	35
Vocational Education Amendment Act, No. 25/58	192
BILLS	
Bill to establish a Bantu Investment Corporation	134
Criminal Law Amendment Bill	219
Criminal Procedure Amendment Bill	220
Extension of University Education Bill	195
Fort Hare University Transfer Bill	202
Group Areas Development Act—Draft Amendment Bill	89
Industrial Conciliation Act—Draft Amendment Bill	155 and 164
Special Schools Amendment Bill	192
IMPORTANT PROCLAMATIONS	
Ban on meetings to be attended by more than ten Africans	24
Banning of the African National Congress in certain rural areas	14, 70, 75
Control of Coloured mission stations and reserves	40
Possession of dangerous weapons by Africans in certain areas	76
Powers to search premises	46
Restriction of right of entry into or departure from certain African areas, and on freedom of speech	69, 74, 142

POLICIES AND ATTITUDES

THE PARLIAMENTARY ELECTION

General election, 16 April 1958

The number of seats gained by various parties at the general elections in 1953 and 1958 was as follows:

	<i>National Party</i>	<i>United Party</i>	<i>Labour Party</i>
1953	94	57	5
1958	103	53	Nil

The two Labour Party candidates, and the three representatives nominated by the Liberal Party, were heavily defeated in 1958. The Federal Party put forward no candidates. Dr. T. Wassenaar, leader of the National Democratic Party, resigned during December 1957, and later announced that he would support the National Party in the general election.

The total number of votes polled was 642,069 for the National Party, 503,639 for the United Party, and 6,096 for the Labour and Liberal Party candidates and for one anti-Nationalist Independent. In addition there were twenty-four uncontested seats, in which the United Party candidates were unopposed. There were various estimates of what the total vote would have been if allowance were made for these constituencies: the *Star*, for example, calculated that there would have been an anti-Nationalist majority of 37,298 votes; the *Transvaler* was of opinion that the Nationalists would have won by 31,845 votes; while the *Sunday Times*, using a formula devised by Professor Gwendolen Carter⁽¹⁾, arrived at an intermediate result, estimating that the anti-Nationalists would have led by 18,500 votes. In any case, it is clear that the distribution of seats in the Assembly is by no means a clear reflection of the real strength of the parties concerned.

The Separate Representation of Voters Amendment Act, No. 2 of 1958

As was described in earlier issues of this *Survey*⁽²⁾, after a six-year constitutional struggle the Government eventually enlarged the Senate in order to obtain the necessary majority for a measure to revalidate the Separate Representation of Voters Act of 1951. This Act, as amended in 1956, provided that the Coloured voters of the Cape would be placed on a separate roll, and would elect four White representatives to the House of Assembly, and two representatives, who must also be White, to the Cape Provincial Council.

Their four Parliamentary constituencies, as subsequently delimited, were Peninsula, Boland, Outeniqua and Karoo.

⁽¹⁾ In *The Politics of Inequality*. She assigned to the unopposed party 85 per cent of the votes in each uncontested constituency, assuming an 85 per cent poll.

⁽²⁾ e.g. *A Survey of Race Relations, 1955-56*, page 20 *et seq.*

N.B.—These publications will, for the sake of brevity, merely be termed *Survey* in the footnotes that follow.

The Separate Representation of Voters Amendment Act of 1958 demarcated polling districts on the basis of magisterial districts. It provided that, in districts with large numbers of voters, there might be more than one polling station, while, in districts where there were fewer than fifty voters, there should be postal voting. All those who lived or worked more than five miles, by the nearest practicable route, from a polling station might also vote by post.

Opposition speakers maintained⁽³⁾ that in the Karoo constituency, about two-thirds of the voters would have to vote by post if they voted at all. In practice, most of these would have to go to a police station to cast their votes; and Coloured people were, in general, reluctant to visit the police.

The Coloured electorate

In order to qualify for a vote on the common roll in the Cape, a Coloured man had to be of the age of 21 or over, to earn an annual salary of at least £50 or, alternatively, to own fixed property of a minimum value of £75, and to be able, without aid, to write his name, address and occupation. It is probable that some 120,000 or more Coloured men possess these qualifications; but when the separate roll was created, in preparation for the election of Coloured representatives, there were only 29,264⁽⁴⁾ registered Coloured voters.

The main reason why so small a proportion registered was undoubtedly apathy; but a contributory reason was frustration and passive resentment. During the years of the constitutional struggle, very many Coloured people came to feel that the Whites were disowning them, and lost interest in exercising a vote in the White man's parliamentary machinery. The number of Coloured registered voters dropped by about 38 per cent between 1952 and 1958: 47,000 were registered in the former year. Many of the Coloured intelligentsia, members of the more extreme organizations such as the Non-European Unity Movement, the Anti-Coloured Affairs Department Movement, or the S.A. Coloured People's Organization, deliberately refrained from registering because they were unwilling to participate in any system offering but limited citizenship rights.

Attitudes of Coloured people to the elections

The Anti-Coloured Affairs Department and the Non-European Unity Movements called a number of meetings at which Coloured people were urged to boycott the elections of Coloured representatives and to "reject completely and unconditionally the whole fraud of separate representation on the basis of a Coloured voters' roll". Any vote cast, they maintained, would be a vote for apartheid, for

⁽³⁾ Assembly, 21 January 1958, Hansard 2 cols. 308, 313-5.

⁽⁴⁾ Figure given by Hon. H. G. Lawrence, M.P., Assembly, 21 January 1958, Hansard 2 col. 305.

it would indicate acceptance of the principle of separate representation. Posters were prepared bearing legends such as "Boycott the Dummy Elections", and on polling day these were displayed by people who took turns to picket the polling booths in the larger urban centres. They did not interfere in any way with those wishing to vote, but hoped that their presence would have a deterrent effect.

A group of ten prominent 'moderate' leaders issued a statement saying that they would take no part in the elections. They had, from the start, condemned separate representation, which would be ineffective, they said.

After considerable debate, the S.A. Coloured People's Organization decided that it would participate in the elections because, it stated, the only way to change the system was to work from within. This organization nominated two candidates who had the support and approval of the Congress movement (the African National Congress, S.A. Indian Congress, S.A. Coloured People's Organization, S.A. Congress of Democrats and S.A. Congress of Trade Unions).

The Coloured People's National Union, which has lost most of its former following, advised the Coloured people, while continuing to campaign against the Separate Representation of Voters Act, nevertheless to exercise their voting rights freely.

The views of the Coloured organizations had direct appeal to but limited numbers of the electorate, since the majority of the Coloured people are not members of any of them.

The election of Coloured representatives

The election of the Coloured representatives took place on 3 April, about a fortnight before the general election. There were twelve candidates in the four constituencies: although they did not officially represent political parties, four of them had the support of the United Party and three were supported by the Nationalists. Besides these, there were the two S.A. Coloured People's Organization candidates and three independents.

The unofficial United Party candidates won all four seats with large majorities, obtaining an average of 2,753 votes each. One of them was later admitted to the United Party caucus, while the others sit as a separate group under the leadership of Mr. A. Bloomberg. The unofficial Nationalist candidates obtained an average of only 176 votes each, and, unexpectedly, the S.A.C.P.O. candidates only 454 each on average. The probable reasons for this were that many of the S.A.C.P.O. members had not registered as voters, and that large numbers of other people who would normally have voted for these candidates boycotted the election.

The average percentage poll was only 50.2. It was highest in the Outeniqua constituency (Eastern Cape, including Port Elizabeth), and, again unexpectedly, second highest in the widespread

Karoo constituency. The lowest percentage poll, of 41.9, was in the Peninsula, where it was easiest for voters to get to the polling booths. These facts lead to the conclusion that the boycott propaganda was partially successful, especially in the cities. The total number of votes cast, including spoilt papers, was 14,694.

African representatives

The three White representatives of the male African voters of the Cape were elected in December 1954 for a period of five years, and were thus not affected by the general election.

In reply to a question as to whether the Government intended to abolish the representation of Africans in the House of Assembly and/or the Senate, the Minister of the Interior said on 7 February 1958⁽¹⁾, "I wish to refer the hon. member to a statement in this connection by the Hon. the Prime Minister on 25 October 1955, namely:

"The Nationalist Party as such has never altered its policy to abolish representation of Natives in the House of Assembly. In view, however, of the agreement between Dr. Malan and Mr. Havenga that, as far as they were concerned, representation of Natives should continue, the matter will again be considered as soon as the pattern of our apartheid policy in this connection has unfolded and developed to such an extent that the Natives' own forms of government in their own areas under our principle of guardianship have in our opinion progressed sufficiently".

The "National Workers' Conference"

Plans for a demonstration by Non-White workers at election time were made by the Congress group. Mr. A. J. Luthuli, President-General of the African National Congress, said⁽²⁾, "We are for wide-spread activity among the voteless people at election time, so that the voices and opinions of the voteless may be taken into account seriously by the voters before they dare saddle us with another five years of Nationalist rule".

Following preliminary local and regional conferences in most of the major urban areas on 15 and 16 February, a National Workers' Conference was held in Johannesburg on 16 March. Some 1,763 delegates and more than 2,000 African spectators attended. It was decided to campaign for a legal national minimum wage of £1 a day and for the abolition of the Group Areas Act and the pass laws. Much enthusiasm was shown for a resolution calling for a stay-at-home demonstration from April 14th (two days before the general election) "until such time as the people's demands have been met"; but it was eventually decided that provincial leaders would determine the most suitable form of protest for their areas:

⁽¹⁾ Assembly Hansard 3 col. 1096.

⁽²⁾ *Sunday Times*, 15 February 1958, and other press reports.

wherever possible this would be a stay-at-home demonstration, the duration to depend on local circumstances. Speakers insisted that all demonstrations should be peaceful, every worker should decide for himself whether or not he would participate, and there must be no intimidation.

Posters and leaflets were prepared to advertise the workers' demands.

The police took pains to keep in touch with developments. On 14 March and again on 11 April Special Branch detectives raided the offices of the organizations sponsoring the conference and the homes of some of the leaders. Numerous documents and pamphlets were seized. Detectives attended the Workers' Conference and made notes of the speeches.

The African National Congress message to White voters

Shortly before the general election, copies of a handbill, with a message to White voters from the President-General of the African National Congress, were widely distributed. Extracts from this message are:

"On April 16 you are going to exercise your right to vote for your representative in Parliament. You may perhaps ask what this has to do with us, who have no votes. It has a great deal to do with us. Parliament makes laws . . . We have to obey those laws — which always bear more severely upon us than upon anyone else . . . We consider it neither fair nor just, and we shall never rest content until the democratic principle which is conceded for Europeans is extended to include the entire population. But so long as this unfair position continues, and our people are excluded from the franchise, have we not at least the right to state our views?"

"Neither the Nationalist Party nor the United Party represent or are supported by the African National Congress.

"But we must say that never since Union have our people suffered such hardships, humiliations and sheer brutality as we have had to undergo during the past ten years of Government by the Nationalist Party . . . our poverty has become desperate. Every door through which we might have sought advancement, culture and a higher civilisation has been slammed in our faces. Every means of legitimate national expression and protest is being closed to us. Our leaders and spokesmen are arrested, banned, deported and silenced.

"Where can this road lead our country, South Africa? We see the crime rate rising day by day, its roots in the slums and the poverty, the hopelessness and the frustration in which the people are living.

"We see unrest and disturbances occurring more and more widely and frequently. It is not the African National Congress or the 'agitators' which are responsible for these things, nor will more

repressions, bannings and police terror prevent them. They are signs of deep discontent, of something profoundly wrong in the way in which our people are treated.

"You may have been led to believe that our Congress is anti-White, that it is a reckless organisation out to stir up racialism. Nothing could be further from the truth. We are a serious and responsible minded body of men and women, and our aim, as we have stated many times, is neither White supremacy nor Black supremacy, but a common South African multi-racial society, based upon friendship, equality of rights and mutual respect.

"Yours, in the service of South Africa,

ALBERT J. LUTHULI,
President-General,
AFRICAN NATIONAL CONGRESS."

Action taken by the Government

As will be described in more detail in a later chapter, a proclamation was gazetted providing that as from 12 April no meeting of more than ten Africans might take place in any of the major urban centres unless with the permission of the Native Commissioner or Magistrate. Gatherings for church services, funerals or sporting events were not included in the general ban, nor meetings held by Members of Parliament or Provincial Councillors.

All police leave was cancelled shortly before the elections, and the Union Defence Force was ordered to stand by. The Prime Minister announced that arrangements had been made for drastic action to be taken against persons causing disturbances of the peace or labour unrest. Action had been taken to ensure that essential services would be kept going, if necessary by replacement or auxiliary labour. Appeals were made to employers to try to influence their workers not to participate in the demonstration. Many employers held meetings with their African workers, some making appeals, others threatening reprisals.

The "stay-at-home" demonstrations on 14 April

The stay-at-home demonstrations proved an ignominious failure. The African National Congress in Natal decided against participation, and the response in the Cape and in most Transvaal towns was negligible. Not one in ten of the Johannesburg workers stayed at home. On the evening of the first day the African National Congress called off the demonstrations.

Only in Sophiatown (in the Western Areas of Johannesburg) was there wide-spread support, with a large proportion of workers remaining at home on the first day. Although the Press refrained from dealing with the course of events in Sophiatown, it is understood that there was considerable police activity in the area. Violence occurred there and in Newclare when groups of *tsotsis* stoned passing buses, motor cars and police convoys, and assaulted

Africans who had been to work. The police dispersed them by making baton charges and firing several warning shots.

There were a number of reasons for the failure of the campaign. Firstly, some of the African National Congress leaders were lukewarm about protesting at election time and for such objectives as £1 a day for every worker. In some areas the leaders condemned the plans. Rumours of top-level dissension filtered down to the rank-and-file. Furthermore, as will be described later, the campaign coincided with an upsurge of serious differences of opinion on other matters within the Congress. The decision to participate was made at Executive Committee level, there was little time for branch discussions, and many members were left in doubt as to the Congress's rôle in the campaign.

Secondly, far too short a period was allowed for proper organization, the planning was apparently inefficient and the directives issued were often vague.

Thirdly, it is certain that the leaders misjudged the mood of the people, who saw no reasonable prospect of gain in return for the material sacrifices of loss of wages and possibly of jobs that they were asked to make. Employers in commerce and industry had warned Africans of the consequences of staying away from work.

And lastly, the European Press and also most of the African papers expressed opposition to the demonstrations and advised Africans not to participate.

The African National Congress leaders lost considerable prestige as a result of the failure of the campaign. The view was widely expressed that the leaders were out of touch with the people, and were taking dictation from outside.

In several of the larger urban areas numbers of Africans were arrested on charges of inciting others to commit the offence of striking by way of protest against laws. The trial in Johannesburg of one European and 22 Coloured, Asian and African people, both men and women, excited particular interest because it was so protracted. Proceedings in the Regional Court started on 10 June, and sentence was not passed until 6 September: meanwhile there had been very lengthy evidence by the Crown of speeches made by some of the accused and by others who were not present. Not all of the accused were alleged to have made speeches advocating a strike: some of them were merely accused of having distributed hand-bills. The actual leaders of the campaign did not figure in court.

In the end, four people were acquitted, five were sentenced to terms of imprisonment ranging from four to twelve months (notice of appeal was given), and the rest were given the alternative of paying fines, sentence being suspended in some cases.

Shortly thereafter, twenty more people were arrested in Johannesburg on similar charges.

Views of the United Party and Natives' Representatives, as expressed at the opening of the new Session of Parliament

At the beginning of the first session of the Union's Twelfth Parliament, the Leader of the Opposition, Sir de Villiers Graaff, moved⁽⁷⁾:

"That this House is of the opinion that, in the interests of true national unity and to ensure the future prosperity of all our peoples, the Government should:

- "(a) abolish the present Senate and substitute therefor an Upper House more truly representative of the views and sentiments of the people;
- "(b) create constitutional machinery for safe-guarding the right of political minorities and ensure effective consultations with the peoples of South Africa on major constitutional changes;
- "(c) secure a positive and common approach to certain aspects of Non-European policy on which there is general agreement between the major parties; and
- "(d) take steps to attract, as a matter of urgency, overseas investment capital . . . and by State-aided immigration and the proper use of our labour resources . . . increase production, lower costs, and raise standards of living.

"This House is also of the opinion that, unless the Government gives immediate effect to the above-mentioned proposals and in the meanwhile desists from ideological legislation and ill-timed action and propaganda calculated to exacerbate race relations and disturb national progress, it will forfeit the confidence of this House".

The Leader of the Natives' Representatives, Mrs. V. M. L. Ballinger, moved⁽⁸⁾:

To omit all the words after "That" and to substitute "this House views with increasing anxiety:

- "(i) the continuing failure of the Government to establish any co-operative understanding with the African people; and
- "(ii) the progressive attempts by the Department of Native Affairs to isolate the African community and to administer it by decree and intimidation.

"It therefore calls upon the Government in the interests of internal peace and our standing in the world outside, particularly in Africa, to abandon the practice of arbitrary government now in operation among Africans, to restore the civil liberties and progressively extend the political rights of the African people, and thus set the country on the road to a true democratic government".

The then Prime Minister, the late Mr. J. G. Strijdom, queried whether the Opposition really wanted national unity⁽⁹⁾. If it did, he said, it would accept the Union flag as our only flag, "Die Stem

⁽⁷⁾ Assembly, 8 July 1958, Hansard 1 col. 14.

⁽⁸⁾ Assembly, 9 July 1958, Hansard 1 cols. 72-73.

⁽⁹⁾ Cols. 29-30.

van Suid-Afrika" as our only national anthem, and the establishment of a republic in South Africa. He moved:

To omit all the words after "That" and to substitute, "this House expresses its full confidence in the Government and its policy, but desires at the same time to record its strongest disapproval of the attempts of the Opposition and the Press supporting it:

- "(i) continually to create strife between the two main White language groups in our country as well as between White and Black, and
- "(ii) to undermine the good name of South Africa and its economic stability by making and publishing incorrect and misleading statements".

Statement by the Institute of Race Relations

The S.A. Institute of Race Relations issued the following statement on 23 April 1958:

"As the National Party Government enters upon its third successive term of office, the South African Institute of Race Relations underlines the necessity for a reassessment of the events of the past ten years. There is the utmost need to view the internal South African situation both within the perspective of world developments and conflicts and in relation to the political and economic changes which are rapidly taking place throughout Africa.

"For ten years the Government has pursued its policy of apartheid: a policy which the electorate has once again endorsed. But this electorate, except for a handful of Coloured men, consists of only one section of the South African people; over ten million Non-Whites had no voice whatsoever in this general election.

"Having no vote, Africans sought to draw attention to their disabilities by calling a three-day stay-at-home period. It failed, but its failure must not be interpreted as meaning that Non-Europeans acquiesce in the policy of apartheid. The European people of our country delude themselves if they ignore the urgent and real causes which lay behind the decision to call the demonstration. These root causes have not been eliminated by its failure nor by the return of the Government to power.

"Basic to Non-European discontent are the grossly inadequate wages which the majority receive, the pass laws and particularly their extension to African women, the mass of restrictions and disabilities under which Non-Whites labour, the suffering occasioned by the Group Areas Act and by racial classification.

"The Institute believes that as long as there exists no adequate machinery by which Non-Europeans can express their wishes and participate in government, they will increasingly be driven to adopt

extra-parliamentary action — public demonstration, passive resistance and strikes — in an attempt to secure redress of their grievances.

“Armed force and constant threat cannot be used permanently to enforce an unacceptable policy. This method of government not only generates growing tension and hostility but carries within it the danger of provoking violence. It must finally fail. No people can for ever be kept in a state of subjection.

“The Institute holds to its belief that no reasonable adjustments of race relations in South Africa will be obtained until all its citizens have fair economic opportunity and enjoy the rights of a common citizenship with a common loyalty to South Africa. With its rich resources, its long period of inter-racial contact, the acceptance by the recognised Non-European leadership of the need for inter-racial co-operation, the Union is in a singularly favourable position to work out new patterns of racial harmony”.

The Prime Minister

The Hon. J. G. Strijdom died on 24 August 1958. Dr. the Hon. H. F. Verwoerd was then elected Prime Minister.

The Electoral Laws Amendment Act, No. 30 of 1958

In terms of the Electoral Laws Amendment Act, the vote was extended to White persons of or over the age of eighteen years (except for persons between 18 and 21 years of age who are detained in certified hostels or reformatories).

This measure was attacked strenuously by the Opposition. Speakers pointed out that people who were not permitted to conduct their own affairs without a measure of assistance from their elders were now being invited to participate in the running of the affairs of the country. The progressive extension of the franchise to the Europeans in recent years had been coupled with a progressive contraction of the franchise rights of the Non-Whites.

MULTI-RACIAL CONFERENCE CONVENED BY THE INTER-DENOMINATIONAL AFRICAN MINISTERS' FEDERATION.

The Inter-Denominational African Ministers' Federation, assisted by a number of private individuals as sponsors, called an exploratory multi-racial conference in Johannesburg during December 1957, the theme being “Human Relations in a Multi-Racial Society”.

About 400 people, of all racial groups and of many different walks of life, attended in their personal capacities. The Europeans who accepted the invitation were not fully representative of White South African thinking, but it was the clear intention of the conference that further and, if possible, more widely representative gatherings should be held. Perhaps the most important fact that

emerged was that responsible Non-White leaders were willing to participate in frank and open discussions, and were still anxious for co-operation between the races.

Various commissions were appointed. Very brief summaries of their findings, as adopted later in plenary session, are:

Human relations in a multi-racial society

South Africa must choose between the concept of a common society or the danger of a collision between the forces of White domination and those of Non-White counter-domination thus engendered. The whole Nationalist philosophy was based on racial difference, but such differences were only incidental to a basic common humanity.

Conference recognized the depth of White fear of granting rights to Non-White people, but noted that policies based on fear offered no real security to White people. On the contrary they heightened such fear, and drove White South Africa into more and more dangerous policies.

White South Africans had no adequate conception of the repugnance felt by Non-White citizens towards the doctrines of apartheid, of the suffering and deprivation that apartheid inflicted on them, of the way in which they were harried by laws and officials during every moment of their lives.

Conference believed that the days of White supremacy were past. South Africa must accept a political and economic structure that would eliminate bitter conflicts. Allegiance was affirmed to the aspirations of the Universal Declaration of Human Rights.

Religion

All religious faiths in a greater or lesser degree looked upon human life as a direct creation of God. Religion was, therefore, vitally concerned with the essential equality of all men before God.

Religious communities confessed the failure of their members to teach and implement fully in practice the brotherhood of man. Practical applications of inter-racial collaboration should be fostered in worship, discussion, social exchanges and in charitable and cultural undertakings. In this way, religious communities would contribute their share to bringing about a change of heart and of social structure by peaceful means.

Education

Educational policies which seek to perpetuate White domination, accentuate ethnic differences and resuscitate tribal nationalism were rejected by the Conference, which affirmed its faith in the common destiny of the various racial elements which comprise the South African nation. The fundamental social aim of our education should be to promote a common patriotism, common citizenship and the welding of the various elements into a single nation-state.

Education should be free, at least in the elementary stages, and compulsory. It should be directed to the full development of the human personality.

Economic rights and duties

The aim should be to abolish all discriminatory restrictions based on the colour of the worker, and all other obstacles in the way of production, as soon as possible. The State should be encouraged to allow the expansion of the economy of the country to take its natural course.

Civil Rights and Duties in a Multi-Racial Society

Any good society must guarantee to all its citizens civil rights as upheld in democratic societies, and affirmed in the United Nations Declaration of Human Rights. To deny these rights to any group in the nation was to prevent men from living a free and dignified life, in harmony with society.

All laws denying or restricting civil rights in South Africa should be repealed. In addition, the basic freedoms should be entrenched in a written constitution, through a Bill of Rights. Such a constitution would require the assent of all citizens, and would involve the calling of a new National Convention, representative of all races in the country.

But the ultimate entrenchment of civil rights would require the vigilance of all citizens, and their knowledge and determination that if they allowed any breach in civil rights, at the expense of one group, they endangered the rights of all.

Political arrangements

Conference was convinced that only universal adult suffrage on a common roll could meet the needs and aspirations of the people. It appreciated that there was disagreement as to the ways and means of achieving the transition from White supremacy to a non-racial democracy, but was of opinion that work should be started immediately towards the achievement of the ultimate goal.

A planning committee was appointed to decide how practical effect to the Conference's findings could best be given⁽¹⁰⁾.

THE AFRICAN NATIONAL CONGRESS

Internal dissension

Mr. A. J. Luthuli, the President-General of the African National Congress, was originally among the accused at the preparatory examination of a number of people on a charge of high treason. The charges against him were later withdrawn; but for just over a year, as a condition of bail, he was unable to attend any meeting other than those of a social, religious, educational or recreational nature. Numbers of the other established African

⁽¹⁰⁾ An account of the conference has been published by the Planning Committee (P.O. Box 9648, Johannesburg), under the title *South Africa's Multi-Racial Conference*.

National Congress leaders have been in the same position, or have had restrictions placed on their freedom of association and movement under the Suppression of Communism and Riotous Assemblies Acts.

These established leaders had kept a restraining hand on any extreme manifestations of African nationalism. Their aim has been to bring together Africans of every tribe and clan, to work together for the extension of democratic rights. But their struggle has not been directed against any particular race or national group: they recognize that all people who have made South Africa their home are South Africans, and they are willing to co-operate with sympathetic members of other racial groups. Hence, when the Government began implementing its apartheid policy after 1948, realizing that it was not only Africans whose democratic rights were threatened, the established leaders co-operated with Indian and Coloured groups and with the Congress of Democrats in the Campaign of Defiance of Unjust Laws, and in the Congress of the People at which the Freedom Charter was drafted⁽¹¹⁾.

After numbers of the established leaders had become immobilized, others were nominated to act for them; but these newcomers to high office did not enjoy the same national prestige. Personality difficulties arose. Dissatisfaction with the acting leadership was publicly expressed at an annual conference held during December 1957.

These difficulties were accentuated by the fact that many members of the African National Congress were uneasy about its association with the Congress of Democrats, and considered that African policy should have been guided by the programme of action adopted at the Annual National Conference held at Bloemfontein in December 1949, rather than by the Freedom Charter⁽¹²⁾.

In this uneasy situation, the Africanist group made a powerful bid for leadership. The Africanists are not necessarily exclusive nationalists, but consider that Africans can best negotiate with other groups from a position of strength. For this reason they are against collaboration with the "Congress movement": the Congress of Democrats and the Indians, they say, have in recent years been thinking for the Africans.

At conferences of the African National Congress held in the Transvaal and the Cape early in 1958 the Africanists played up internal differences relating to personalities and administration in order to attempt to seize power themselves. At the Transvaal meeting the Africanists went so far as to invade the Congress offices and to seize a number of documents. This meeting ended in chaos, the Transvaal President subsequently resigning. For some months the National Executive administered the affairs of

⁽¹¹⁾ See *Survey*, 1951-52 page 11, 1952-53 page 27, 1953-54 page 11, 1954-55 page 5.

⁽¹²⁾ *Survey*, 1954-55, page 5.

Congress in the Transvaal. In the Cape, the existing Provincial Executive was voted out, a caretaker committee being appointed.

The abortive effort later made by the Congress group to organize a stay-at-home demonstration at the time of the general election has been described above. This resulted in a further loss of confidence in the leaders involved in the planning.

The ban on gatherings of more than ten Africans in the major urban areas, imposed as from 12 April and not lifted until 29 August, made it impossible during these months for Congress to hold representative provincial meetings at which attempts could be made to iron out the internal difficulties.

The annual meeting of the Transvaal African National Congress was eventually held on 1 and 2 November. After tense and angry scenes the Africanists present, led by Mr. Josias Madzunya, decided to leave the meeting. They announced that they would launch out on their own, as custodians of the original African National Congress policy, and that they intended starting a "political battle against White domination".

Banning of the African National Congress in certain rural areas

In terms of Proclamation No. 67 of 1958, of 17 March, the Government took power to declare, on any Trust land or in any scheduled or released area, as determined by the Minister of Native Affairs, that the African National Congress, or any other organization whose activities are deemed to be "detrimental to the peace, order and good government" of Africans, is an unlawful organization.

When any organization is declared unlawful in any area, the local Native Commissioner may impound any of its property and documents, and call upon persons suspected of holding such property or documents to furnish full details.

It will be an offence in the area concerned to become or continue to be an office-bearer or member of the unlawful organization, to take part in any of its activities, to display anything or utter any slogan or make any sign associated with it, to contribute or solicit any subscription, to make any false declaration in regard to the organization's property, or to hinder anyone in the performance of his duties under the proclamation. If it is alleged that someone is or was an office-bearer or member of the organization, he will be presumed to be so until the contrary is proved.

Anyone convicted of an offence under the proclamation will be liable to a fine not exceeding £300, or, in default of payment, to imprisonment for a period not exceeding three years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

On the same day, Government Notice No. 400 of 1958 was gazetted, which rendered the African National Congress an unlaw-

ful organization in Sekhukhuneland, in Trust, scheduled or African-owned parts of the Marico district (Zeerust area), and in Ramagoep's Location in the Soutpansberg District of the Northern Transvaal.

THE S.A. BUREAU OF RACIAL AFFAIRS

Sabra's policy is separate development; but it by no means believes that White and Black should live in spiritual and cultural isolation from one another. In a Newsletter published in October 1957 it was stated, "We, as an indigenous White nation, have to find, together with the Non-White population groups, a road towards our joint existence in a common fatherland. But it is unthinkable that people who live in the same country and in increasing measure have the same culture and subscribe to the same beliefs should live in total isolation from one another . . . There can be no doubt about the necessity for contact between White and Non-White, and the more the pattern of separate development emerges, the more contact there will have to be on a responsible level".

The theme of Sabra's annual conference held at Stellenbosch from 29 April to 2 May 1958 was "Our Task with Respect to Race Relations in South Africa". In his opening address the then Chairman, the Rev. W. A. Landman, spoke of essential requirements, namely realism and sober thinking, honesty and sincerity, and co-operation and goodwill. The papers read were⁽¹⁾:

- Dr. G. D. Scholtz — *Die Ontstaan en Wese van die S.A. Rassepatroon* (The Origin and Essence of the S.A. Racial Pattern).
- Dr. A. L. Geyer — *The Rôle and Responsibility of the Press*.
- Rev. H. J. C. Sniijders — *Die Kerk* (The Rôle and Responsibility of the Church).
- Mrs. W. Schumann — *Die Vrou* (The Woman).
- Mr. F. P. R. van Wyk — *Die Boer* (The Farmer).
- Mr. C. C. Kriel — *The Industrialist and Businessman*.
- Mr. J. D. du P. Basson — *Die Politikus* (The Politician).
- Prof. Dr. C. F. Gunter — *Die Onderwys* (The Rôle and the Task of Education).
- Mr. S. Bourquin — *The Civil Servant*.
- Major General C. I. Rademeyer — *Die Polisie* (The Police).

Each dealt with the responsibility of the White group in a particular sphere of life. A simultaneous Afrikaans-English interpreting service operated throughout the conference.

In a talk on his impressions of the conference, Dr. J. F. Holleman, Director of the Institute for Social Research, University of Natal, subsequently said it was apparent from the discussions that members of Sabra were realizing with a sense of urgency that the racial situation was going from bad to worse; that there

⁽¹⁾ These were published in the July number of Sabra's *Journal*.

was not unlimited time to find an answer; and that the gap between the paper solution of the Tomlinson Report and the implementation of apartheid in the hands of the Government had widened rather than narrowed.

The most important resolution, passed with only one dissentient vote by the conference of some 340 White persons, was that a meeting should be held with African leaders in an endeavour to create a more favourable mental and moral climate in which a fresh and realistic search could be made for a practically attainable plan for separate development that would be acceptable to both sides.

The conference ended with calls for a purposeful speed-up in the application of the policy of separate development; and for missionary work, firstly to enlighten the electorate in order that no government need fear criticism if it devoted large sums of money to the development of facilities for Non-Whites in their own areas, and secondly to convince White and Non-White in South Africa, and the outside world, of Sabra's sincerity.

Originally it was planned to hold the meeting with Africans in the latter part of 1958, but — apparently owing to internal disagreements — the meeting has been postponed to 1959. At the time of writing the question of how the Africans to be invited should be selected had still to be decided.

At the time of the conference it was announced that the Minister of Native Affairs, Dr. H. F. Verwoerd, had resigned from Sabra.

IEWS OF CERTAIN OTHER PROMINENT AFRIKANERS

In his book *No Further Trek*⁽¹⁴⁾, Professor P. V. Pistorius, Professor of Greek at the University of Pretoria, discussed the ideological Afrikaner nationalist movement aiming, he said, at group survival and group supremacy, and preferring the interests of the group to those of the nation. He talked of a close alliance between the Dutch Reformed Church and the ideology of the Afrikaans-speaking group. In South Africa, he said, the absolute priority given to sectional values had brought about a totalitarianism of the spirit: the greatest excesses of intolerance were usually directed against the members of the group who did not fall into line with the general ideological trend.

Yet, he pointed out, no group could survive if the nation and the people as a whole were to perish, as they must if group stood against group and sectional ideology against sectional ideology. How, he asked, could we expect to preserve even the outward appearances of our civilization and way of life in the face of a rising Bantu nationalism, (of which the Europeans had been the architects)?

⁽¹⁴⁾ Published by the Central News Agency, 1957.

There were many in the Church and outside, Professor Pistorius stated, who openly admitted that they were aware of the struggle within them between conscience and the demands of group loyalty.

The hard fact, he said, was that the integration of White and Black had passed the point of no return. There was no further trek. The Bantu and the European were together in the country, and together they must remain. They must either solve their problems or perish, and the solution of those problems could not be one-sided. It must be done by sincere co-operation.

All South African groups would share in a common disaster if the present tension was not eased by a controlled opening of the outlets for Non-Whites. These outlets should be determined in calm deliberation between a united White South Africa and the leaders of the Bantu, Professor Pistorius stated.

In an address to the Afrikanerkring in Melville, Johannesburg, on 27 May 1958⁽¹⁵⁾, Professor L. J. du Plessis of Potchefstroom University said that he was a supporter of territorial segregation, but considered that the country was still busy with integration. If segregation failed, as possibly it could fail, only integration would remain. But this should for the present be left as an alternative. Strenuous efforts should be made to expand the Bantu areas (land which had so far been bought for them was a drop in the ocean), and to develop this land very much faster than was envisaged in the Tomlinson Report. These areas would have to be consolidated in units which could become politically independent — perhaps in five or six states.

Just as the East had become free, so without a doubt Africa's nations must also become free, Professor du Plessis continued. Why did we not welcome the new free nations as we wanted to be welcomed as a free nation? he asked. It was because our conscience was guilty. We ourselves were the oppressors of Non-White nations. The European in South Africa had taught the Bantu the principle of freedom, but no White leader had said to them, "Let us help you to become free". They should be told this as soon as possible.

It was imperative to exchange views with Bantu leaders. "To come to an arrangement with them we must have discussions with the leaders they indicate, and not those we choose. It will not help to confer with the chiefs. They are the servants (*huurlinge*) of the Government. The rebels and the agitators are the people with whom we must speak. They represent the strivings of the Bantu".

Shortly after this speech had been made, a Cabinet Minister attacked "parlour intellectuals who venture to question the Nationalist policies". Clear reference was evident to Professor du Plessis and to Sabra.

⁽¹⁵⁾ As reported in the *Star*, 28 May 1958.

Professor S. du Toit, a prominent theologian also from Potchefstroom University, then sent a letter to the *Transvaler*⁽¹⁶⁾ in which he rejected the implication that intellectuals should not be free to say what they thought, even if their views did not coincide with the official party line. While not necessarily agreeing with everything his colleague had said, he stated, "The right of free expression of opinion may not be limited".

STUDY OF CHRISTIAN RESPONSIBILITY IN AREAS OF RAPID SOCIAL CHANGE

An inter-racial study group, consisting of clergy from the Dutch Reformed and English-speaking Protestant churches as well as lay experts, was set up in South Africa to consider the question of Christian responsibility in areas of rapid social change. This was part of an inquiry being conducted by the World Council of Churches in 27 countries.

Parallel papers were prepared by the Afrikaans- and the English-speaking members on five aspects of the situation — the life of the Bantu in tribal and rural areas, their urbanization, the question of common citizenship, the theological basis for social work, and the rôle of the Church. Further papers were then prepared on the position of Coloured and Indian people. At a meeting held during May 1958 these papers were discussed, and a very considerable measure of agreement was reached. A study group then drew up combined reports, which have been sent to the World Council of Churches.

WORK OF THE CONTINUATION COMMITTEE OF THE CONFERENCES CONVENED BY THE DUTCH REFORMED CHURCHES

An account was given in earlier issues of this *Survey*⁽¹⁷⁾ of the discussions held during 1951 and 1952 between European representatives of the Dutch Reformed Churches and members of their Sotho, Zulu and Xhosa congregations. Thereafter, in 1953 the Federal Missionary Council of the Dutch Reformed Churches convened a three-day conference of White leaders of South African Protestant Churches to discuss the problems which they as Christians face in applying Christian principles in a multi-racial country. In the following year a second such conference, this time on an inter-racial basis, was convened, and an inter-racial continuation committee was appointed to consider how practical effect could best be given to the recommendations and suggestions made, and to arrange further such conferences.

The Continuation Committee has been planning a second conference of White and Non-White leaders of Protestant churches and missions in South Africa to discuss the papers prepared by the inter-racial study group on the social and political responsibilities

⁽¹⁶⁾ Published in the issue of 26 June 1958.

⁽¹⁷⁾ *Survey*, 1953-54 page 16, 1954-55 page 7.

of the churches. This will take place in September 1959. Delegates from the World Council of Churches will be invited, and the findings of the conference will be transmitted to that body.

Another inter-racial gathering, being planned by the Continuation Committee to take place in July 1959, is a conference to which all African writers of merit — from journalists to poets — will be invited, as also will universities and commercial and mission publishers. The Committee is also working for the extension of literacy work among Africans.

Mr. F. J. van Wyk, Assistant Director of the S.A. Institute of Race Relations, has been honorary secretary of the Continuation Committee since its inception.

MEETING OF THE REFORMED ECUMENICAL SYNOD

Some thirty churchmen, representing Calvinist opinion in seven countries, gathered in Potchefstroom during August 1958 for the Reformed Ecumenical Synod, held in South Africa for the first time.

One of the major matters discussed was the Synod's attitude to race relations. Three reports, by independent committees in Scotland, the Netherlands and South Africa, had been prepared, and a further representative committee was appointed to consolidate the findings for the Synod's consideration.

The main points on which an agreed statement was later issued were:

- (a) The fundamental unity of the human race is at least as important as all considerations of race or colour. No particular section of the community can regard itself as placed in an exceptional position or consider itself superior to any other race.
- (b) In one's attitude to other races, the rule of God must apply, so that for others there must be the same love as for oneself.
- (c) All races will enjoy the salvation of Christ.
- (d) Believers of all races should receive one another as brothers and sisters in Christ.
- (e) It is the duty of the Church to avoid even a semblance of an attitude which can engender estrangement between the races. The Church should guard against any impression of discrimination which could imply the inferiority of the other race.
- (f) The Church has a duty to scrutinize the policies of secular governments in the light of the scriptural precepts.
- (g) No direct scriptural evidence can be produced for or against inter-marriage.

THE LAMBETH CONFERENCE

The Lambeth Conference of Anglican Bishops throughout the world was held in Britain during August 1958. Several of the resolutions passed dealt with race relations in South Africa.

The Bishops considered that complete segregation was now impracticable for economic and industrial reasons, even were White South Africans willing to surrender much of their own land for occupation by Non-Whites. If the present pattern of a multi-racial community was to continue, they resolved, any form of apartheid was less just and righteous than a gradual and mutually enriching growth into responsible interdependence of all the races which now shared this fertile and beautiful land.

The African must be allowed his fair and just share in the government, the development and the rewards of the natural resources of the country of his birth and citizenship. He must be encouraged and enabled to advance to the highest level of industrial attainment, and should be free to combine on terms of equality with his fellow-workers of all races through trade unions and similar associations. Systems of migratory labour, that break up family life, were condemned by the conference.

THE BLACK SASH

The Black Sash, originally established to defend South Africa's constitution, recognized at a conference held during June 1958 that the passing of the Senate Act had proved that the present constitution was inadequate to "fulfil the needs of our multi-racial society". Members decided to work towards a new constitution, in which the fundamental rights of all sections of the population would be effectively safeguarded.

THE PROGRESSIVE ASSOCIATION

The formation and broad policy of the Progressive Association were described in an earlier issue of this Survey⁽¹⁾.

During the year now under review the Association formulated in more detail its franchise and constitutional proposals, which are, in brief:

(a) Minimum first step

Every person, whatever his colour, should be able to vote on the common roll for parliamentary, provincial council and municipal elections if he has a matriculation certificate, or pays normal income tax, or if by virtue of the position he occupies within the community or for any other approved reason he is deemed by a representative tribunal to merit the vote.

Those who do not qualify for the common roll should be placed on a communal roll and should elect 20 representatives to the House of Assembly.

The Senate should be reduced to 44 members⁽²⁾, and a further eleven senators (who may be White or Non-White)

⁽¹⁾ Survey, 1955-56, page 2.

⁽²⁾ See Survey, 1955-56, page 22, for the present composition of the Senate.

should be elected by the voters on the communal roll. These voters would similarly elect representatives to provincial and municipal councils.

(b) Second stage

A national convention, representing all elements of the population, should be convened to draw up a new constitution, in terms of which the franchise would gradually be extended by progressively lowering the qualifications for admission to the common roll. The Senate would be reconstituted, the present loading and unloading of constituencies abolished, and the different groups would be protected from domination by one or the other.

THE SOUTH AFRICAN INSTITUTE OF RACE RELATIONS

The work of the Institute of Race Relations over the past year, and the action taken by it in specific circumstances, is described in the course of this Survey. Before proceeding to deal with individual topics, however, it is convenient to make mention of the Institute's general approach and convictions, as expressed during the year under review.

ATTITUDE TO THE POSSIBLE THREAT TO MULTI-RACIAL MEETINGS

The statement issued by the National Executive Committee of the Institute, following the possible threat to multi-racial meetings contained in the Native Laws Amendment Act of 1957, was set out in the last issue of this Survey⁽¹⁾. Briefly, the Committee decided unanimously that the Institute should continue exactly as before to do the work it had always done for better race relations in South Africa.

This statement was unanimously ratified by the Institute's Council in January, 1958.

CIVIL LIBERTY IN SOUTH AFRICA

At this meeting, the Institute's Council concerned itself, among other things, with civil liberties in South Africa. Papers were presented by Dr. the Hon. E. H. Brookes⁽²⁾, Mr. D. B. Moltano, Q.C.⁽³⁾ and the Director, Mr. Quintin Whyte⁽⁴⁾. The findings of Council were:

"The Institute is very greatly disturbed at the continuing inroads on civil liberties in South Africa, the pace of which has been accelerated during recent years. Though the conferring of arbitrary powers on the executive government has been felt

⁽¹⁾ Page 12.

⁽²⁾ RR.218/57. The first two chapters of a book by Edgar H. Brookes and J. B. Macaulay, entitled *Civil Liberty in South Africa*, to be published by the Oxford University Press towards the end of 1958.

⁽³⁾ Subsequently published by the Institute under the title *The Assault on our Liberties*.

⁽⁴⁾ RR.228/57. *A Review of Recent Legislation*.

most of all by the Non-Europeans, it is increasingly affecting the liberties of Europeans also. Freedom of association has been limited, and further limitations threatened. Co-operation in welfare work proceeds under increasing difficulties. University freedom has been seriously menaced. The classic freedoms — freedom of the person, freedom of speech, freedom of public meeting, freedom to move about freely, freedom to choose one's place of residence, freedom from arbitrary discrimination before the law — have all been gravely curtailed.

"In our opinion these attacks on our civil liberties have been made because they are considered by those responsible for them to be essential to the implementation of the policy of apartheid. The Institute is opposed to this policy and stands firmly for good-will, co-operation and the integration of all the peoples of South Africa in the service of their common country. If apartheid can only be achieved by the sacrifice of liberties which our ancestors felt to be dearer than life itself, then it stands condemned for that very reason, quite apart from the many other arguments which can be brought against it.

"The Institute condemns the tendency to authoritarian government, and to the suppression of the most cherished liberties of the individual, and their replacement at best by mere permits issued or withheld at the discretion of Ministers and officials, without appeal to the Courts. This is wrong in principle and inflicts grave practical injustices on countless individuals."

STATEMENT ISSUED FOLLOWING THE GENERAL ELECTION

The statement issued by the Institute⁽⁵⁾ following the general election is set out on page 9.

HOERNLÉ MEMORIAL LECTURE

The fourteenth Hoernlé Memorial Lecture, entitled *The Government of Divided Communities*, was given in Johannesburg and in Cape Town during September 1958 by Dr. David Thomson, Master of Sidney Sussex College, Cambridge⁽⁶⁾.

ANISFIELD-WOLF FOUNDATION AWARD

One of two awards given annually by the Anisfield-Wolf Foundation of America for the best books dealing with race relations was made during 1957 to the S.A. Institute of Race Relations.

⁽⁵⁾ RR.69/58.

⁽⁶⁾ This has been published by the Institute.

THE CONTROL OF MULTI-RACIAL GATHERINGS AND GATHERINGS OF AFRICANS

CONTROL IMPOSED IN 1957

Section 29 of the Native Laws Amendment Act (No. 36 of 1957), which dealt with the presence of Africans at church services, schools, hospitals, clubs or similar institutions and places of entertainment in the so-called White areas, and with the possible prohibition of meetings to be attended by Africans in such areas, was described in the last *Survey*⁽¹⁾, as were also the provisions of the Group Areas Amendment Act (No. 57 of 1957) which dealt with the attendance of persons of a disqualified racial group at cinemas, restaurants, refreshment or tea rooms and clubs in group areas and controlled areas.

ACTION BY LOCAL AUTHORITIES

Following the introduction of the Native Laws Amendment Bill, a Council for the Defence of Freedom of Association was formed in Durban, representing 59 churches, welfare organizations and other bodies likely to be affected. After hearing representations made by this combined organization, the Durban City Council resolved during December 1957:

"That this Council recognizes the importance of multi-racial association for the conducting of community activities; and that the Council for the Defence of Freedom of Association be informed that due consideration will be given by the City Council to the representations made on behalf of the Association if and when the City Council is called upon to exercise the powers conferred upon it by Section 29(d) of Act 36 of 1957; and that the Association be thanked for the manner in which its representatives conveyed its views to the Council".

The National Council of Women planned to hold its annual congress during March 1958 in Rustenberg (Western Transvaal) and was offered the use of the Town Hall there for the occasion. But when the Town Council subsequently discovered that one African delegate would be attending, this invitation was withdrawn. The congress was held, instead, at a guest farm outside the municipal area.

Also during March, the Krugersdorp Town Council resolved to request the Government to ban mixed meetings within its area. It objected to the fact that the Krugersdorp Non-European Child Welfare Society was holding mixed meetings in a church hall in the "White" part of the town.

The Secretary for Native Affairs wrote to ask the Council whether any Europeans had complained that they were affected, and had stated that the mixed meetings were causing a nuisance.

⁽¹⁾ *Survey*, 1956-1957, pages 17 to 36.

The Council replied that it had received no complaints⁽²⁾. (It will be recalled that the Minister may ban a meeting to be attended by Africans in the "White" part of a town only if he considers that the Africans are causing a nuisance, or that their presence is undesirable in view of the numbers involved, and if the local authority concerned concurs. The authorities have no power to ban meetings to be attended by Whites, Coloureds and Indians — but not Africans — unless these meetings are deemed likely to obstruct traffic, or to result in public violence, or to further the aims of communism, or unless a state of emergency prevails.)

**TRANSCAAL LOCAL GOVERNMENT AMENDMENT ORDINANCE,
No. 21 of 1957**

The Transvaal Local Government Ordinance of 1939 provided that a city or town council might incur a reasonable amount of expenditure necessary for public entertainment⁽³⁾. The Amending Ordinance of 1957 added that if any such entertainment was to be attended both by Non-Whites and by Whites other than town councillors or state, provincial or municipal officials invited in their capacities as such, the prior approval of the Administrator must be obtained.

When such approval was requested for a ball to be held to mark the official opening of a new communal hall at Coronationville (Coloured) township, Johannesburg, during March 1958, it was granted on condition that the only Whites to attend should be city councillors and senior municipal officials (without their wives), and that they should have their refreshments separately from the Coloured guests.

**CONTROL OF MEETINGS IMPOSED UNDER GOVERNMENT
NOTICE No. 2017 of 1953 AS AMENDED**

The imposition of control

In terms of Government Notice No. 2017 of 1953, as amended (issued under the Native Administration Act of 1927), the Governor-General may impose control of meetings or gatherings of Africans in any area. The permission of a Native Commissioner or magistrate is then required before a meeting, gathering or assembly at which more than ten Africans are to be present may be held in that area. Certain exceptions are made: Members of Parliament or of Provincial Councils, or those nominated for elections as such, may hold meetings of over ten Africans without obtaining permission, and *bona fide* church services, weddings, funerals and sports gatherings are excluded from any ban.

Between 1954 and 1957 this control over meetings of more than ten Africans was imposed in the magisterial districts of Mafeking, Port Elizabeth, Humansdorp, Cradock and Marico, in

⁽²⁾ *Rand Daily Mail* report, 29 July 1958.
⁽³⁾ Section 79 (42).

urban areas in the Transkei, in the municipal areas of Grahamstown and Kimberley, in Evaton, Alexandra Township, and certain farms in the Waterberg area.

Then, on 12 April 1958 (four days before the General Election) control was similarly imposed in the following districts:

- (a) *Cape* — Bellville, East London, Simonstown, Cape Town, Uitenhage and Wynberg.
- (b) *Natal* — Durban, Pietermaritzburg, Pinetown.
- (c) *Orange Free State* — Bloemfontein, Kroonstad, Odendaalsrus, Welkom.
- (d) *Transvaal* — Benoni, Boksburg, Brakpan, Delmas, Germiston, Heidelberg, Johannesburg, Kempton Park, Krugersdorp, Nigel, Pretoria, Randfontein, Roodepoort, Springs, Vanderbijl Park, Vereeniging and Witbank.

Effect of the imposition of control

The position was, then, that in none of the major urban areas of the Union was it possible to hold a meeting of more than ten Africans (with the exceptions noted above) unless permission was obtained; and the consideration of requests was a complicated matter, apparently involving the local authority concerned and the police as well as the Native Commissioner or magistrate.

The effect on African organizations was obvious. The African National Congress was prevented from holding its Transvaal provincial congress. Unless they obtained permission (which was not always forthcoming) advisory board members were prevented from convening residents' meetings, and African trade unions from calling members together to discuss new wage determinations and other matters of current interest. It appeared that the conditions imposed, in general, were that the meetings should be held indoors, should be completely non-political, and that members of the C.I.D. should be permitted to attend.

Mixed organizations with African members were affected, too. The Liberal Party, for example, was prevented from holding meetings in Pietermaritzburg and in African townships of Johannesburg. The Institute of Race Relations had to postpone holding a symposium in Johannesburg because of the ban.

But an effect of the relevant proclamations that was not originally foreseen by the general public was that purely White or purely Coloured organizations, too, might be affected. During July 1958 the Black Sash requested permission to hold two public meetings on the Johannesburg City Hall steps, to protest, respectively, against the Special Criminal Courts Amendment Bill⁽⁴⁾ and the proposal to increase African taxation. In both cases, permission was withheld. It was reported⁽⁵⁾ that the police had stated that, in view of the controversial nature of these measures, the

⁽⁴⁾ See page 35.
⁽⁵⁾ *Star*, 18 July, 1958.

proposed meetings might attract numbers of Non-Whites whose tempers might be inflamed to a point beyond the control of the organizers.

During the following month two further requests to convene public meetings on the Johannesburg City Hall steps were submitted: the Black Sash wanted to protest against the Electoral Laws Amendment Bill (which sought to extend the vote to White eighteen-year-olds), and the United English-Speaking South Africans' Organization against the lowering of the Union Jack from municipal buildings in Johannesburg. Although the police advised the City Council that it was impossible for them to exercise proper control over open-air meetings, the Council granted permission for these two meetings to be held — and the proceedings were peaceable.

It was reported by the Black Sash^(*) that the private secretary to the Minister of Native Affairs had written to them to say that the Minister had no desire to interfere with the affairs of Europeans where interference could be avoided without prejudice to Native administration. There was no question of the ban interfering with a meeting held in a hall, where the organizers would be able to exclude Non-Whites. Furthermore, instructions had been given that unless there were exceptional circumstances, permission should not be refused for an open-air meeting relating to matters chiefly affecting Europeans.

The fact remained that orders issued under the Native Administration Act (approved by Parliament for the control of Africans) were in practice limiting the democratic rights of other sections of the population. No inter-racial association might without permission hold a meeting, whether indoors or outside, in case more than ten of its African members attended. No purely White or purely Coloured or Indian organization might hold an unauthorized meeting in any place where admission could not be regulated in case this meeting attracted more than ten Africans, even if the latter were only casual passers-by.

The lifting of the ban in certain areas

Numerous requests for the lifting of the ban were made. The Institute of Race Relations, for example, pointed out^(?), one month after its imposition on 12 April, that the ban had been announced as a temporary measure to forestall possible unrest prior to the general election; but it remained in force, and its maintenance was disrupting legitimate activities.

It was not until 27 June that the ban was lifted in the towns of the Cape and Orange Free State that were affected by the proclamation issued in April 1958, and in Pietermaritzburg. Only two months later, on 29 August, was it lifted in the other areas

^(*) *Star*, 28 August, 1958.

^(?) Press statement published in the *Rand Daily Mail*, 21 May 1958.

included in that proclamation, and, at the same time, in the urban areas of the Transkei, in Kimberley, and on farms in the Waterberg area. It remained in force in the magisterial districts of Mafeking, Port Elizabeth, Humansdorp, Cradock and Marico, and in Grahamstown, Evaton and Alexandra Township. (The full effects of the Court judgments summarized below are, apparently, not yet clear).

According to a press statement by the Native Affairs Department^(*), the Minister wished it to be clearly understood that should similar circumstances as those necessitating the imposition of the ban before the general election again occur, the notices that had now been withdrawn would immediately be re-applied.

The prosecution of certain persons for holding unauthorized meetings attended by more than ten Africans

(a) *Grahamstown*

The Chairman of the Grahamstown Joint Council was prosecuted for presiding at an unauthorised meeting attended by more than ten Africans. The Secretary and the guest speaker who were also on the platform were not prosecuted. This was the Council's annual general meeting and was attended by approximately ninety persons, of whom eleven were Africans.

In the Magistrate's Court an exception to the charge on the ground that regulations framed under the Native Administration Act of 1927 empowered the Minister to control only gatherings of Africans was rejected. The accused was found guilty, cautioned and discharged.

(b) *Durban*

A different decision was reached by a full bench of three judges of the Natal Supreme Court, in Pietermaritzburg, in the case *H. E. Mall and Others vs. Regina*. On 6 December 1956 a meeting was called in Durban by the Civil Liberties Defence Committee to raise funds for the defence of those arrested on a charge of high treason. This meeting was attended by some 50 Whites, 150 Indians and 200 Africans.

Regulations contained in Natal Provincial Notice 78 of 1933 stipulate that (with certain exceptions) no person shall attend any meeting or assembly of Africans in Durban unless 72 hours' prior notice of the meeting has been given to the Mayor or someone authorized to act for him. No notice of the meeting held on 6 December 1956 had been given to the Mayor.

Three Europeans, two Africans and one Indian were charged with contravening the terms of the Provincial Notice, and were found guilty by a magistrate. They appealed against

^(*) e.g. *Rand Daily Mail*, 1 September 1958.

his verdict on the ground that the Crown had failed to prove that the meeting in question was a meeting or assembly of Africans.

This appeal was allowed. The judges held that if the meeting was held to be one of Africans, by the same reasoning it was a meeting of Europeans and was also a meeting of Indians. Were there, then, three meetings? The meeting concerned could properly be described as a multi-racial meeting at which Africans, amongst others, were present. The word "of" in the expression "meeting or assembly of Africans" could, the judges considered, not be extended to refer to multi-racial meetings.

(c) *Port Elizabeth*

In June 1956, a meeting of the S.A. Coloured People's Organization was held in a hall at Schauder (Coloured) Township, Port Elizabeth, to discuss matters of particular interest to Coloured people. The speakers were of various racial groups, and the audience consisted of more than a hundred Coloured people and, by chance, between 16 and 21 Africans.

Three Europeans, two Coloured men and one African were afterwards charged with holding a meeting of more than ten Africans without permission. They were acquitted by the magistrate, who found that the Crown had not established that the meeting was one of Africans. The Eastern Cape Attorney-General then appealed on a point of law, his appeal was upheld by the Supreme Court, and the case was remitted to the magistrate for re-trial.

At the re-trial, after further evidence had been led, the magistrate said that the Crown had now established its case beyond a reasonable doubt. That one would have expected to find only Coloured people present at the meeting was a mitigating circumstance, but was not a defence of the charge, as the necessary permit had not been obtained. The chairman of the meeting, Mr. A. E. L. Heyns, was sentenced to £15 or 15 days, and the others to £10 or 10 days, all sentences being suspended conditionally for 18 months.

The six men, in turn, then lodged an appeal, which was heard by a full bench of the Eastern Cape Division of the Supreme Court in Grahamstown on 15 September 1958^(*).

The judges declared invalid the proclamation prohibiting meetings of more than ten Africans, and the conviction and sentences were set aside.

In 1822, they said, the Cape Governor had restricted freedom of speech; but after a long struggle by the colonists, relief had been granted by an 1848 Cape Ordinance, in the preamble to which the right of freedom of speech was

(*) *A. E. Every and Others vs. Regina.*

enshrined. When the Native Administration Act was passed in 1927, the provisions of the 1848 Ordinance were still part and parcel of the statute law of the Cape. A similar position pertained in the Transvaal, where an 1894 law restricting freedom of speech had been repealed by the 1914 Riotous Assemblies Act.

The right of freedom of speech was so fundamental that any interference with it could be justified only in special circumstances, such as those covered by the Riotous Assemblies Act and the Suppression of Communism Act, or in times of national emergency. And that was first and foremost a function of Parliament itself. Restricting such a right was beyond the powers of the Governor-General under the Native Administration Act. Although, in terms of this Act, he was given wide powers to control meetings of Africans, those powers were subject to fundamental restrictions. Regulations could not be proclaimed which interfered substantially with the rights of Non-Africans — where the interests of Africans were secondary or remote.

The banning regulation was so wide that it covered every meeting where more than ten Africans were present, whether casually or by invitation. It thus infringed the rights of Non-Africans and must be held to be invalid.

It was inconceivable, the judges considered, that when the Legislature in 1927 empowered the Governor-General to regulate meetings of Africans, it ever intended to sanction radical and substantial interference with the right of freedom of speech and lawful assembly vouchsafed to the population of the Union as a whole.

According to a press report⁽¹⁾ members of the Native Affairs Commission said that this judgment need not necessarily affect the administration of the ban in other areas where it was still in force, as it was in relation to a particular case. The Department was still considering its full legal effects.

FURTHER EFFECTS OF THE MEASURES FOR THE CONTROL OF MULTI-RACIAL GATHERINGS

The effects of the relevant provisions of the Native Laws Amendment Act and Group Areas Amendment Act of 1957 on clubs, cinemas and welfare organizations will be dealt with in a later chapter of this *Survey*.

POPULATION REGISTRATION AND PASSPORTS

PROGRESS OF POPULATION REGISTRATION

In speeches made during September 1958⁽¹⁾, the Minister of the Interior said that the central population register was then about

(1) *Star*, 22 September 1958.

(1) Senate 8 September 1958, Hansard 5 cols. 1087-90, and Assembly, 10 September, Hansard 9 cols. 3491-7.

95 per cent up to date. It consisted of about 4,500,000 names (White, Coloured and Asian — the register for Africans is kept separately). The work of transferring records of new births, deaths, marriages, divorces, emigrants and naturalizations to the central register had not been completed, although swift progress was being made. As this was done, a cross-check was conducted of details of the records, which sometimes involved an enquiry into the racial group of the persons concerned.

As from March 1958 the Division of Births, Marriages and Deaths had been incorporated into the population register. This avoided duplication, and also two sets of enquiries into race matters. The issuing of amended birth certificates, following such enquiries, had been accelerated.

Everyone's name would in due course appear on the population register, but only those of and above the age of 16 (about 2,841,000 persons) would receive identity cards. Photographs had been received from 2,100,000 of these people, identity cards prepared for 1,736,118 of them, and cards issued to 416,744 persons. The issuing of these cards had started on a large scale only at the beginning of 1958, when district population registration offices had been opened in Cape Town, Johannesburg, Port Elizabeth and Durban.

The Minister added that the Department of Pensions now demanded that every new application for a social pension must carry the identity number of the applicant (those persons who had not yet received their identity cards might obtain their numbers from the central or local population registration offices). As from 1 January 1959, every pensioner would be required, if asked, to tender his identity card, or, failing this, his number. It was anticipated that increasing use of the system would be made by other Government Departments. The S.A. Nursing Council had decided that all nurses and midwives must in future supply their identity numbers: if they failed to do so the Council would not register them.

VARYING DEFINITIONS OF RACE IN DIFFERENT LAWS

A member of the Opposition⁽²⁾ pointed out that varying definitions of the racial groups were contained in different Acts. "I understand", he said, "that the Hon. the Minister has tried to settle on one set of definitions, but has been unable to do so. The result is, Mr. Chairman, that the object of this race classification in the Population Registration Act cannot be achieved, and if this is so, then the whole question should be reconsidered".

The Minister replied⁽³⁾ that the law advisors were still investigating the matter. The ideal at which he was aiming was that the population registration classification should be valid for

(2) Mr. C. van Ryneveld, M.P., Assembly Hansard 9, cols. 3487-8.

(3) Cols. 3496-7.

all other laws, and for the purposes of admission to schools and of the franchise. In the case of the Group Areas Act a further qualification would be necessary so as to cover mixed marriages.

"BORDERLINE" CASES

Dealing first with the White/Coloured borderline cases, the Minister said⁽⁴⁾ that of such persons so far dealt with, 1,813 had been classified as White, and 1,155 as Coloured. Of the latter, 98 had lodged objections. The Population Registration Appeal Board had dealt with six of these objections, the Director of Census had reviewed his decision in one case, and the remaining 91 cases were pending. (The Minister did not say what the outcome was of objections heard by the Board).

So far as the Coloured/Asian/African borderline cases were concerned, of the persons so far dealt with 26,614 had been classified as Coloured or Malay, 15,212 as African, and 230 as Asian. Objections lodged numbered 1,594, of which seven had been referred to the Supreme Court, 105 disposed of by the Board, and 32 were withdrawn. The Director of Census had reviewed the decisions made by his officials in 1,054 cases, and the remainder were pending.

CHANGES OF ADDRESSES

The Population Registration Act provided that changes of address should be entered in the population register. The Minister said that at the stage when the Bill was introduced the system of the continuous registration of voters was in operation, and it was hoped to combine these records. But this system had proved to be impracticable: the Department of Census had reverted to the system of biennial general registrations with interim registrations. In the circumstances, people's addresses would not be entered in the population register.

GROUPS OF PEOPLE WHO DO NOT FIT INTO ANY RACIAL COMPARTMENT

Another member of the Opposition⁽⁵⁾ described a group of people in Durban, who were of Arabic origin, their ancestors having come as slaves from the east coast of Africa. They were later freed, and settled on land on the Bluff, then outside the city boundaries, this land being owned by a Trust to which Indians had subscribed. These people had retained their Muslim religion and culture, and the Muslim community had always accepted them as Indians.

But officials had now classified them as Africans, and, furthermore, the land on which they lived had, under the Group Areas Act, been zoned for Whites. The result was that not even their

(4) Col. 3496.

(5) Mr. H. Lewis, M.P., Col. 3470.

own people, the Indians, could re-establish them elsewhere, at their own cost.

The Minister replied^(*) that, according to his information, although these people were all Muslims they were not all of the same racial group. Some (who had already received their identity cards) were Africans, and others were Coloured with Indian blood. The latter group had "failed to co-operate with us to be classified".

Another group of people who are encountering great difficulties are the Griquas of the Northern Cape, who have mixed White, Hottentot, Bush, and a little African blood, but who over the years became a distinctive group with a distinctive appearance, speaking the Griqua Hottentot language. They have little contact socially with the Cape Coloured people. In recent years some of the younger ones have inter-married with Africans, and have adopted Afrikaans as their home language. They have, however, been regarded as Coloured: those who draw pensions are paid at Coloured rates, and most of the men hold certificates of non-liability for Native taxation.

During 1955 a Population Registration official visited Kimberley, near their headquarters, and classified the Griquas there as Africans. This was an extremely serious matter for them. As well as having to carry reference books, to register service contracts, to obey curfew regulations, to draw pensions at lower rates and pay poll tax, their children would fall under the Bantu Education Act, and would have to be educated through the medium of one of the African languages, completely foreign to them.

They were, unfortunately, ill-advised by the then local representative of the present Captain, Nicholas Waterboer II, and failed to lodge objections against their classification within the stipulated period of 30 days. At the time of writing, their position was extraordinarily confused. They were not Africans for the purposes of the Representation of Natives Act, yet could not qualify for the Coloured voters' roll. Some of them, while holding certificates of non-liability for Native taxation, had been issued with reference books making them liable to pay poll tax.

STUDY OF THE EFFECTS ON HUMAN BEINGS OF RACE CLASSIFICATION

During the year under review the Institute of Race Relations published a study of the effects of race classification on people in the "border-line" category^(?). The comparatively flexible position prior to 1950, the rigid system then introduced, differences in classifications made under various Acts, and human difficulties and tragedies thus arising, were described. It was pointed out that,

^(*) Cols. 3481/2.

^(?) *Race Classification in South Africa—Its Effects on Human Beings*, by Muriel Horrell. Published in roncoed form as Fact Paper No. 2 of 1958.

although the Minister of the Interior had said^(*) that the Population Registration Act was assisting people by removing uncertainty, unease, and "clouds which hovered over them", in fact uncertainty remained, since the Director of Census could at any time reopen a case should it appear to him that the person concerned was wrongly classified.

It was pointed out, too, that although the Population Registration Act itself contained safeguards against malicious "informing", wide scope to "informers" was in practice given under related legislation. Examples were quoted.

Furthermore, it was shown that the Act operated to prevent friendships across an arbitrarily determined colour line. The appearance of very many South Africans did not furnish conclusive evidence of their racial group. The question of acceptance then became of over-riding importance. Should a man who was initially classified as White, for example, have a number of Coloured friends, he must shun their company if he wished to avoid the risk of being re-classified as Coloured.

The confusion resulting from varying Court decisions on the definition of an African, resulting from a lack of clarity in the Act, was described. Numerous case-histories were given to illustrate the humiliation, hurt and tragedy that the Act has caused in "borderline" cases.

PASSPORTS

Various Non-White persons were granted passports during the year under review, for example, certain churchmen who wished to attend the congress of the International Missionary Council in Accra and the All-Africa Church Conference in Ibadan, and members of the cast of the "Coon Carnival" variety show who were booked to perform in East Africa; but many other applications were refused. Among those refused were applications by three of South Africa's best Non-White university graduates, who had been awarded bursaries for further study at the Oxford, Cambridge and London Universities. None of these students has ever taken part in any political campaign: academic circles believe that the reason the passports were refused is that the bursaries were offered by organizations opposed to the apartheid policy.

There are, in any case, generally very considerable delays before passports are issued to Non-Whites, since their applications are referred by the Department of the Interior to both the police and either the Department of Native Affairs or the Department of Coloured Affairs.

Long delays occur, too, when Non-White persons from other countries apply for visas to visit South Africa.

^(*) Statement published in the *Cape Times*, 21 February 1958.

THE TREASON TRIAL

EVENTS DURING THE RECESS

In the last issue of this *Survey*⁽¹⁾ an account was given of the arrests on 5 December 1956 and during the few days that followed of 156 persons on a charge of high treason, of the establishment of a defence fund, and of the first stages of the preparatory examination in Johannesburg which, with adjournments, lasted from 19 December 1956 to 11 September 1957. The court then adjourned until 13 January.

On 17 December 1957 it was announced that the charges against 61 of the accused had been withdrawn. Later, after the hearing had been resumed, counsel for the Crown referred to certain remarks made by one of the defence counsel to the effect that the prosecutions were "a testing of political breezes"⁽²⁾. He had been requested, he said, to tell the Court that the Attorney-General alone had set the proceedings in motion, that he had read every word of the record, and that during the recess he had decided not to proceed against 61 of the accused.

The Minister of Justice was subsequently asked in the Senate whether the Government intended compensating these persons for the expenses they had incurred and the loss they had suffered during the preparatory examination. He replied⁽³⁾ that it would make the administration of justice impossible if in all instances where a case was withdrawn the person concerned were to be compensated. There was, in his opinion, no reason why exception should be made in the case referred to.

THE CLOSE OF THE PREPARATORY EXAMINATION, AND THE CHARGES

The hearing was resumed on 13 January 1958, and on 22 January the Crown called its last witness and closed its case. The formal charges were then put to the remaining 96 accused (95 persons and one printing and publishing company). The main charge was of high treason in that the accused had joined in a conspiracy, and had acted in concert and with common purpose, wrongfully, unlawfully and with hostile intention against Her Majesty the Queen and her Government of the Union of South Africa, to disturb, impair or endanger the existence or security of the said Government by committing hostile acts, or by inciting or instigating others to do so.

Some particulars of the alleged hostile acts were given. They included, *inter alia*, organizing or taking part in campaigns against existing laws; conspiring together to overthrow the existing Government by the use of extra-parliamentary, illegal and violent means and advocating the establishment of a communistic state to replace

⁽¹⁾ Page 41 *et seq.*

⁽²⁾ *Survey*, 1956/57, page 44.

⁽³⁾ Senate, 15 July 1958, Hansard 1 col. 21.

it; convening the "Congress of the People" and adopting the "Freedom Charter", and spreading feelings of hostility between Europeans and Non-Europeans.

There were two alternative charges under the Suppression of Communism Act; of performing acts which were calculated to further the achievement of any of the objects of Communism; or of advocating, advising and encouraging the achievement of any of these objects.

The chief counsel for the defence asked whether the Crown was seriously suggesting that a campaign against existing laws was treasonable. The means envisaged for this campaign were extra-parliamentary but not illegal, he maintained. The leaders had repeatedly stressed that moral, not physical, force should be employed. If that which the Crown had established, he declared, was evidence of treason, subversion or Communism as defined in South African law, then there was an end in South Africa to all that was implicit in the term democracy. He applied for the discharge of all the accused.

Counsel for the Crown argued that they should all be committed for trial. He maintained that, under a camouflage of innocent and idealistic activities, the accused were engaged in a conspiracy with the aim of replacing the existing form of government by a "people's republic or people's democracy — in other words, a Soviet state". The method by which this change was to be brought about was a campaign of hindering, harassing and obstructing the government until it could no longer function. The various acts which went to make up this campaign might in some cases not in themselves be unlawful, and in others unlawful but not in themselves treasonable. But all these acts, he said, took on a different complexion when considered as part of a concerted plan with the total destruction of the present system of government as its goal.

The accused all pleaded not guilty and reserved their defence. They were committed for trial.

It was later announced that the Attorney-General had declined to prosecute a further four of the accused — three persons and the printing and publishing company — and the charges against one man who was seriously ill were withdrawn.

THE SPECIAL CRIMINAL COURTS AMENDMENT ACT,

No. 18 of 1958

At the end of the preparatory examination the accused at first elected to be tried by a judge and jury; but thereafter chose, as they were entitled to do, to be tried by a judge and assessors. But the Criminal Procedure Act (No. 56 of 1955 as amended) provides that, in cases of treason, sedition, public violence, or certain offences under the Suppression of Communism Act, or of an attempt, conspiracy or incitement to commit such offences, if the Attorney-

General is of the opinion that the ends of justice are likely to be defeated if the accused are tried by a jury, he may recommend that a special court be constituted for the trial. If the Minister of Justice is satisfied with his reasons, the Governor-General then appoints a special court of not less than two or more than three judges of the Supreme Court, whose decision must be unanimous.

The constitution of a special court of three judges to try the 91 accused was gazetted on 1 July.

The Minister of Justice said later⁽⁴⁾ that before appointing this special court he had obtained legal advice. But some doubt was then expressed; and in order to avoid the possibility of the defence raising a technical objection, which might have delayed proceedings very considerably, he had decided to introduce the Special Criminal Courts Amendment Bill, which would place the legality of the special court beyond doubt.

In terms of this measure, the words in the Criminal Procedure Act "if the accused were tried by a jury the ends of justice are likely to be defeated" are deleted, and replaced by "if it is in the interest of the administration of justice that the accused be tried by a special criminal court". The powers of the authorities were, thus, widened considerably. It was stated in this new measure that the special court constituted to try the 91 accused would be deemed to be a special criminal court constituted in terms of the Amendment Act.

THE OPENING OF THE TRIAL

The trial opened in Pretoria on 1 August. The Department of Justice arranged a transport service from Johannesburg (where most of the accused were resident); and the Pretoria sub-committee of the Treason Trial Defence Fund undertook to arrange lunches for them.

On the first day, the leader of the nine-man defence team applied for the recusal of two of the three judges. One of them agreed to recuse himself on the ground that there was a certain overlap between this case and another with which, as counsel for the police authorities, he had previously been associated. The court then adjourned for a week, during which period the Minister of Justice appointed another judge.

When the proceedings were resumed, the defence excepted to the charges, and alternatively applied for them to be quashed. The leader of the defence team maintained, *inter alia*, that the prosecution had contradicted itself in certain ways between the indictment and the further particulars of the charges; that the indictment did not fulfil its purpose of informing the accused clearly what the charges were that they had to meet; and that it was difficult to see on what point of law all the accused were alleged to have acted together in concert and with common purpose.

⁽⁴⁾ Assembly, 14 July 1958, Hansard 2 cols. 257-8.

On 20 August counsel for the Crown made application for certain minor amendments to the indictment to be effected. The defence maintained that these would not relieve the embarrassment suffered by the accused.

Judgment on the defence application was given on 27 August. The first alternative charge, under the Suppression of Communism Act, was quashed, and the prosecution was ordered to supply the defence with further particulars relating to the remaining charges. The presiding judge said that if the whole indictment were quashed, the accused would have to await a fresh indictment; and it was in their interests that further long delays should if possible be avoided. The Attorney-General, he said, had seen fit to arrange for a joint trial; but if it should appear that one or more of the accused would suffer prejudice solely because of this, the separation of trials might still be ordered.

After a further adjournment, during which further particulars were supplied to the defence, proceedings were resumed on 29 September. The Crown then applied for the withdrawal of the second alternative charge (also made under the Suppression of Communism Act) leaving only the main charge of high treason. On this charge the Crown applied for the deletion of the words "acting in concert and with common purpose". These applications were allowed. Counsel for the Crown said that the prosecution was relying only on the charge of conspiracy. Even if certain overt acts were proved, in his opinion the accused should all be discharged unless it was also proved that these acts flowed from a conspiracy.

The leader of the defence team again excepted to the remaining charge, and alternatively applied for it to be quashed. In reply to a question, he said it was his duty to point out that the Court could not in law be bound by the Crown's submission that if no conspiracy was proved, the accused should automatically be acquitted.

The court then adjourned to enable the Crown to prepare a reply to this application by the defence. When it re-assembled, on 13 October, the Crown applied for the deletion of some of its allegations in the remaining charge; for all of the 700 or so documents listed in the indictment to be disregarded as overt acts; and for leave to abandon reference as overt acts to the more than 700 speeches. Only 20 speeches, of which eight were made by persons who did not figure among the accused, would then have been mentioned in the indictment.

Counsel for the Crown said⁽⁵⁾ that if the amendments were not granted, the Crown would have to deal with the whole of the defence argument against the main charge, "and quite frankly we are not in a position to do so".

This application was objected to by the defence on the grounds that the accused were misjoined. One of the judges pointed out

⁽⁵⁾ Rand Daily Mail report, 14 October 1958.

that the defence had objected to four points of the indictment, but that the Crown's amendments covered two of these only. The Crown then withdrew the indictment entirely.

It is understood that a fresh indictment is to be drawn up by the Attorney-General.

MATTERS AFFECTING SPECIFIC GROUPS COLOURED PEOPLE

THE COLOURED AFFAIRS DEPARTMENT

In terms of Proclamation No. 68 of 1958, the Division of Coloured Affairs was, from 1 April, converted into a Government Department, still under the Minister of the Interior. Its head continues to be Dr. I. D. du Plessis, the Commissioner for Coloured Affairs.

According to the Minister of the Interior⁽¹⁾, the staff of the department consists of 266 Europeans and 227 Coloured people, some of the latter being employed as research or extension officers, clerks or typists. Three of the institutions under the department's control have exclusively Coloured staff.

All Coloured welfare services have been transferred from the Department of Social Welfare to the Department of Coloured Affairs. Similarly, the control of institutions dealing with the care, training and rehabilitation of Coloured children, and of State-aided vocational schools for Coloured students, has been transferred from the Department of Education, Arts and Science; and it is intended that the control of special schools should similarly be transferred⁽²⁾.

In the speech referred to above, the Minister of the Interior said⁽³⁾ that the new department would take over only those services that demanded special attention: it was not the intention that its development would be along the lines of that of the Native Affairs Department. Coloured people would everywhere be administered by the general services of the country, for their background was Western. With the Coloured man's "Western background we ought, taking into consideration the policy of apartheid, to keep him as closely to the European as possible".

COLOURED RESERVES AND MISSION STATIONS

The Minister gave some information about the Coloured reserves and mission stations, which, he said⁽⁴⁾, are Concordia, Kommagas, Leliefontein, Pella, Steinkopf and Richtersveld in Namaqualand, Eksteenskuil near Upington (Gordonia district), Ebenezer (Van Rhynsdorp), Mamre (Malmesbury), Pniel (Paarl), Genadendal (Caledon), Loar (Ladismith, Cape), Enon (Uitenhage), Mier, Thaba Patchoa (Thaba 'Nchu) and Kylemore (Stellenbosch).

⁽¹⁾ Senate 8 September 1958, Hansard 5 col. 1083-4.

⁽²⁾ The relevant legislation is dealt with in the chapter of this Survey entitled "Education".

⁽³⁾ Cols. 1086, 1185.

⁽⁴⁾ Cols. 1079-80.

Eksteenskuil, he said, is an irrigation scheme where the people live on islands. Thaba Patchoa was created as a home for wandering cattle farmers. Development programmes were in progress in the Coloured settlements, Government subsidies and/or interest-free loans being available for the erection of dams, bridges, fencing, boreholes and domestic water supply.

THE ESTABLISHMENT OF CHURCHES IN COLOURED SETTLEMENTS

On 7 March 1958, three Coloured church-wardens of the Calvinist Protestant Church of South Africa were found guilty in the magistrate's court at Springbok, Namaqualand, of contravening the terms of a Government Notice by holding a gathering of more than five persons without having obtained permission. According to press reports⁽⁵⁾ they were each fined £5 or 20 days, suspended for three years. The gathering in question had been a religious service. The magistrate was reported to have said that while he sympathized with the desire of the accused to worship, only one church — the Dutch Reformed Church — was recognized by the (then) Division of Coloured Affairs in the Namaqualand reserves of Kommagas and Concordia.

The background to the situation is this. Other denominations besides the Dutch Reformed Church had from time to time established Coloured mission stations; and according to a press statement by the Commissioner for Coloured Affairs⁽⁶⁾, there was a tacit understanding that one denomination would not seek to establish itself in an area developed by another.

The mission stations of Kommagas and Concordia were developed by the Rhenish Mission, but during the war were taken over by the Dutch Reformed Mission Church. Not all the residents became members of the latter church, however.

Meanwhile, the Rev. I. D. Morkel had broken away from the Dutch Reformed Church because, he stated, he could not accept the apartheid policy. He founded the Calvinist Protestant Church of S.A., and many residents of the Kommagas and Concordia reserves became members, the majority of them, apparently, being those who had never joined the Dutch Reformed Church. According to press reports⁽⁷⁾ representatives of the Calvinist Protestant Church had several interviews with the Commissioner for Coloured Affairs, at which they sought permission to establish a church at Kommagas.

The decision as to whether another denomination should be permitted to establish itself in a reserve administered by any particular mission is left to the community concerned. The Boards of Management of both Kommagas and Concordia are reported⁽⁸⁾

⁽⁵⁾ *Rand Daily Mail*, 10 March 1958.

⁽⁶⁾ *Argus*, 15 March 1958.

⁽⁷⁾ e.g. Statement by the Rev. I. J. Theron, *Argus*, 22 March 1958.

⁽⁸⁾ *Cape Times*, 20 March 1958.

to have requested the Commissioner for Coloured Affairs not to grant recognition in their areas to the Calvinist Protestant Church.

These Boards of Control have ten members, of whom six are elected by the registered occupiers of land, and three are nominated by the Commissioner, who also appoints a chairman (a departmental official or the magistrate). The Chairman has a casting as well as a deliberative vote.

New regulations for the control of Coloured mission stations and reserves were gazetted on 25 October 1957. These provided, *inter alia*, that it is an offence for anyone, unless with the permission of the Commissioner for Coloured Affairs or the magistrate, to hold or address a gathering of more than five persons. Meetings presided over by a Senator, Member of Parliament or of a Provincial Council, meetings held for official purposes, weddings, funerals, sports gatherings and entertainments are exempt from this provision. So are *bona fide* religious services conducted by the mission society running the mission station concerned, or by any other church to which a portion of the commonage has legally been sold. Other religious services are exempt only if approved by the Commissioner for Coloured Affairs or the local magistrate after consultation with the mission society and any other church legally established in the area, or if the Board of Management has passed a resolution in favour thereof and such resolution has been approved at a special meeting by not less than two-thirds of the total number of registered occupiers of land in the mission station.

ASIANS

RESTRICTIONS ON TRAVEL

Not only do Indians in South Africa require permits to travel from one province to another, but the permission of the Native Affairs Department is also required if their intended route lies through the Transkei. Such permission is not readily granted.

During December 1957, for example, Mr. A. D. Lazarus, principal of the Sastri College, Durban, heard that an uncle of his was seriously ill in Port Elizabeth. He took the telegram giving this news to the Native Commissioner's office and applied for a permit to travel to Port Elizabeth by the shortest route, along the national road through the Transkei. He was told that the Native Commissioner would require proof that his uncle was really ill. A telegram was sent, at Mr. Lazarus's expense, to the Native Commissioner in Port Elizabeth; but as no reply had been received by noon the following day, which was a Saturday, Mr. Lazarus decided to travel via Bloemfontein instead of through the Transkei. This added about 540 miles to his journey.

Mr. P. S. Joshi, an ex-teacher of Johannesburg, had written several books which were critical of South Africa's racial policies.

His wife lost her domicile in the Union following an illness contracted during a visit to India. Wishing to visit her, he applied for a passport. He was refused this, but was told that he could apply, instead, for a permit to leave the Union permanently, which he did^(*).

DOMICILIARY RIGHTS OF INDIANS STUDYING OVERSEAS

Indian students attending higher educational institutions in India or Britain have, in the past, sometimes had to return to South Africa temporarily, before the conclusion of their studies, merely to re-establish their domiciliary rights. They have, thus, been involved in heavy travelling expenses.

Early in 1958 the Institute of Race Relations took this matter up with the Department of the Interior, suggesting that if a *bona fide* student had not completed his course of study overseas within the three years that he might be absent without forfeiting domiciliary rights, and submitted a certificate to this effect from the educational institution concerned, his right of domicile in the Union should not be cancelled.

This suggestion has not been adopted; but the Minister of the Interior made a partial concession, deciding that the validity of certificates of identity of Indian students studying overseas should be extended until the end of 1958⁽¹⁰⁾.

AFRICANS

NEW ORGANIZATION OF DEPARTMENT OF NATIVE AFFAIRS

It was announced on 20 October 1958 that the Department of Native Affairs is to be divided into the Department of Bantu Administration and Development (Minister — the Hon. M. D. C. de Wet Nel, Deputy-Minister — Mr. F. E. Mentz) and the Department of Bantu Education, under the Hon. W. A. Maree.

As this *Survey* covers the period 1 October 1957 to 30 September 1958 (unless otherwise stated) the term "Department of Native Affairs" has been retained. During the period under review the responsible Minister was Dr. the Hon. H. F. Verwoerd.

USE OF THE TERM "AFRICAN"

The *Rand Daily Mail* and the *Cape Times* have recently followed the example set earlier by the *Post* (Port Elizabeth) in making use of the term "African" rather than "Native".

The Government refuses to do so, however, and during the second session of Parliament in 1958 Cabinet Ministers declined to answer questions about "Africans". The fullest explanation of their policy was given by the Minister of Labour (for the Minister of Native Affairs), who said⁽¹¹⁾, "The Minister of Native Affairs

(*) *Star* report, 25 February 1958.

(10) Letter 45/74 dated 24 July 1958 from the Secretary for the Interior.

(11) Senate, 18 July 1958, Hansard 1 cols. 150-1.

and the Department of Native Affairs, as is clearly indicated by these terms, are concerned only with 'Natives' or 'Bantu' as defined in various Acts of Parliament, while there is no legal definition of the term 'African', which may in its ordinary connotation include persons other than Bantu or Natives or may even only denote a specific category of Natives. To assume therefore that by 'Africans' 'Natives' are intended can eventually only lead to confusion.

"Quite apart from the apparent sentimental or propagandistic motives which are associated with the use of the word 'African' instead of the official terms, and apart from the possible but unacceptable implication that only certain of the inhabitants of the continent or sub-continent can claim Africa or South Africa as their real homeland with the insinuation furthermore that the White people are intruders, and apart from the absence of a satisfactory equivalent in the other official language so that it becomes necessary to fall back upon the official terminology there, it is quite clear that in official dealings, use must be made of terms clearly defined by Parliament".

THE RIOTS COMMISSION, JOHANNESBURG

The rioting that took place in African townships of Johannesburg during September 1957, during which more than 40 Africans were killed or died of wounds, and scores more were seriously injured, was described in the previous issue of this *Survey*⁽¹²⁾. In view of the gravity of this outbreak of violence, the Johannesburg City Council urged the Government to appoint a judicial commission of inquiry; but the private secretary to the Minister of Justice replied, "It is considered that in view of previous inquiries, which were instituted when similar occurrences took place, and the known facts of the present events, the establishment of such a judicial commission is unnecessary".

The City Council then decided to appoint an independent commission to consider the immediate causes of the riots; the root causes of the conditions of unrest in the south-western African areas which had given rise to the riots; and what remedial measures might be necessary and advisable to avoid similar happenings in the future.

The former Chief Justice of the Union, the Hon. A. van der Sandt Centlivres, headed the commission, the other members, also ex-judges, being the Hon. L. Greenberg (who for a time was Acting Chief Justice) and the Hon. E. R. Roper.

The Johannesburg Town Clerk wrote to the Minister of Native Affairs and the Commissioner of the S.A. Police, asking whether they would permit officials of their departments to give evidence before the commission. These requests were refused. The Commission had no power to subpoena witnesses, and could thus obtain evidence only from those willing to give it, such as City Council

⁽¹²⁾ Pages 88-91.

officials, private individuals, and bodies like the S.A. Institute of Race Relations (Southern Transvaal Committee)⁽¹³⁾.

In its report, issued in roneoed form in April 1958, the Commission commented, "We have felt ourselves hampered in the task of arriving at the truth by the attitude of the Government and its Departments in refusing to make available to us the information at their disposal and the evidence of their officials and officers . . . One would have thought that, if those authorities considered that they were wholly blameless in respect of the riots, they would have welcomed the opportunity of placing relevant evidence before the commission . . . It is the considered opinion of this commission that it was the moral duty of the authorities who are, after all, the servants of the public, to have placed before the commission all the evidence at their disposal, whether such evidence was favourable or unfavourable".

The commission commented, further, "Judicial commissions of inquiry into riots in Native locations have from time to time been appointed, but so far as we are aware no such commission has been appointed to inquire into riots which took place after the coming into operation of recent legislation and Government directives, which have profoundly affected the lives of Natives and one or more of which, according to a number of witnesses who have given evidence before us, were a serious contributory cause of the riots".

Recommendations made by the commission are dealt with in appropriate chapters of this *Survey*. It found that among the root causes of the conditions of unrest which gave rise to the riots were, in brief, the policy of ethnic grouping imposed by the Government; the effects of the migratory labour system; the break-down of parental authority, rampant lawlessness prevalent in the townships and inadequate police protection; the utmost discomfort in which African passengers travelled to and from work by train; poverty; and lack of educational, vocational training and recreational facilities and employment opportunities for youths.

The Minister of Native Affairs said later⁽¹⁴⁾ that the commission's report had been received but not considered by his Department. It was of no practical value. The City Council's appointment of the commission "was a party political manoeuvre" in opposition to the decision by the Minister of Justice that an enquiry was unnecessary, he said.

In reply to a question as to whether, in view of the findings of the commission in regard to the causes of the rioting, he would reconsider the desirability of ethnic grouping and the migratory labour system, the Minister of Labour (for the Minister of Native Affairs) said⁽¹⁵⁾, "No. My Department is fully aware of the value

⁽¹³⁾ The evidence by the Southern Transvaal Region of the Institute of Race Relations was issued as R.R. 28/1958.

⁽¹⁴⁾ Assembly, 7 July 1958, Hansard 1 cols. 10-11.

⁽¹⁵⁾ Senate, 21 July 1958, Hansard 1 col. 198.

of ethnic grouping and the reasons for the development of the migratory labour system, and will continue to carry out the Government's policy in this regard".

THE DETERMINATION OF POLICY AND ADMINISTRATION OF NATIVE AFFAIRS IN URBAN AREAS

The Minister of Native Affairs said in the Assembly, on 17 September 1958⁽¹⁶⁾, that Section 147 of the South Africa Act provided that the administration of all Native affairs in South Africa was vested in the central Government, which laid down the policy for the whole country. No town or city council might exceed the powers assigned to it by the Provincial Administration, whose powers, in turn, were laid down in Section 85 of the South Africa Act.

During June a committee of leading members of the Native Affairs Department, under the chairmanship of Mr. F. E. Mentz, M.P., was appointed (in the words of the Department's Chief Information Officer)⁽¹⁷⁾ "to co-ordinate and smooth the administration of Natives in Johannesburg and its environs by friendly discussion". In and around Johannesburg, he continued, the situation was incomparably more complex than anywhere else in the Union. There were one million Africans there, administered by various bodies. The Chief Information Officer is reported to have said, in reply to a question, "The Natives (Urban Areas) Act clearly implies that local authorities act in regard to Native administration as agents for the central Government. Consequently, this committee will be in a position to determine whether the various bodies concerned are carrying out State policy".

AGREEMENT REACHED BETWEEN MINISTER OF NATIVE AFFAIRS AND THE JOHANNESBURG CITY COUNCIL

For some years there has been a dispute between the Minister of Native Affairs and the Johannesburg City Council in regard to priorities for the selection of occupants of new housing schemes. As was described in a previous issue of this *Survey*⁽¹⁸⁾, when the Dube Hostel was built, the City Council wanted to use this new accommodation in the first place for illegal lodgers, allowing those who had been lawfully accommodated before the introduction of the "Locations in the Sky" legislation⁽¹⁹⁾ to remain where they were for the time being. But the Minister insisted that at least half of the accommodation should be reserved for those who had to move in terms of this new legislation (which provided that, unless specially authorized, no owner of a building in the "White" part of a town might allow more than five Africans to live on the premises).

⁽¹⁶⁾ Hansard 10 col. 4056.

⁽¹⁷⁾ *Star*, 14 June 1958.

⁽¹⁸⁾ *Survey*, 1955-56, page 126.

⁽¹⁹⁾ Section 4(b) of the Natives (Urban Areas) Amendment Act, No. 16 of 1955. See *Survey*, 1954-55, page 86.

Of necessity, then, the Council moved large numbers of cleaners and domestic servants to Dube from blocks of flats, offices, hotels and other buildings in the "White" areas. These men were nearly all Zulus. In terms of the Government's ethnic grouping policy, the illegal lodgers who filled up the remaining accommodation were also selected from the Zulu group. As was described in the last issue of this *Survey*⁽²⁰⁾, and subsequently was confirmed by the Centlivres Commission, the ill-feeling which developed between these Zulus and other residents of the township was the main immediate cause of the rioting in September 1957.

Another dispute had occurred in regard to the new townships to the south-west of Johannesburg. The Minister wanted the area to be developed on a site-and-service basis, for the re-settlement of families from squatter camps and from backyards in White residential areas. The City Council was not in favour of site-and-service schemes, preferring to build permanent housing schemes instead. But when the Minister threatened to withhold two housing loans, the Council gave in and agreed to service 4,000 sites a year⁽²¹⁾. Then, after certain mining companies had offered a loan of £3-million for the rehousing of families from slum areas within existing African townships, the Council applied for authority to build houses for these people on certain of the serviced sites. According to the Minister, a "three-pronged attack" was agreed upon, in terms of which Johannesburg would provide accommodation simultaneously for people from "locations in the sky", squatter camps and backyards, and slums within the townships. Of the permanent dwellings built on the newly-serviced sites, two out of every five must be reserved for people from backyards and licensed premises in "White" areas, the remainder being used for the rehousing of slum dwellers.

Claiming later that Johannesburg was violating the terms of this agreement, the Minister withheld a further housing loan. As funds became exhausted, the City Council's building programme had to be very seriously curtailed and it appeared that large numbers of those employed in the housing division would have to be dismissed. Discussions were held with the newly-appointed Native Affairs Department Committee (headed by Mr. F. E. Mentz).

An agreement was finally reached. The City Council, while emphasizing that it was a democratically elected body responsible to its electorate, acknowledged that the Act of Union vested the control of Native administration in the Governor-General-in-Council, and acknowledged that it was the Council's duty to obey and carry out the laws of the State. It gave a number of assurances. In official discussions with Africans, Government policy would not

⁽²⁰⁾ Pages 89-90.

⁽²¹⁾ An account of these differences of opinion was given in the Assembly by the Minister of Native Affairs, 17 September 1958, Hansard 10 cols. 4058-60.

be criticized, and City Council employees licensed as officers under the Natives (Urban Areas) Act would carry out Government legislation in administering Native Affairs.

Ethnic grouping would be applied. The Council would administer the "Locations in the Sky" legislation in terms of its delegated powers. It would continue to discharge its responsibilities under the influx control and labour bureau systems; and would discuss with the Native Affairs Department the siting of hostels, compounds, beer halls, welfare and other recreational amenities.

On receiving these assurances, the Minister agreed to make further loan funds available for housing.

The Council had discussed with the Mentz Committee its difficulties under the "three-pronged-attack" agreement. Numbers of newly-built houses were standing empty because prospective tenants could not be found for the two out of every five dwellings that had to be reserved for back-yard dwellers and people living on licensed premises in "White" areas. These were, in the main, single men or migrant workers, requiring hostel accommodation rather than family dwellings. The Minister agreed to a revision of the formula for the allocation of houses.

POWERS TO SEARCH

Government Notice No. 804 of 13 June 1958 provided that any member of the South African Police, or any European authorized officer employed by the local authority of the area concerned, may, without warrant, at all reasonable hours of the day and night, enter into and search any premises in an urban area on which it is reasonably suspected that any African is residing or being employed in contravention of relevant laws or regulations, or on which it is reasonably suspected that there is kaffir beer or any fermenting substance capable of being used in its manufacture.

If, however, the premises are suspected of being under European control, they may be entered and searched without warrant only under the supervision of a European policeman or official.

LODGERS IN BACKYARDS OF PREMISES IN "WHITE" AREAS

In terms of Section *nine* (2) (e) of the Natives (Urban Areas) Consolidation Act⁽²²⁾, domestic servants are exempt from living in locations or hostels only if they are accommodated on the premises where they are employed. No children under twelve years of age may be so accommodated unless with special permission from the local authority.

This provision of the law is being strictly implemented in various urban areas, notably Johannesburg. Illegal lodgers, who are sometimes the husbands of women domestic servants, are being removed to hostels. Women who have small children living with them are being ordered to send these children to relatives or friends outside the "White" parts of the town.

⁽²²⁾ This subsection was inserted in terms of Act 16 of 1955.

RESTRICTION OF RIGHT OF AFRICANS TO REMAIN IN URBAN AREAS

Section *ten* of the Natives (Urban Areas) Consolidation Act is being increasingly strictly applied. The position of "foreign" Africans is dealt with later; but Union-born Africans likewise lead precarious lives in the towns unless they can qualify to remain in terms of the stringent conditions dealing with birth, continuous residence or length of employment, set out in Section *ten* (1) (a), (b) and (c)⁽²³⁾. The effect of this on the labour supply is described in the chapter of this *Survey* entitled "Employment".

Men who do qualify to remain in a town may have their wives, unmarried daughters and minor sons resident with them; but the sons will not necessarily be granted permission to remain when they turn eighteen years of age. If a youth happens to have been born elsewhere, or to have been educated outside the urban area, or to have stayed with relatives while his father qualified by length of service to remain, he may be refused permission to be in the urban area should no suitable employment be available.

Women, too, are increasingly feeling the effects of Section *ten* as progress is being made with the issuing to them of reference books, or, pending this, permits to be in an urban area. An unmarried woman as well as a man may be ordered out of a town if she does not qualify to remain, loses her job, and no suitable vacancy exists. A married woman, allowed into the town to live with her husband, may be forced to leave if her husband dies or deserts her. Unless she is permitted to enter employment she may be ordered to go to stay with her guardian — and it is possible that this guardian is a total stranger living in one of the reserves.

The effects of influx control are felt particularly severely in the Western Cape, since Africans are more recent arrivals there than they are in other parts of the Union, and, consequently, since comparatively few qualify to remain in terms of Section *ten* (1), (a), (b) or (c). Numbers of case-histories are given in a *Memorandum on Some of the Effects of the Implementation of the Natives (Urban Areas) Consolidation Act, the Group Areas Act, and Other Restrictive Legislation*, produced by the Cape Western Regional Office of the S.A. Institute of Race Relations in May 1958, following an investigation of 1,525 cases over a period of six months. There has been much disruption of family life in the Western Cape as Africans in squatter camps, or in areas set aside for other groups under the Group Areas Act, are "screened" prior to their removal to proclaimed African townships near Cape Town, or, alternatively, back to the reserves.

PROCLAMATION No. 95 of 1958

It was stated in the previous issue of this *Survey* (page 60) that, in terms of Proclamation No. 79 of 1957, the Natives (Prohibition

⁽²³⁾ See *Survey*, 1956-57, page 56.

of Interdicts) Act had been applied to orders issued under influx control regulations. This proclamation was withdrawn by Proclamation No. 95 of 1958, dated 25 April.

ENTRY INTO LOCATIONS OR AFRICAN TOWNSHIPS

Section *nine* (9) (b) of the Natives (Urban Areas) Consolidation Act, inserted in 1957, states that (except in the course of his duty as a state or municipal employee, or in carrying out his functions under any law) no person shall enter any location, Native village or hostel without the permission of the official in charge.

During April 1958 an African woman was charged with having entered Langa township, Cape Town, without a permit. It transpired that she had gone there to attend a court of law. The Additional Native Commissioner, in acquitting her, said⁽²⁴⁾ that when a law was unambiguous, as was Section *nine* (9) (b), it must be interpreted strictly unless this created an absurdity. But it would be absurd to say that a person attending court needed a permit, whether that person was concerned in a case, or was an advocate, attorney or representative of the Press.

POSITION OF HOLDERS OF CERTIFICATES OR LETTERS OF EXEMPTION

In terms of Government Notice No. 1747 of 8 November 1957, all African men in the Union and South-West Africa were required to possess reference books by 1 February 1958.

The position of holders of certificates or letters of exemption caused much confusion. Different Native Commissioners gave quite different versions of the legal results of taking out reference books. It became apparent that the Africans concerned should have asked the local Native Commissioner to enter in their reference books particulars of the types of exemption to which they were entitled, but, because of the uncertainty, many did not do so.

The Institute of Race Relations investigated the situation and issued three explanatory memoranda, RR. 43/58, RR. 55/58 and RR. 63/58.

Letters of Exemption

Letters of exemption, granted under Section 31 of the Native Administration Act of 1927, could be applied for up to 1934, when their issue ceased. They were granted by the Governor-General, and were issued to fairly large numbers of Africans in Natal, and to far smaller numbers in the Transvaal and Orange Free State. They exempted holders from "such laws, specially affecting Natives, or so much of such laws, as may be specified in such letter". In general, the pass laws in every province, the registration of service contracts, and, subject to certain provisos, the Natal Code of Native Law were included. Holders could apply for endorsements exempting them from curfew regulations.

⁽²⁴⁾ *Rand Daily Mail* report, 3 April 1958.

The position of holders of letters of exemption since 1 February 1958, so far as can be ascertained by the Institute of Race Relations⁽²⁵⁾, is this. They should have retained the letter, and applied for a green-covered reference book, in which particulars of the letter should have been entered by the Native Commissioner.

If the holder was, in terms of his letter, exempt from Native law and custom, and, consequently, from the rights, immunities, powers and authorities vested in the Governor-General, he continues to be so exempt. It appears, however, that exemptions previously granted from the urban service contract system have to a certain extent been cancelled. Any African who enters into a contract of service must have the particulars recorded in his reference book; but holders of letters of exemption apparently are not required to have their books signed monthly by their employers.

Exemptions granted from the pass laws had fallen away earlier, in 1952, when legislation was passed⁽²⁶⁾ enabling any African to visit a town for up to 72 hours, but stipulating that all those wishing to do so for over 72 hours must obtain permits, and also that those wishing to travel to a town to seek work must first obtain permission from the labour bureau nearest their homes.

Exemptions previously granted from the curfew regulations have fallen away in all cases except for owners of immovable property worth £75 or more within an urban area outside a location. All others must now make individual application to the Minister if they wish to have permanent exemption.

Registered Parliamentary Voters in the Cape

Registered Parliamentary voters in the Cape were previously exempt from Native law and custom, the urban service contract system and the pass laws.

Their present position is the same as that of holders of letters of exemption, except that they were required to take out brown-covered reference books unless they qualified for green-covered books by virtue of being recognized chiefs or headmen, teachers whose salaries are paid or subsidized by the State, professors or lecturers at a university or university college, ministers of religion who are marriage officers, advocates, attorneys, medical practitioners or dentists.

Except for the colour of the cover, the two types of reference books are identical. The only difference is that an African being issued with a brown-covered book must give his finger-prints, while one receiving a green-covered book may furnish a specimen of his signature instead.

⁽²⁵⁾ The Native Affairs Department was asked to check the result of the investigation, but, at the time of writing, had not replied.

⁽²⁶⁾ Natives (Abolition of Passes and Co-ordination of Documents) Act, and Native Laws Amendment Act.

Exemption Certificates

Exemption certificates, granted under Proclamation 150 of 1934, could be applied for up to 1952, after which year they were no longer issued. They were granted automatically on application by Africans falling within defined categories, and could be obtained by others who possessed certain qualifications and were, in the Native Commissioner's opinion, suitable persons.

Holders of exemption certificates were exempt from the registration of service contracts and did not require travelling passes. They could apply for exemption from the curfew regulations.

These men were given the choice of surrendering the certificates and taking out green-covered reference books, or of retaining them and accepting brown-covered books. The effects of either course of action appear to be identical.

All Africans who enter into contracts of service must now have the particulars recorded in their reference books; but it appears that certain categories of persons are not required to have their books signed monthly by their employers — these are owners of immovable property worth £75 or more within an urban area outside a location, owners of land in a township legally established before 1913, approved chiefs or headmen, ministers of religion who are marriage officers, teachers whose salaries are paid wholly or partly by the State, professors or lecturers at a university or university college, medical practitioners, dentists, advocates, attorneys, notaries public, conveyancers, policemen, warders, municipal policemen, and clerks or interpreters in State or provincial service.

There were other categories of persons who previously qualified for exemption certificates but who apparently no longer qualify, even partially, for exemption from the registration of service contracts. These are members of advisory boards, ex-service men, and Africans falling outside any of these classes who, in the Native Commissioner's opinion, were suitable persons. Independent professional men falling outside the classes approved by the Minister, and independent businessmen, are now treated as daily labourers and must report to the authorities each month for their reference books to be signed.

As is explained above, exemptions from the pass laws fell away in 1952, and, except for owners of immovable property worth £75 or more in an urban area outside a location, all those wishing to have permanent exemption from the curfew regulations must apply afresh to the Minister.

REFERENCE BOOKS AND PERMITS FOR AFRICAN WOMEN

Reference Books

The Minister of Native Affairs said in the Senate on 27 January 1958⁽²⁷⁾ that 508,796 reference books had by then been issued to African women. In evidence given in the Johannesburg Magistrates' Court on 5 November, the director of the central reference bureau said that by then, more than one million books had been issued.

Official registration units arrived in Durban, Springs and Benoni for the purpose during the period when the ban on meetings of more than ten Africans was in force⁽²⁸⁾. Employers were circularized, and many of them instructed their women employees to register for reference books. Pensioners were advised to do so. Although many women boycotted the proceedings, very large numbers in each of the cities visited by the officials did present themselves for registration.

It is not yet compulsory for African women to possess reference books, but is likely to become so when the registration units have made further progress. Pensioners may be required to produce their reference books or to give their official identity numbers after the beginning of 1959⁽²⁹⁾. As will be described below, early in 1958 the S.A. Nursing Council sent out registration forms for completion by all trained and student nurses and mid-wives, on which these women had to state their official identity numbers and their classification under the Population Registration Act. African nurses had to register for reference books in order to obtain their identity numbers. This caused great dissatisfaction amongst African members of the profession throughout the country and led to demonstrations in Durban and at Baragwanath Hospital, Johannesburg. Thereafter, the Nursing Council announced that African nurses not yet in possession of their identity numbers need not furnish them.

Permits to be in urban areas

Section *ter* of the Natives (Urban Areas) Consolidation Act was in 1952 made applicable to African women as well as to men. In terms of this section, certain categories of women may qualify to remain in urban areas (Sub-sections (1) (a), (b) and (c)), and others may be permitted to do so by the local authority concerned (Sub-section (1) (d)).

In the past, permits have generally not been issued to women who qualify to remain, since there is proof in the official location or township records that they are legally in the area. If challenged by the police, they can refer the policeman to the Location Superintendent. But in Cape Town "exempted" women have been

⁽²⁷⁾ Hansard 1 col. 92.

⁽²⁸⁾ See page 24.

⁽²⁹⁾ See page 30.

informed that it is to their advantage to obtain documents proving their right to be in the urban area. These documents must be produced on demand to an authorized officer.

Strictly speaking, all local authorities should issue permits to women allowed to be in the area under sub-section (1) (d); but few have in fact done so. Early in 1958 the Institute of Race Relations circularized the major municipalities to find out what the position is.

It appeared that permits are issued in the Cape Peninsula, Vereeniging, Springs, Boksburg, Randfontein, Roodepoort/Maraisburg, Port Elizabeth and Bloemfontein, and that "Letters of Privilege" are issued in Durban and Pietermaritzburg. Specimens of these documents were sent by most of the local authorities concerned.

Conditions differ considerably from town to town. The permits are producible on demand by an authorized officer in the Cape Peninsula, Springs, Boksburg and Pietermaritzburg, but not in most of the other areas.

In all of the towns except Durban the period of validity of the permit expires on the termination of the holder's present employment: in Durban an annual endorsement by the Location Superintendent is required. In general, the employer's name and address and the date of engagement and discharge must be recorded. Local labour requirements are taken into account when the permits are issued — in some towns only women willing to work as domestic servants or washerwomen are admitted.

The make-up of the permits, and the amount of detail to be entered, varies greatly from town to town. The official intention is that all these documents should eventually be replaced by reference books.

A voluntary permit system for women was introduced in Johannesburg during August 1958, following a Supreme Court case in which the judge said that although an African woman was not required by law to seek employment through the labour bureau, she could be called upon by any policeman to show her authority to be in the area. The onus would be upon her either to produce a permit or to prove that she was entitled to live in the area through qualifications of birth, continuous residence or length of employment. Then, in October 1958, teams of officials arrived in Johannesburg to commence issuing reference books.

Opposition to the "pass" system for women

African women in numbers of areas — Bloemfontein, Port Elizabeth, Durban, Paarl and Middelburg, for example — have continued to express their opposition to the "pass" system, sending deputations to the Native Commissioners or municipal officials for the purpose. Recent events in the Zeerust area and in Johannesburg are described later.

At its conference in Rustenburg during March 1958, the National Council of Women of S.A. resolved:

- (a) to ask the Minister of Native Affairs to amend the law so that failure to produce a reference book on demand should not be a criminal offence;
- (b) to request the Government to repeal the relevant sections of the Natives (Abolition of Passes and Co-Ordination of Documents) Act No. 67 of 1952 as amended, and the Natives (Urban Areas) Consolidation Act No. 25 of 1945 as amended, whereby African women are required to carry reference books and/or permits, because of the discontent caused by the disruption of family life consequent upon unnecessary imprisonment for technical infringements of these Acts, and the "endorsement out" of urban areas of African women under influx control regulations;
- (c) to work in every way possible, both publicly and privately, to promote improvement in African family life.

Mrs. V. M. L. Ballinger, M.P., in a speech in the Assembly on 17 September 1958⁽¹⁰⁾, drew attention to the "frightful hardships which this (the permit) system is causing" in Cape Town. She described one of the cases that had been reported to her. Returning to Nyanga after a hard day's work, an African woman was stopped by a policeman and asked to produce her permit. She had left this at home, mainly for safe-keeping. Although she said she could produce it within minutes, she was arrested, given no opportunity of making arrangements for her children's care, and taken to a police cell, where she remained without food or even water until the next day, in spite of the fact that a friend, to whom she managed to send a message, brought her permit to the police station. On the following morning she paid £3 on admission of guilt — some 37 per cent of her monthly wages.

A large deputation of African women had come to see her a few days previously, Mrs. Ballinger continued. They said that women were constantly being asked to produce their permits; that the policemen did not allow them to go into their homes to collect their papers; that they were given no opportunity of making provision for their children; and that they were lodged in police cells where from one day to the next they never saw a woman wardress. They were handled all the time by men.

The Minister of Native Affairs asked for details of the case described by Mrs. Ballinger⁽¹¹⁾. He said⁽¹²⁾ that he had read a report of a similar case in the *Cape Times* and had immediately caused inquiries to be made. "I will not allow such conditions

⁽¹⁰⁾ Hansard 10 cols. 4017-9.

⁽¹¹⁾ Col. 4018.

⁽¹²⁾ Cols. 4050-1.

to exist if they can be prevented", he said. The Native Commissioner had advised him that the allegations made by the deputation of women were distorted. Minor incidents had been exaggerated.

The Minister said, "The example was quoted here of a few women who were detained in the Langa police cells because they were in the location illegally. They deliberately contravened the regulations there. The investigation which I caused to be instituted has shown that the cell accommodation there is not what it ought to be. The position will be rectified by the construction of new offices".

The Black Sash in Cape Town is creating a fund to be used for bailing out African women who are arrested for pass offences. Immediately a report of such an arrest is received, whatever time of the day or night it may be, one of the Black Sash members will go to bail the woman out. In co-operation with the Legal Aid Bureau, a panel of lawyers is being formed to give legal defence.

Demonstrations in Johannesburg

Teams of officials began issuing reference books to women in Johannesburg on 16 October. While thousands did present themselves at the pass office to obtain their books, many others showed vehement objection to the system. Between 21 and 28 October large numbers of African women, many of them carrying babies on their backs, took part in processions and demonstrations, ignored police warnings to disperse, and cheered when they were eventually arrested. Close on 2,000 arrests were made — mainly of women from Sophiatown and Alexandra Township.

At the time of writing, nearly 600 of them had been discharged for various reasons, others were awaiting trial, and close on 900 had been convicted of various offences. Severe sentences, of three to four months' imprisonment, or three months or a fine of up to £50, were passed on eleven women convicted of arranging an illegal procession as a protest against the Natives (Abolition of Passes and Co-Ordination of Documents) Act, or of assaulting other women who had accepted reference books. The majority of those convicted were found guilty of offences such as taking part in a public procession without the Town Clerk's permission, or of causing an obstruction and failing to disperse when ordered to do so, or of contravening traffic by-laws as a protest against the law. Sentences varied from £3 or one month to £40 or two months — in a number of cases part of the sentence was suspended conditionally. Many of the women lodged notices of appeal.

THE LEGAL STATUS OF AFRICAN WOMEN

The Institute of Race Relations (Southern Transvaal Region) has set up a committee to investigate the legal status of African women, with a view to making representations to the authorities

for the amendment of the law. Matters such as rights of inheritance, the guardianship and custody of children, their maintenance, tenancy of houses in urban areas and other economic and political questions are being studied.

Although it is often anachronistic in modern urban conditions, in certain circumstances Native law, rather than common law, may be applied by Native Commissioners. The whole situation is at present confused and uncertain.

"FOREIGN" AFRICANS

Until the Native Laws Further Amendment Act, No. 79 of 1957, was passed, Africans from the High Commission Territories who were lawfully in an urban or proclaimed area by 1955 could remain there as long as they stayed uninterruptedly — apart from short holidays. But this concession was removed in 1957, the new provision coming into effect from 6 May 1958. As from that date, Africans from the High Commission Territories have been treated as "foreign" Africans: that is, they require the written permission of a representative of the Secretary for Native Affairs, which is granted only with the concurrence of the local authority concerned, to live or work in an urban or proclaimed area.

Local authorities were instructed that no family houses were to be allocated to these people — if permitted to be in the urban area they were to be considered as migrant workers and housed in hostels or single accommodation unless they lived on their employers' premises. Exceptions are apparently made in some cases, for example if the African concerned already occupies a house and his family is already legally in the area, or if he is in possession of a certificate of Removal of Disabilities⁽²³⁾. But in these cases the African would be accommodated in a letting scheme only (i.e. not a home ownership scheme).

"Foreign" Africans, including those from the High Commission Territories, who were already lawfully employed in an urban or proclaimed area when the relevant provisions of the law came into effect (the date depends on when the area was proclaimed) are in general given permits to remain indefinitely, whatever type of work they are doing, as long as they remain with the same employer and do not return to their homes on holiday for periods longer than six months. If they do stay away longer than this, or if they lose their jobs, they are treated as new entrants. Employers in the Cape are being urged gradually to substitute Coloured or Union African labour for that of "foreign" Africans. Except in the Cape, favourable consideration is given by the Department to the application of an African from Rhodesia or Nyasaland to remain in an urban area if he can prove without doubt that he has been residing in the Union since a date prior to September 1935.

⁽²³⁾ See *Survey*, 1956-57, page 73.

"Foreign" Africans whose permits are not in order, or who for any other reason are endorsed out of urban or proclaimed areas, are sent to a "reception depot" at Nigel. There they are given a choice of three things:

- (a) They may accept a contract to work for a farmer for not less than six months, during which time they may not leave the farm.
- (b) They may go straight back to their country of origin — which in some cases has become a "foreign" country to them.
- (c) They may stay at the reception depot until their relatives send them money for the fare home.

In the three northern provinces new entrants are allowed into urban or proclaimed areas as agricultural labourers only, for example on small-holdings in proclaimed peri-urban or rural areas. (They are not permitted to enter the Cape Province at all). The Chief Information Officer of the Native Affairs Department said in a recent interview⁽³⁴⁾ that certain semi-rural areas on the outskirts of Johannesburg had been proclaimed in order to control the movement and congregating of Africans who, unable to get into the municipal area, squatted on its borders.

With the exceptions noted above, "foreign" Africans may not be employed as domestic servants in urban or proclaimed areas, although in fact, if not in theory, there is a shortage of domestic servants in these areas, urban Africans preferring other types of work. They must all return to their countries of origin for at least six months every two years, and before they are re-admitted must produce proof that they have been to their home territories. In the interview mentioned above, the Chief Information Officer is reported to have said, "We do not want them to become naturalized and we do not want them to become too attached to the Union. They must go home so that they do not break their ties with their own country". When a man returns after a six-months' absence he is allowed to return to his previous employer to work as an agricultural labourer provided that no local African is available for this post.

The Minister of Native Affairs estimates that there are some 800,000 "foreign" Africans in the Union⁽³⁵⁾. Included in this figure are some 217,300 migrant workers employed by members and contractors of the Witwatersrand Native Labour Association.

The story of the "Basket-makers of Korsten" has been told in previous issues of this *Survey*⁽³⁶⁾. They are well-known to be an industrious, law-abiding group, who until 1955 ran a large and prosperous cabinet-making, furniture, basket making and tinsmithy business in Korsten, Port Elizabeth. They had emigrated to the

⁽³⁴⁾ *Star*, 26 September 1958.

⁽³⁵⁾ Statement quoted in *Modern South Africa*, news-sheet for April 1958 issued by the S.A. Director of Information, London.

⁽³⁶⁾ *Survey*, 1954-55 page 70, 1955-56 page 88.

Union some nine years previously from Southern Rhodesia via Bechuanaland, and in the meanwhile some of them had married Union women.

In 1955 the Minister of Native Affairs ruled that they were to return to Rhodesia at their own expense. They pleaded that they could not possibly raise the amount necessary for the train-fare; but were told that they would be able to do so if they sold their assets. An extension of time was, however, granted, and in October 1956 it was agreed that they would leave in their lorries in batches of about 25 every fortnight.

The Minister recently said⁽³⁷⁾ that only one or two groups did leave. He then warned Port Elizabeth to move them; but the City Council, instead, asked permission to settle them in its site-and-service scheme at New Brighton. "Now all of a sudden", the Minister continued, ". . . telegrams are pouring into my office asking me to be humane and . . . allow these people to settle in the locations. Of course I have said 'No' . . . In the meantime great feeling has been aroused and Rhodesia is expressing doubts as to whether they are really Mashonas and whether they have any obligations towards these people. Now we are faced with a lengthy process of obtaining the necessary documents to prove what is the actual place of origin of these people, although in our own minds there is absolutely no doubt on this point. Under these circumstances I have said I shall temporarily set aside certain trust lands for occupation by these people, but they must leave Port Elizabeth".

ILLEGAL SQUATTING

In terms of Proclamation 380 of 20 December 1957, the provisions of the Natives (Prohibition of Interdicts) Act, No. 64 of 1956⁽³⁸⁾, were applied to all orders issued under Sections *three* and *five* of the Prevention of Illegal Squatting Act of 1951⁽³⁹⁾.

BANTU AUTHORITIES

The establishment of Bantu Authorities

The Minister of Native Affairs said on 15 September 1958⁽⁴⁰⁾ that by then 1 territorial authority, 8 regional authorities, 26 district authorities and 298 tribal authorities had been set up.

The territorial authority is that for the United Transkeian Territories, now known colloquially as the *Gunya* (authority) instead of the *Bunga* (council). The 26 district authorities are also in the Transkei: according to issues of the *Government Gazette* published during the year under review, 14 of them are now operating in accordance with the provisions of Proclamation 180 of 1956⁽⁴¹⁾.

⁽³⁷⁾ Assembly, 17 September 1958, Hansard 10 col. 4063.

⁽³⁸⁾ See *Survey*, 1955-56, page 71.

⁽³⁹⁾ See *Survey*, 1950-51, page 13.

⁽⁴⁰⁾ Assembly, Hansard 10 col. 3821.

⁽⁴¹⁾ See *Survey*, 1955-56, page 59.

Four regional authorities have been established during the past year:

- (a) the Ndlambe regional authority in the East London District, in respect of the areas of the Nowawe, Nxaruni, Kwelera, Kwenxuna and Tsholomnqa tribal authorities;
- (b) the Keiskammahoek regional authority, in respect of the areas of the Keiskammahoek North and Keiskammahoek South tribal authorities;
- (c) a regional authority for the Matatiele and Mount Fletcher Districts;
- (d) a regional authority for the St. Marks and Xalanga Districts.

The four that had been established previously are in the Western Transvaal and Orange Free State.

According to the *Government Gazette*, 52 new tribal authorities were set up during the past year, 21 of them in Natal and Zululand, 18 in the Transvaal, 8 in the Northern Cape and 5 in the Eastern Cape.

In some cases there is a considerable re-shuffling of the homes of tribesmen before tribal authorities are set up. The issue of *Bantu* for June 1958 describes this process in the Bosbokrand (Bushbuck Ridge) area, which, it states, was in "a remarkable state of ethnological confusion". It quotes Dr. N. J. van Warmelo as having said that the area was "a confused tangle of tribes and sections and scattered units, very often no larger than just a family . . . immigrants from all quarters of the compass . . . peaceably living side by side, and the boundaries of tribal influence intersecting and overlapping to an amazing extent".

The process of establishing Bantu authorities, then, is in some areas analagous to the implementation of the Group Areas Act for other racial groups. According to *Bantu*, in the Bushbuck Ridge area "some difficulty has been experienced by the Department in sorting out ethnological groups in such a way that the greatest number of each chief's subjects should belong to the same clan as himself . . . and thus form a suitable basis for and a step towards the establishment of Bantu authorities".

In this area, Alfred Mashego was appointed chief of about 3,000 Africans living on two farms. They are mainly of a branch of the Pulana tribe, but there are some Shangaan-Tonga elements too. At the installation ceremony, according to the *Bantu* report, the Native Commissioner said that all of these people would henceforth be under Mashego's authority, and it would not be possible for some of them to ignore him as had happened in the past. There would still be a right of appeal from the chief's court to the Native Commissioner; but unless persons summoned to do so first attended the chief's court they might find that judgment had been given against them by default.

The Native Commissioner quoted from the speech made by the Minister of Native Affairs in introducing the Second Reading

of the Bantu Authorities Act, when he said⁽⁴²⁾ that through this new system there would be "a restoration of the prestige, the authority (of the chiefs), and also a restoration of the recognition of Native law and custom".

Chiefs and Headman

According to the *Estimates of Expenditure to be Defrayed from Revenue Account* for the year ending 31 March 1959⁽⁴³⁾, there are 500 chiefs and 1,200 headmen who receive allowances. Four of the chiefs receive amounts of more than £500 a year (the most highly-paid one has a salary of £1,258), nine are paid between £100 and £300 a year, and the rest are on a scale ranging from £30 to £96. Additional amounts of £15,000 are provided for bonuses, and £1,000 for presents and rations to chiefs, headmen and followers.

Headmen are paid on the scale of £24 x £6 — £42 a year; and £5,000 is set aside for additional allowances to them for tax collecting.

According to a press statement by the Chief Information Officer of the Native Affairs Department⁽⁴⁴⁾, four special schools for the senior hereditary sons of chiefs and headmen are to be established, at Arabie in the Nebo district of the Northern Transvaal, at Tsolo in the Transkei, at Rustenburg in the Western Transvaal, and at Qwkaka in the Empangeni district of Natal.

The entrance qualification will be a Standard 6 certificate and the minimum age will be 15. The course will take two years. In the first year it will include Bantu languages, the two official languages, general science, agriculture, social studies, religious instruction, music and singing. The following year the students will study agriculture, commercial arithmetic, book-keeping, office routine, general administration, the administration of justice and health education.

The official *Fortnightly Digest of South African Affairs* for 8 May 1958 stated that the syllabuses would make provision for comprehensive training in legislation affecting Africans, the duties and functions of a chief, the implementation of the Bantu Authorities Act, the duties and functions of school boards and committees, and the drafting of estimates.

The first school is expected to open at the end of 1959.

The Native Affairs Department has acquired a house at Vlakfontein for the accommodation of chiefs who are officially invited to visit Pretoria. A number of chiefs from the Transkeian Territories stayed there during September 1958 while they were engaged in discussions about their areas with departmental officials. Sight-seeing tours were arranged for them.

⁽⁴²⁾ Hansard Vol. 76, 21 May 1951, col. 9808.

⁽⁴³⁾ U.G. 1/1958.

⁽⁴⁴⁾ *Star*, 14 August 1958.

Representatives of chiefs in urban areas

The Hon. M. D. C. de Wet Nel, M.P. (then Deputy-Chairman of the Native Affairs Commission) is reported⁽⁴⁵⁾ to have said, at a Zulu ceremony in Nongoma, that senior Bantu authorities would be invited to nominate representatives in the towns where their tribesmen lived, to look after their interests. Final choice of the representatives would be made by the Department.

Deposition of chiefs and banishment of tribesmen

Section *two* (7) of the Native Administration Act of 1927 as amended empowers the Governor-General to depose any person who had been previously recognized or appointed by him as a chief or headman.

In the Assembly on 18 July 1958⁽⁴⁶⁾, the Minister of Native Affairs laid on the table a list of 35 chiefs or headmen who had been deposed since 1 January 1955 in terms of this section. The reasons for their deposition were throughout of an administrative, and not a political, character, he said. The reasons were given in each case: they included ill-health, mental abnormality, conviction on a criminal charge, addiction to alcohol and dereliction of duty, weak administration and general unsatisfactory conduct over a long period. In the case of the Acting Paramount Chief for Sekhukhuneland, described below, the official reason was "weak, vacillating leadership causing friction within the tribe and resulting in disorder and lawlessness".

As is mentioned later, there have been allegations that certain chiefs have been deposed because they opposed the Bantu authorities system. A question designed to elucidate this matter was put to the Minister of Native Affairs in the Senate on 5 September 1958⁽⁴⁷⁾. On his behalf the Minister of Labour gave details relating to the deposition of eleven chiefs or headmen. In three of the cases only had tribal authorities been established in the areas concerned: one of these three chiefs was mentally deranged; the second, prior to his deposition, had been consulted in regard to the establishment of a tribal authority and had agreed to this, and the third had not been consulted in the matter, but his successor had agreed.

In the other eight cases, where no tribal authorities had yet been established, two of the deposed chiefs or headmen had not been consulted about the setting up of these authorities. Of the rest, four had agreed to this, and two were undecided.

Further questions were asked in the Senate about the banishment of Africans⁽⁴⁸⁾. Section *five* (1) (b) of the Native Administration Act of 1927 as amended provides that the Governor-General may order the removal of an African from one place to another if

⁽⁴⁵⁾ *Star*, 4 and 10 December 1957.

⁽⁴⁶⁾ *Hansard* 1 col. 514.

⁽⁴⁷⁾ *Senate Hansard* 4 cols. 995-6.

⁽⁴⁸⁾ *Senate* 31 January 1958, *Hansard* 1 col. 375; and 19 August, *Hansard* 3 cols. 529-30.

this is deemed expedient in the public interest. The Minister of Labour said that eight Africans had been served with such orders in 1955, eleven in 1956, and nine in 1957. They had been moved from the Pietersburg, Benoni, Rustenburg, Peddic, Marico, Evaton, Sekhukhuneland, Bergville and Lydenburg areas to the Lower Umfolozi, Mtunzini, Mafeking, Vryburg, Letaba, Nelspruit, Hlabisa, Sibasa, King William's Town and Keiskammahoek areas. They had been in the places to which they were removed for periods varying from 3½ years to 8 months.

The removal orders had been tabled in Parliament, and the grounds for the removal of these persons were reviewed annually and at any time upon application. Two of the deportees had been permitted to return to their homes.

Section *twenty-nine* (bis) of the Natives (Urban Areas) Consolidation Act of 1945, inserted in 1956, empowers local authorities to serve removal orders on Africans whose presence in their areas is considered to be detrimental to the maintenance of peace and order. The Minister said that five such removal orders had been served in 1956, and one in 1957. (Removal orders served in terms of the Riotous Assemblies and Suppression of Communism Acts are not included: no recent figures are available relating to these).

Following the allegations made in 1956 about Frenchdale⁽⁴⁹⁾, there had been public concern about the conditions under which the deportees are living. In the Assembly on 15 September 1958⁽⁵⁰⁾ Mr. W. P. Stanford, the Parliamentary representative elected by Africans of the Transkei, mentioned the case of Jackson Nkosiyane, who had been removed from Tembuland to Zoutpansberg Farm 3176. But, Mr. Stanford said, money sent to him there from the Transkei had been returned, the envelope being marked "address unknown". There was great anxiety among his friends and relatives. Banglizwe Joyi, also from Tembuland, had been sent to Louis Trichardt. He had written to say that he was living there in a small, rat-infested room and was practically starving as he received an allowance of £2 a month only and had to support a wife and three children.

During October 1957 the Institute of Race Relations wrote to the Secretary for Native Affairs, making various suggestions designed to ease the lot of deportees. In reply to certain of these points, the Secretary stated that the Native Commissioners of the areas concerned were in constant touch with the deportees. Their families were permitted to join them at their new places of residence, the expense being paid by the Government. There was no restriction on visits: rail warrants were provided within reason for close relatives. The deportees might communicate with whom they wished.

⁽⁴⁹⁾ *Survey*, 1955-56, page 68.

⁽⁵⁰⁾ *Hansard* 10 col. 3768.

No reply was made to suggestions by the Institute that, before being removed from their homes, the deportees should be given time to collect their personal effects and to give instructions as to the care of their affairs; and that adequate accommodation should be provided for them in their new places of residence, where they should be assured of a reasonable standard of living.

Senator L. Rubin put a series of questions to the Minister of Native Affairs on 19 August 1958, in an attempt to obtain further information⁽³¹⁾. Little more was forthcoming, however. When asked what period of time was allowed the deportees to attend to personal affairs before leaving, the Minister of Labour, on his colleague's behalf, said "A reasonable time depending upon circumstances". When asked whether steps were taken to ensure that the deportees were able to earn a livelihood, and if so, what steps, the Minister replied "Yes; employment is found or lands are allocated or an allowance is paid, depending upon circumstances".

Attitudes to the Bantu Authorities system

(a) *Tembuland*

There has been unrest in Tembuland for some years. In the Assembly on 15 September 1958⁽³²⁾, Mr. W. P. Stanford, Parliamentary representative in a constituency including this area, said that Tembuland had been torn asunder by Bantu authorities because the people did not want to be split up into Bomvanaland, Tembuland and Emigrant Tembuland, as the Department was doing to facilitate administration and the introduction of the Bantu authorities system.

According to other reports, the people were restive, too, over Government plans for the reduction of stock. Officials charged with introducing betterment schemes are often responsible, too, for implementing the Bantu authorities and Bantu education schemes; all these measures become linked in the minds of the people, and opposition to one of them may develop into a general feeling of resentment.

Mr. Stanford said that in 1957 the Tembus appointed a deputation to go to Pretoria to inform the Department that they were opposed to the introduction of Bantu authorities. Members of the deputation reported afterwards that they were told they were free to reject the system, but that if they did so they would lose educational and other services that would otherwise be provided.

By March 1958 the Tembus had appointed no tribal representatives to the proposed Bantu authorities. Meanwhile, leaders of the deputation that had been to Pretoria were campaigning against the new system and the splitting of the tribe. Four of

⁽³¹⁾ Senate Hansard 3 cols. 529-30.
⁽³²⁾ Hansard 10 cols. 3766-7.

them, Jackson Nkosiwane (secretary to Chief Sabata), Bangilizwe Joyi (a minor chief), Twalimfene Joyi and Ngolombane Sandla were subsequently deported, on the grounds that they were causing dissension in the tribe, assuming the prerogative of the chief, and opposing Government measures for the welfare of the people.

In March 1958 the Under-Secretary for Native Affairs (Native Areas) held an enquiry into the affairs of the tribe. Thereafter it was announced that Chief Sabata would be officially recognized as Paramount Chief of the Tembus (he had previously been the *de facto* Paramount), but that Matanzima, while accepting Sabata's suzerainty, would be recognized as chief of the emigrant Tembus.

The Under-Secretary is reported⁽³³⁾ to have said that one of the reasons for Jackson's deportation was that at the inquiry he had read out a statement, purporting to be by Chief Sabata, which was highly critical of two Government officials. In fact, the Chief had had nothing to do with this statement, and the allegations against the officials had proved to be without foundation.

In the Assembly on 15 September 1958 the Minister of Native Affairs said⁽³⁴⁾ that the trouble in Tembuland had started long before there was any mention of the institution of Bantu authorities. By means of the arrangements made in regard to the chieftainship the Department had achieved a settlement that had defied all previous attempts at solution. There was now "not only peace, but joy in Tembuland", he maintained.

(b) *Further unrest in the Transkei*

Mr. Stanford talked of opposition to Bantu authorities in other parts of the Transkei⁽³⁵⁾. On 26 June 1958, he said, a meeting was convened at Lady Frere, which was to have been addressed by the Chief Native Commissioner (Transkei) and Chief Matanzima. But after five minutes both of them had to leave because the people present refused to have anything to do with the new system.

On 12 August 1958, Mr. Stanford continued, the Chief Magistrate called a meeting at Cala, to instal two minor chieftains. Paramount Chief Sabata was present. This meeting broke up in disorder after members of the audience had insisted that they did not want Government-appointed chiefs.

In August 1957 the Department selected Potwana to be the chief of the Bacas in the Mount Frere district. It was announced that the installation ceremony would take place at Mnyemeni. Over 600 Bacas gathered at the meeting place. When the Native Commissioner arrived he was warned not to appear before the people, for fear of violence. Eventually Potwana was installed in the magistrate's office at Mount Frere; but the people refused to acknowledge him as their chief.

⁽³³⁾ *Star*, 12 June 1958.
⁽³⁴⁾ Hansard 10 col. 3821.
⁽³⁵⁾ Col. 3766.

He had been told, Mr. Stanford said, that in the Mount Ayliff district a chief who accepted Bantu authorities had been assaulted; and the homes of certain of his followers who accepted the system had been burned.

In his reply to the debate, the Minister made no comment on these remarks of Mr. Stanford's.

(c) *Sekhukhuneland*

Recent events in Sekhukhuneland are described below.

(d) *Summing up*

Mr. Stanford said⁽⁵⁶⁾ that when the Bantu Authorities Act was debated in the old Transkeian General Council in 1955, although there were misgivings among certain of the councillors, the majority accepted the new system because they felt it would give them greater autonomy in their own areas. But when Proclamation 180 of 1956 (which disestablished the General Council and set up Bantu authorities in the Transkei⁽⁵⁷⁾) was gazetted, its terms caused a feeling of widespread dismay and disillusionment. Mr. Stanford gave details showing that at no less than 25 different points of importance in the system the Minister or his officials had administrative or executive control over the activities of the new authorities. "Little wonder", he continued, "that after this disillusionment came resentment. That resentment has been expressed more and more in various places, and cannot be easily shrugged off . . . These disturbances are more widespread than is commonly known and are of a grave nature".

During an earlier debate⁽⁵⁸⁾, Mr. Stanford had alleged that the Minister's object had been to get the tribesmen to accept Bantu authorities with a minimum of fuss, because it could then be said that they accepted the system of their own volition. But if they were not prepared to do so, then pressure was brought to bear — "they are told that they won't get schools or financial support for this, that or the other, that they won't get their chief's salary raised, or they are even told that they may be given another chief". If they still do not accept, Mr. Stanford continued, the leaders of the opposition to the new system are banished summarily.

On 17 September he said⁽⁵⁹⁾ that there was in many areas an apparent acceptance of the system because the chiefs and headmen were not in a position to say that they did not want it. "Many of those chiefs", he maintained, "are having great difficulty to-day in keeping a middle course between attacks from all their people, saying 'We don't want any of this', and the threat from the side of the Government that they will be deposed".

Shortly before Mr. Stanford made this speech, an account had appeared in the issue of *Bantu* for August 1958 of a speech

⁽⁵⁶⁾ Cols. 3764-5.

⁽⁵⁷⁾ See *Survey*, 1955-56, page 59.

⁽⁵⁸⁾ Assembly 9 July 1958, Hansard 1 cols. 73-4.

⁽⁵⁹⁾ Assembly, Hansard 10 col. 3769.

by the Chief Native Commissioner (Western Areas) at the installation of Chief Walter Mothlabane of the Bagamaedi tribe in the Taung area. Talking of the duties and responsibilities of a chief, he is reported to have said, "Above all, a chief must give clear guidance to his tribe. He is required at all times to co-operate loyally with the Native Commissioner and other officials, because by virtue of the position he holds, he is the local representative of the Government. He should, therefore, not strive for popularity, but try to do his duty according to the law". It was his experience, the Chief Native Commissioner continued, that chiefs and headmen sometimes agreed with measures explained to them at the Native Commissioner's office, but did not always carry out their undertakings afterwards, or were not prepared to defend these measures at the *Lekhotla*. "The Government expects every chief to state clearly his support for State policy in public", he said.

The Minister replied to Mr. Stanford⁽⁶⁰⁾, "It is absolutely untrue that pressure is exerted by the withholding of schools or the withholding of finance from them or by appointing other chiefs just because they refuse to institute Bantu authorities". He said, too⁽⁶¹⁾, "Of course we try to convince the people of the benefits inherent in the establishment of a Bantu authority. We most certainly tell them what the benefits are and what powers are accorded to a Bantu authority, but in no case is compulsion used. The people who have been deported have not been deported because they oppose the establishment of Bantu authorities, but because they have created a disturbance in their community".

The Africans of the Transkei, the Minister maintained, had not expected that they would immediately attain self-government. "We are engaged in a process which takes time". The new system was a process of guiding the Africans towards self-reliance. "It is not true", he said, "that the Bantu of South Africa or the Bantu of the Transkei or the Bantu of the Ciskei are dissatisfied with the opportunities for development which have been given to them. They are co-operating very nicely and are even taxing their own people to an astonishing degree for the development in their own society. The few agitators . . . do not know what is going on in the minds of the mass of the people".

EVENTS IN THE ZEERUST AREA (MARICO DISTRICT)

The course of events

The early events in the Zeerust area which later culminated in rioting were described briefly in the last issue of this *Survey*⁽⁶²⁾. The story, as pieced together from numerous sources, appears to have been this.

In the Marico district, adjoining the Bechuanaland border, is the Baphurutsé Reserve of Linokana (Many Streams), and a number

⁽⁶⁰⁾ Assembly, 11 July 1958, Hansard 1 col. 195.

⁽⁶¹⁾ Assembly, 17 September 1958, Hansard 10 cols. 3820-1, 4047-9.

⁽⁶²⁾ Pages 68 and 74.

of scattered African villages. Abraham Moilola is the recognized senior chief of the people in this area, who were until recently a peaceable, law-abiding community.

It is said that in about 1952, eight tribesmen complained to the then Native Commissioner that they considered Moilola to be lax in the administration of tribal discipline; but that the complaint was not considered to be serious and was merely filed away. Some four years later, however, a new Native Commissioner came across the document and instituted an enquiry.

He is said shortly afterwards to have told Moilola that teams of officials were coming to the Zeerust area to issue reference books to women, and to have asked him to use his influence to persuade the women to accept these books. Moilola is reported to have been unwilling to do so.

Acting on instructions, Moilola called a *kgotla* in April 1957 which was addressed by the Chief Native Commissioner for the Western areas. At this meeting, Moilola was told that he must desist from carrying out the duties of a chief, and must leave the area within 14 days for Ventersdorp or Vryburg.

When the registering officials arrived, only a minority of the women presented themselves, and the fact that they had done so caused great resentment amongst the rest. Eventually the tempers of the women flared up, and they collected and destroyed a large number of the reference books that had been issued.

The husbands of many of these women work in Johannesburg, returning at week-ends or whenever they can afford the fare. Hearing of the unrest, numbers of them visited their homes during April to attend a tribal meeting, at which there was violent criticism of "passes for women" and certain other aspects of Government policy. Anger mounted against the chief's uncle, Michael Moilola, and three of his henchmen, who were said to have been traitors to the tribe and to have betrayed the Chief; they were sentenced to death, taken to a deep pit, and ordered to throw themselves down it. At this stage the police arrived, and their lives were saved. The police made large numbers of arrests: eventually 25 persons were detained and the rest released. After a lengthy Supreme Court hearing, five were convicted of attempted murder and sentenced to terms of imprisonment ranging from three to five years. Some of the others were given a nominal fine for holding an unlawful gathering, and the rest were discharged.

Trouble continued in the reserve. It is said that contributions were demanded towards the costs of defence of those who had been arrested and that some people who refused to pay, or who had accepted the "passes for women" system, were assaulted or had their huts burned down. A church was set alight because some of its members were suspected of accepting reference books, and

a school was boycotted because the teachers had done so. Further reference books were burned.

Firm action was taken by the authorities. A riot squad of the police arrived. The school that was being boycotted was closed down, as was the post office. Numerous arrests were made. The registering officials continued their activities under police protection. It is said that the police raided dwellings at night and handled the people roughly.

Boaz Moilola was offered the chieftainship, but refused because the rightful chief was still alive, and the consent of the tribe, expressed at a properly-constituted *kgotla*, was necessary for any change.

In spite of the police action, pass-burning episodes continued, for example at Gopane's village. When certain women were pointed out to the authorities as being responsible, a crowd of others said, "If they are guilty, we are also, you must arrest us all". Over 200 of them, it is said, were taken to Zeerust, where chaos developed at the charge office.

On 5 November 1957, Government Notice 2017 of 1953 was applied to the African areas near Zeerust, thus rendering unauthorized meetings of more than ten Africans illegal. The following week the appointment of a one-man commission to investigate the causes of unrest was announced. The tribesmen organized a petition for the return of the chief, the re-opening of the school and post office, and the suspension of the issuing of reference books to women; and large numbers of them attended the opening of the hearing by the commissioner, Mr. H. Balk.

When the hearing was resumed after a short adjournment, many hundreds of women from the villages set out to attend. They were turned back by a force of some forty policemen who set up a road block, and by eight military aircraft which flew low, weaving and twisting just above the women's heads. It is said that a few women who were injured in a police baton charge were forced to cross the Bechuanaland border for treatment at Lobatsi Hospital, because they were prevented from going to Zeerust.

Such episodes exacerbated their feelings, and further passes were burned, for example in the villages of Witkleigat and Motswedi. Arrests followed. More than thirty women were found guilty in the magistrate's court at Zeerust, and were each sentenced to a fine of £50 or 6 months' imprisonment. Their appeal to the Supreme Court against these sentences was dismissed: they pleaded that they could not raise the money to pay such large fines; but the judge is reported to have said that smaller fines would not have had the necessary deterrent effect.

By the end of 1957 the Baphurutse had been completely split into pro- and anti- "passes for women" factions. Africans allege that the police mobile squads took under their wing the "pro-

Government" chieftains, Edward Lencoe for example, allowing them to form bodyguards; and that these bodyguards beat up workers returning from Johannesburg at weekends, and men and women who were opposed to the reference-book system.

The tempers of the Johannesburg workers flared when they heard that their women-folk were being assaulted. During the Christmas holidays numbers of them descended on the villages and burned down the huts of those people considered to be responsible. Edward Lencoe, who had meanwhile been promoted to be senior chief, was a special target for their indignation. He was not present (he said later that he had gone off to fetch the police), but one of his councillors was murdered, his wife was assaulted, and his house and motorcar destroyed. Further huts were burned during the New Year holidays. Many more people were arrested: the Zeerust gaol was crowded out and numbers of those detained were sent to the prisons in Pretoria and other towns.

Two further major incidents occurred. On 25 January 1958 an African member of a party of policemen conducting investigations at Gopane was attacked, and his assailant was then shot. Tribesmen rushed to the scene, stoning the policemen, who opened fire. It is reported that four Africans were shot dead and that another died of wounds.

The pro-Government chief Israel Moilola, and several others, had been holding tribal courts before which women who had been active in opposing the pass system and people who were considered to have obstructed the authorities were summoned. It is said that women received sentences of £5 or two goats, and men of up to £20 or two head of cattle, and that hundreds of pounds were collected by the chiefs in this way. Many people fled the area. Some of Israel Moilola's followers sought refuge on the Trust farm Braklaagte, about five miles away. It is said that on 12 March they were rounded up by the police and forced to return at a jog-trot all the way; that they then appeared before Israel Moilola's court and were fined.

Further action taken by the Government

(a) Disestablishment of local council

A local council for the Baphurutse Reserve had been set up in 1929. The period of office of certain members expired on 30 September 1957, when elections were due. But by then the tribe was completely split into factions for and against "passes for women".

Proclamation 390 of 1957 was gazetted, stating that because of the unrest in the area, and of the fact that the tribes there were not prepared to participate in elections, thus making it impossible to maintain the activities of the local council, this body was disestablished. Its employees, assets, liabilities, rights and obligations were transferred to the S.A. Native Trust.

(b) Proclamation No. 52 of 1958

A very lengthy proclamation, No. 52 of 1958, was gazetted on 28 February 1958. To summarize, it stated that it had been made to appear to the Governor-General that in certain Native areas there were campaigns by certain organizations and individuals to subvert, resist or interfere with the authority of the State and of the chiefs. Unrest had resulted. Those responsible either visited the Native areas from outside, or departed from those areas to other centres, with the object of furthering the campaigns and agitation. It was thus considered desirable to prevent such campaigns by introducing regulations which would have the force of law in any area which might from time to time be specified by the Minister of Native Affairs by notice in the *Gazette*. Part I, or Part II, or both, of the regulations, read with Part III, might be applied. These regulations are as follows.

Part I

- (i) Any African not resident in a prohibited area who enters it without a permit from the Native Commissioner will be guilty of an offence. In deciding whether a permit should be issued, the Native Commissioner may consult the local chief or headman. Appeal lies to the Chief Native Commissioner, whose decision is final.
- (ii) Anyone in a prohibited area who makes any statement, verbal or in writing, which
 - (A) has the intention, or is likely to have the effect, of subverting or interfering with the authority of the State or any of its officials, or of any chief or headman;
 - (B) contains any threat that any persons will be subject to any boycott or will suffer any violence, loss, disadvantage or inconvenience on account of his loyalty to the State or any of its officials or any chief or headman,

shall be guilty of an offence.
- (iii) Every chief, headman and adult person aware of the unlawful presence of any African in a prohibited area must report forthwith to the Native Commissioner, or else will be guilty of an offence.

Part II

Any African resident in a prohibited area who absents himself therefrom without a permit from the Native Commissioner, or from a chief or headman authorized to issue such a permit, will be guilty of an offence.

Exceptions to this regulation are made in the cases of medical practitioners visiting patients, or Africans required to appear before a court of law or requiring to visit any Government office.

Part III

- (i) The period of validity and purpose for which they are issued must be stated on all permits. A holder is to report his arrival or departure to the chief or headman.
- (ii) The onus of proving whether or not he is resident in an area lies on the African concerned.
- (iii) Maximum penalties for contravention of the provisions listed above are:
 - I (i) or (ii) — A fine of up to £300, or imprisonment up to three years, or both.
 - I (iii) or II or III (i) — A fine of up to £100, or imprisonment up to six months, or both.

If an African is convicted under I (i), any motor vehicle used for his conveyance may be forfeited to the State (unless the owner was unaware that it was being so used).

In terms of Government Notice No. 326, also of 28 February 1958, Part I of this proclamation, read with Part III, was applied to African areas in the Marico District.

Press reporters were no longer permitted to visit these areas.

(c) *Banning of the African National Congress*

As the Government considered African National Congress "agitators" to be largely responsible for the troubles in the Marico District, the terms of Proclamation No. 67 of 1958 (summarized on page 14), were on 17 March 1958 applied to the African areas of that district.

(d) *Further deportations and bans*

According to Press reports⁽⁶³⁾, three further Africans have been deported from or banned from visiting the Zeerust area, among them Boaz Moilola, who had earlier refused the chieftainship when Abraham Moilola was ordered to leave.

An Anglican priest, the Rev. Charles Hooper, and his wife were refused permission to remain in the area. Mr. Hooper is reported to have stated⁽⁶⁴⁾ that he had said or done nothing to persuade women to take or not to take reference books. "But I made no secret of the fact that I hated and despised the means which were being employed to make the women take the reference books".

⁽⁶³⁾ *New Age*, 6 March and 12 June 1958.

⁽⁶⁴⁾ *Rand Daily Mail*, 10 March 1958.

Refugees from the Zeerust area

Large numbers of people, including many women and children, fled from the Zeerust area during the disturbances. Some sought temporary refuge on the farms of Europeans, while others crossed the border into Bechuanaland.

Reports of their numbers varied considerably: some estimated that several thousands had taken refuge across the border; the Chief Information Officer of the Native Affairs Department is reported to have said in March 1958⁽⁶⁵⁾ that about 250 "could have" crossed during the previous ten days; and the Minister of Native Affairs said later in Parliament⁽⁶⁶⁾ that their numbers could not be determined with any accuracy because a proportion of the population was usually absent from their homes for labour and other private purposes. "It is estimated, however", he added, "that at no time more than 700 out of a population of about 34,000 were away from the area for whatever reason".

Most of the crops in the Marico reserves were left untended during the troubles, if planting was done at all, and much hardship will result. Many of the refugees left their cattle behind. Several hundreds of them are reported to have gone to the villages of Lobatsi and Ramoutsa in Bechuanaland, where a minority only could find work. The rest are said to be in very great need of clothing and food.

The trials

The cases of Africans from the Zeerust area who were charged with minor offences, such as holding or attending unauthorized meetings, were dealt with comparatively soon by magistrates' courts; but about 200 persons⁽⁶⁷⁾, charged with murder, attempted murder, arson or public violence occurring towards the end of 1957 were remanded for trial by the Supreme Court. At the time of writing, some had been in custody for ten or more months. Few could afford bail, and in any case this was granted only to a very small number of women who had tiny children.

The Circuit Court visited Rustenburg during August and September 1958 to hear some of the cases. On 22 August⁽⁶⁸⁾ five persons were convicted of assault with intent to murder, and public violence, another 15 being acquitted. Sentences of six months' imprisonment were imposed, leave to appeal being granted. In passing sentence, the judge is reported to have said that there had been widespread resentment against the issue of passes to women. The atmosphere in the area had been "one of menace", and the people's resentment was "exacerbated by the tyrannical attitude of the chief".

⁽⁶⁵⁾ *Rand Daily Mail*, 8 March 1958.

⁽⁶⁶⁾ *Assembly*, 13 July 1958, Hansard 2 cols. 513-4.

⁽⁶⁷⁾ *Rand Daily Mail* report, 24 June 1958.

⁽⁶⁸⁾ *Rand Daily Mail* report, 23 August 1958.

On 10 September⁽⁶⁹⁾, eight people were found guilty of public violence, another four being acquitted. Seven of the eight were sentenced to a year's imprisonment and the eighth, a juvenile, to six strokes with a light cane. In passing sentence the judge is reported to have said that he was taking into account the fact that the people concerned had already been in custody for nine months.

Further trials were in progress at the time of writing.

EVENTS IN SEKHUKHUNELAND

The Background

This account of events in Sekhukhuneland is based, as is the Zeerust story, on reports and information received from numerous sources. The Minister of Native Affairs was asked whether he would appoint a commission to enquire into the unrest in Sekhukhuneland, but replied⁽⁷⁰⁾, "It is not necessary as the Native Affairs Department is fully aware of the causes".

Sekhukhuneland is a reserve midway between Pietersburg and Middelburg in the Transvaal. The *de facto* suzerainty of the Bapedi chiefs has for many years been accepted in the area, although it is inhabited, too, by large numbers of the Bakone tribe. All these people live in scattered villages under Bapedi or Bakone sub-chiefs. The present Paramount of the Bapedi is a youth aged about 13: Moroamoche Sekhukhune was appointed as Acting Paramount during his minority.

With a view to the setting up of Bantu authorities, the Government has been attempting to re-settle the Bakone people in the Nebo district in the south of Sekhukhuneland, leaving the Bapedi in the northern Schoonoord district; but this process has by no means been completed. Ill feeling apparently developed: Native Affairs Department spokesmen claimed later that the Bapedi, who were non-progressive, were resentful of interference with their "domination" of other groups. As in other areas, resentment of a Government measure such as this became linked in the people's minds with opposition to "betterment" schemes involving reduction of stock, largely because the same official was advocating the adoption of both projects.

In November 1954 the Minister of Native Affairs, accompanied by a number of senior officials, held an *indaba* at Oliphants River in the Northern Transvaal, at which Moroamoche was present. The chiefs were urged to accept Bantu education and Bantu authorities. It is said that Moroamoche subsequently held a tribal meeting at which an overwhelming majority of the people rejected the Bantu authorities system; and that the local representative of the Native Affairs Department nevertheless continued his efforts to persuade the chief, his councillors and the sub-chiefs to support this system, promising various amenities for the area if they did so.

⁽⁶⁹⁾ Star report, 10 September 1958.

⁽⁷⁰⁾ Assembly, 18 July 1958, Hansard 2 col. 514.

A sharp division of opinion began to emerge. Those who were opposed to Bantu authorities were, apparently, supported by certain tribesmen who worked in Johannesburg.

It is reported that discussion took place between James Mabuye Sekhukhune, two other tribal councillors, and the Departmental official about the possible replacement of Moroamoche as Acting Paramount. In *Bantu*, December 1956, a photograph of James Mabuye as chief was published. Rumour spread that Moroamoche was to be superseded.

A tribal meeting was called during February 1957 at which this matter was thrashed out. The tribal secretary, a head induna and two other councillors, who were said to be in the Departmental official's confidence, were asked why they had not kept the tribe informed of what was in progress. Reports state that as they gave no satisfactory explanation they were dismissed. Arthur Phetedi Tulare, a member of the royal house employed in Johannesburg, was summoned back to become tribal secretary.

It is said that during the following month there were official discussions about fencing and water-pits that were needed in the area; that Moroamoche agreed to supply labour but refused to sign any document because he was afraid of being tricked into an acceptance of Bantu authorities; and that Moroamoche, his brother William and Arthur Phetedi insisted that the tribal council, rather than a Departmental official, should appoint representatives to negotiate with the authorities.

On 10 April 1957 Arthur Phetedi and Godfrey Sekhukhune were deported, to Matubatuba and Mtunzini respectively. Godfrey, who is a near relative of Moroamoche, had opposed the Bantu authorities system at tribal meetings. Their legal representative asked the Minister for his reasons, and was informed that Arthur Phetedi had usurped the powers of the Acting Paramount, had dominated tribal meetings, influenced decisions, and intimidated those who disagreed with his views. Godfrey had been an active supporter of the dissentient group and had incited Africans to oppose measures introduced by the Government. The presence of these men was prejudicial to peaceful administration.

Establishment of a Bantu authority

Reports state that the tribesmen were told that if they accepted Bantu authorities and re-instated the councillors who had been dismissed, the two deportees would be allowed to return. Their leaders did then agree to accept the new system of administration; and on 5 July 1957 a Bantu authority was set up under Moroamoche, to consist of not less than 34 and not more than 40 councillors, and to be vested with the powers, duties and functions of a regional authority. It is said, however, that the tribe refused to re-instate the four councillors. Shortly afterwards,

petitions were prepared urging that the deportees be returned, and some 8,000 members of the tribe assembled at their headquarters to present the petitions to the authorities.

Disputes between the two factions in the tribe continued, and the affairs of the new Bantu authority ran far from smoothly. In evidence given in court later, the Chief Native Commissioner for the Northern areas said⁽⁷¹⁾ that it had been reported to the Department that money was being collected from the Bapedi for a fund "to fight the Government". Men were told to pay 10s. a month, and women 2/6. Those who would not or could not pay were forbidden to plough and were threatened with expulsion from the reserve. The department had heard complaints that a large sum had been collected and that it was not being banked.

Deportation of the chief and two others and disestablishment of the Bantu authority

On 30 November 1957 the Native Commissioner, accompanied by a large number of policemen, proceeded to the tribal headquarters and informed the people that the authorities were dissatisfied with the Acting Paramount's conduct. Moroamoche was handed a letter suspending him from office for a month, and later received a second letter, dated 31 December, suspending him for a further three months. The Native Commissioner for the area later said in court⁽⁷²⁾ that Moroamoche had been suspended because of serious allegations of maladministration of tribal affairs, illegal collection of moneys from Africans not belonging to his tribe, interference in tribal affairs outside his area of jurisdiction, and of certain other matters of a criminal nature which were under investigation.

Also on 30 November 1957 the police arrested seven men, two of whom (Lot Kgagudi Maredi and Kgagudi Maratanyan) were immediately deported. The rest were later brought before the magistrate at Lydenburg, three being acquitted and two convicted of minor crimes relating to obstruction of officials in the course of their duty.

There continued to be much unrest in the area. On 7 March 1958, Part I read with Part III of Proclamation 52 of 1958⁽⁷³⁾ was applied to Sekhukhuneland — that is, the entry of Africans not resident in the area was prohibited except under permit, and it was rendered an offence for anyone in the area to make any verbal or written statement likely to interfere with the authority of officials or chiefs, or threatening violence, loss, boycott or inconvenience to anyone because of his loyalty to officials or chiefs. In terms of Proclamation 67 of 1958, issued on 17

(71) *Star* report, 29 July 1958.

(72) *Cape Times* report, 12 March 1958.

(73) See page 69.

March⁽⁷⁴⁾, the African National Congress was debarred from operating in Sekhukhuneland.

Meanwhile, on 17 March, Moroamoche won an appeal against his suspension, on the ground that he had been given no opportunity of a hearing in his defence or of denying any information that might be in the Department's possession. In terms of Proclamation No. 110 of 1957⁽⁷⁵⁾ (under which he had been suspended) such an opportunity should have been afforded him before action was taken.

On 21 March Moroamoche was deported to Cala in the Transkei, his wife accompanying him, and Kgobalela Sekhukhune, a retired policeman, was appointed in his place. Reports state that Kgobalela was rejected by the mass of the people, who refused to co-operate with him in any way. As a result, on 11 April, in terms of Proclamation 84 of 1958, the assets, liabilities, rights and obligations of the Bapedi Tribal Authority, and its employees, were transferred to the S.A. Native Trust.

Resentment mounted among the people. A primary school at the tribal headquarters was boycotted; and the authorities then closed it. It is said that many of the tribesmen refused to pay poll tax until Moroamoche had been restored; that Kgobalela asked to be relieved of his appointment; and that certain minor chiefs (among them Joseph Phasoane Nkadimeng), were asked by officials to call a meeting at which another Acting Chief would be appointed, but refused to do so. There were angry gatherings of tribesmen.

The riots

On 16 May a detachment of 22 policemen in four vans was sent to arrest Joseph Phasoane Nkadimeng and two members of his tribal committee. These men were thrust into a police van which commenced to move off but was halted by a crowd who blocked the road and began stoning the police. The District Commandant said later in court⁽⁷⁶⁾ that two policemen were injured. The police then opened fire — either two or four tribesmen (reports differ) were shot dead and several others were wounded. The vans then moved off, were threatened by another mob further down the road, but got away.

An argument started, and tempers snapped. Crowds of Africans, armed with assegais, axes and knobkerries, swept through the nearby villages in search of "traitors", and for several days there was a reign of terror. Kgobalela and his right-hand man were assaulted, seven tribesmen were murdered, a school was damaged, the houses of several "collaborators" were sacked, and a trading store and lorry owned by James Mabuye were destroyed. Numbers

(74) See page 14.

(75) See *Survey*, 1956-57, page 77.

(76) *Star* report, 30 July 1958.

of the sub-chiefs, indunas and teachers who were in favour of Bantu authorities fled from the reserve, and the schools remained closed.

The police then descended on the area in force, arresting more than 200 persons and confiscating large numbers of weapons. A mobile police force remained in the reserve for some time afterwards.

Possession of dangerous weapons by Africans in African areas

On 26 May Proclamation 135 of 1958 was published, to have the force of law in any African area determined by the Minister of Native Affairs by notice in the Gazette. It was immediately applied to Sekhukhuneland.

The proclamation states that, unless required by law or authorized by the Native Commissioner in writing to do so, no African may, outside the boundary of the plot where he resides, carry or use any firearm, spear, assegai, axe, kerrie, loaded or spiked stick, or dagger or knife with a blade longer than 3½ inches. Walking sticks used as a support by old or infirm persons are excluded, as also are axes used for *bona fide* domestic requirements.

Preparatory examination

The preparatory examination of 210 Africans on allegations of murder, assault, arson and incitement to violence opened in Lydenburg on 28 July, and was still in progress at the time of writing.

No application for bail was made because there was no money available for this, nor was there for regular legal representation. It was hoped that a sufficient sum could be collected for legal defence should the accused be committed for trial.

ASSAULT AT A MEETING OF THE PRETORIA POLITICAL STUDY GROUP

On 22 August 1958 a group of about thirty Europeans tried to break up a meeting of the (European) Pretoria Political Study Group which was to be addressed by the President-General of the African National Congress, Mr. A. J. Luthuli. They assaulted the European chairman of the meeting, Mr. Luthuli and three women who tried to protect him. One of the men concerned is reported to have leapt on to the platform and shouted "We will not allow a Kaffir to address this meeting".

The police were summoned and arrested four men, the rest escaping. Various charges were laid, and following investigations by the Criminal Investigation Department it was announced⁽¹⁾ that the accused would appear before the Regional Court on 22 October.

Six men were eventually charged, two of them being found guilty of public violence, and the others acquitted. The ring-leader

⁽¹⁾ Star, 8 October 1958.

was sentenced to a fine of £100 (or four months) and to three months' imprisonment. The other was fined £100 (or four months). Both men gave notice of appeal.

TAXATION OF AFRICANS

Natives Taxation and Development Act, No. 38 of 1958

In his Budget speech on 16 July 1958, the Minister of Finance announced that the Government intended increasing the rates of African taxation. On 23 July, at the commencement of the debate, Mrs. V. M. L. Ballinger, M.P., Leader of the Natives' Representatives, moved to omit all words after "That" and to substitute:

"this House declines to go into Committee of Supply and into Committee of Ways and Means unless the Government agrees to postpone any increase in direct taxation to be paid by Africans until:

- "(i) it has made a full and scientific survey of the economic resources of the African population and established the capacity of its members to carry increased financial burdens; and
- "(ii) it has worked out and undertaken to implement forthwith plans to build up the earning power and taxable income of the African people".

This motion was not agreed to. Later, on 16 September, the Minister of Finance introduced the Second Reading of the Natives Taxation and Development Bill (which became law as Act No. 38 of 1958).

The Act provides that as from 1 January 1959, every male African of the age of eighteen and over, domiciled or resident in the Union, will pay basic general tax at the rate of £1 15s. 0d. a year, instead of £1 as previously. As from 1 January 1960, men earning over £180 will pay increased amounts, and women will, for the first time, become liable to pay general tax. The following will be the rates after 1 January 1960:

Taxable income during previous year	General Tax payable	
	Men	Women
Up to £180	£1 15 0	—
Over £180 to £240	£2 0 0	£1 0 0
Over £240 to £300	£2 15 0	£2 0 0
Over £300 to £360	£3 10 0	£3 0 0
Over £360 to £420	£4 5 0	£4 0 0
Over £420 to £480	£5 5 0	£5 0 0
Over £480	Add £1 for every £60 or portion thereof of taxable income.	

If an African pays normal income tax, the amount paid will be deducted from the general tax payable by him (except that all African men must in any case pay the basic general tax of £1 15s. 0d. a year).

The income of a wife (whether married by Christian or civil rites or by customary union) will be regarded as her separate income, and not that of her husband. Income in kind, in the form of livestock or agricultural produce, will be taxable only after these products have been sold.

The Secretary for Native Affairs will designate officials of his department to perform the duties of assessing officers. Between 1 January and 31 March of each year all Africans who during the preceding period of 1 July to 30 June had taxable incomes of over £180 a year must render returns of their incomes to the assessing officers, also, when appropriate, submitting the assessment forms for normal tax received from the Inland Revenue Department. Anyone who fails to do so, or who knowingly makes a false statement, will be guilty of an offence, and liable upon conviction to a fine of up to £50 or a maximum of three months' imprisonment.

Assessment forms will be sent out by the assessing officers. Any African who is dissatisfied may lodge an objection with the assessing officer, who will forward it to the Secretary for Native Affairs. The latter may alter the assessment or disallow the objection. His decision is final in the cases of those who pay general tax only (but Africans who pay income tax as well may appeal from a decision by the Commissioner of Inland Revenue to the Special Income Tax Court, in the same way as Europeans may do).

If required to do so, employers, farmers, traders, financial concerns and others must furnish the assessing officers with returns of African employees and their earnings, payments made to Africans in the form of livestock, produce purchased from or sold to Africans, and moneys received from Africans on deposit and interest paid. Persons who fail to do so or knowingly make false statements will be guilty of an offence and liable to maximum penalties on first conviction of £15 or one month, and upon second or subsequent convictions of £50 or three months.

When introducing the Bill, the Minister of Finance said⁽⁷⁸⁾ that on reaching the age of 65, African men would, as in the past, be exempt from the basic tax (now to be £1 15s. 0d.); but men and women over this age with incomes of more than £180 a year would be taxed. He said, too, that all men would continue to have to carry with them receipts for basic tax and local tax, as these would still be producible on demand; but that receipts for taxes paid on taxable income of more than £180 a year need

⁽⁷⁸⁾ Assembly 16 September 1958, Hansard 10 cols. 3875-80.

not be carried by men or women. The basic general tax and the tax on taxable income would probably have to be paid separately and at different times.

Remarks by the Ministers of Finance and Native Affairs

The Minister went on to discuss the general principles involved. Four-fifths of the amount paid by Africans in taxation would be used for the extension of educational facilities, he said, the rest being paid to the S.A. Native Trust for the development of African areas.

He maintained that since 1925, when the general tax was fixed at £1, wages had increased considerably, but that the contributions made by Africans through taxation had decreased proportionately. In South Africa, he maintained, "We do not have one homogeneous community in which the prosperous people can be taxed to provide services for the less prosperous, but we have various communities which must be economically sound individually. The White guardian community must provide the funds for the essential developmental services . . . but thereafter the community concerned must itself see to the extension of those services in accordance with its capacity".

In conclusion, the Minister of Finance said, "If it should appear that the Native is unable to pay this tax, if it appears that his wages are too low, we should make representations to their employers to increase their wages . . . If the objection is that Native wages are too low, let us rather see to it that Natives receive the wages which their work and their productivity justify".

The same point had been made earlier, during the Budget debate, by the Minister of Native Affairs, who said⁽⁷⁹⁾, "In order to be independent he (the African) would have to draw a wage on which he could meet all his obligations. . . . As long as we allow employers to retain the habit of closing their eyes to the full cost of living needs of the Native: as long as employers are assured that the State will come along like Father Christmas and provide housing cheaply, that the State will provide transport cheaply, and that in the long run the State will also have to provide food cheaply perhaps, these lower wages will remain. Our whole economy will then continue to rest upon a lower direct wage, but with all sorts of indirect State subsidies which are met out of increased taxes on the Whites. Employers will then be inclined to employ too many Bantu, with all the resultant State expenditure. Surely it is very much better . . . that in the long run he (the African) should meet his own obligations and that the wage should be adjusted accordingly".

The Minister of Native Affairs said⁽⁸⁰⁾ that only about 45,000 out of some 2,500,000 Africans liable for taxation had incomes

⁽⁷⁹⁾ Assembly, 24 July 1958, Hansard 3 col. 858.

⁽⁸⁰⁾ Hansard 3 cols. 858-860.

of over £180 a year, and would thus have to pay the graded tax. About 320,000 were exempted from paying any taxes on the grounds of old age, poverty or illness, or because they were students.

During the years 1959-1964, he continued, a total amount of £50,649,000 would be required for Bantu education — the expenditure on Bantu universities would be a mere drop in this bucket. The total revenue of the Bantu Education Fund, apart from taxation, would be £33,400,000 during this period. The present general tax of £1 a year would bring in only about £8,720,000 of the balance of £17,249,000 required. But by increasing the basic general tax to £1 15s. 0d., and by obtaining another £320,000 from men in the higher income groups and women, and from a few further sources still to be explored, a sum within £185,000 of the target could be obtained.

Memorandum by the S.A. Institute of Race Relations

A memorandum RR 107/58 entitled *An Analysis of the Proposed Increases in African Taxation*, submitted by the S.A. Institute of Race Relations to all Members of Parliament during the Budget debate, is mentioned at this stage because it formed the basis for much of the Parliamentary debate on the Bill. The argument in this memorandum (amended in three minor respects in the light of information that became available subsequent to its preparation) was as follows:

1. *Income and provincial taxes*

Africans pay income and provincial taxes on the same basis as do members of other racial groups once they reach the appropriate income levels.

2. *General tax as compared with personal tax*

In their case the general (or poll) tax is substituted for the provincial personal tax. The new system for the general taxation of Africans is inequitable in several respects:

(a) *Age at which liable to pay*

Africans become liable to pay the general tax on reaching the age of 18, while members of other groups do not pay personal tax until they attain the age of 21.

(b) *Married and single rates*

The rate of personal tax is lower for married men than for single persons; but no such reduction is made for married Africans with family responsibilities.

No married European, Coloured or Asian woman pays personal tax; but married African women will not be exempt from paying the general tax (although, as was learned later, a woman's taxable income will not be added to that of her husband).

(c) *Comparison of amounts payable*

According to the new rates, African men with incomes of under £140 a year will pay more in general taxation than men of any other racial group, *whether married or single*, pay in personal tax anywhere in the Union. African men with under £190 a year will pay more than do any *married* men of other racial groups. Between the £190 and £460 income groups, African men will pay more than do married men of other racial groups everywhere except in the Orange Free State.

While African women will pay lesser amounts than do *single* persons of other racial groups, up to the £250 income group they will pay the same as, or higher amounts than *married* men of other racial groups pay everywhere except in the Orange Free State.

So far as the lowest income groups are concerned, then, Africans will, in general, be required to pay more than do Europeans with the same incomes.

(d) *Persons with low incomes are least able to divert money from essentials of living*

Persons in the lowest income groups, into which most Africans fall, are least able to pay any taxes whatever, since practically all their income is absorbed in expenditure on the absolute essentials of living, and most of them are existing at a standard well below the bread-line.

3. *Further direct taxes paid by Africans only*

Africans pay further direct taxes which members of other racial groups are not called upon to pay, for example:

(a) *Local tax*

Local tax of 10/- per hut per annum, up to a maximum of £2, is paid by occupiers of land in a rural location (holders of land under quitrent, persons over 65 years of age and students are exempt). This tax yielded over £200,000 in 1956-57.

(b) *Transkeian levy*

Since 1955 African taxpayers in the Transkei have paid a general levy of 10/- a year over and above the general and local taxes. This yielded £97,923 in 1956-57.

This levy is likely to be increased, since, in terms of Proclamation 180 of 1956, the tribal, district, regional and territorial authorities being established there may *each* levy rates of up to £1 a year on African taxpayers.

(In terms of Government Notice No. 738 of 30 May 1958, stock-rates, varying from 1/- to 2/- per head of cattle, have been imposed in the Transkei. There are 1,231,035 head of cattle there⁽⁸¹⁾).

(c) *Other tribal levies*

On application by a tribe, and if the Minister of Native Affairs is satisfied that the majority of the taxpayers of the tribe concerned are in favour, the Governor-General may by Proclamation impose a compulsory tribal levy. Failure to pay then becomes a criminal offence. Voluntary levies may also be imposed, when there is merely a moral obligation upon taxpayers to contribute. Purposes for which the money is used include the erection and equipping of schools and the provision of dams, water supplies, fences, reclamation works, clinics, etc.

At the end of March 1957 there were 160 compulsory levies and 681 voluntary levies in force. They yielded £139,333 in 1956-57. To this sum should be added the value of the labour supplied free by tribesmen for the construction of these works.

(d) *Education and school requisites*

Africans occupying houses in urban locations or townships pay an education tax of up to 2/- a month to cover interest and redemption of economic loans obtained by local authorities for the erection of lower primary schools, and also to cover external maintenance costs. In both urban and rural areas African school boards must themselves raise money to contribute £ for £ to the costs of erecting higher and post-primary schools, and must undertake responsibility for the maintenance and cleaning of the buildings.

Unlike pupils of other racial groups, African primary school children must supply their own pens, stationery and other requisites. The pupils themselves have to undertake cleaning of the school buildings and grounds. Contributions to school funds may be made compulsory for secondary school children.

(e) *Hospital levy*

Africans in the Orange Free State and in certain parts of Natal are required to pay a hospital levy, which yielded £29,857 in 1956.

(f) *Services in urban townships*

African residents of municipal townships are required to pay sums additional to the rental to cover, almost completely if not entirely, the costs of administration and of health, welfare and recreational services provided.

(81) Minister of Native Affairs, Assembly 25 July 1958, Hansard 3 col. 959.

4. *Other payments by Africans*

- (a) Quitrent or squatting fees (£368,206 in 1954-55).
- (b) Ploughing, dipping, grazing and other fees (£144,620 in 1954-55).
- (c) Dog tax (£10,200 in 1956-57).
- (d) Other contributions to provincial treasuries (£560,000 in 1951-52).
- (e) Indirect taxation, import duties, excise, licences, stamp duty, fines, etc. (Estimated at £6,542,000 in 1951-52).
- (f) Pass and compound fees. (Some £280,000 in 1951-52).
- (g) Contributions to churches and missions, and towards the costs of welfare services provided by voluntary agencies.
- (h) African labour makes it possible for the mines, factories and other public companies, farmers and others to show the profits on which very high taxes are paid by them.

5. *Relation of amounts paid to cost of services received by Africans*

The amounts paid by Africans under some of the heads mentioned above are not known. However, the Minister of Native Affairs has estimated⁽⁸²⁾ that over and above income tax, general tax and local tax, Africans contribute between £30-million and £40-million annually.

In August 1956 the Native Affairs Department issued a press statement in which it was said that during the 1955-56 financial year the State and the provincial administrations would spend some £31½-million on services for Africans, plus another £3½-million specially voted that year (but not the following one) for the development of the Reserves.

No accurate comparison is possible of the contributions by Africans with the cost of the services they receive; but it is certain that the White section of the population is not subsidizing the Africans to the extent commonly believed. According to the speech by the Minister of Native Affairs, the two items are more or less self-balancing.

6. *Incomes and expenditure of African families*

The Institute quoted numerous cost-of-living studies⁽⁸³⁾, pointing out that in every case where comparable income and expenditure figures are available, between 69 per cent and 78 per cent of African families in the areas concerned have incomes below the minimum necessary to provide the barest essentials of healthy living. In consequence, their expenditure on food, clothing and fuel is reduced below the essential minima. The effect on the health of Africans was outlined.

(82) Assembly, 28 March 1957, Hansard 10 cols. 3744-46.

(83) Summarized in *Survey*, 1956-57, pages 166-171.

7. *Conclusions*

The Institute's conclusions were:

- (a) The majority of Africans, those in the lower income groups, are already too highly taxed; yet the Government intends increasing the rate of general taxation by 75 per cent in 1959, and from 1960 imposing still further taxes on men and women with incomes of over £180 a year. The taxation system for Africans is inequitable in comparison with that for other racial groups.
- (b) Such a policy can result only in a further decline in health standards, in the efficiency and productivity of African labour, and in African purchasing power. There will be serious repercussions on the economy of the whole country.
- (c) It is generally accepted in modern societies that the wealthier people should be taxed according to their ability to pay, in order to alleviate the poverty and increase the productivity of the poor. In no modern, progressive countries are the poor expected to finance their own social services.

Further points made during the Parliamentary debate

The opening United Party speaker said⁽⁸⁴⁾ that his party had no objection to the comparatively small section of the wealthier Africans being taxed on the same basis as the Europeans, but it considered, firstly, that the proposals contained in the Bill hit the poorest section of the community who could least afford to pay; secondly, that an unfair burden would be placed on the African as compared with other races; and thirdly, that within his means the African already contributed a fair share in both direct and indirect taxation, and no increase should be contemplated until the whole question of the African's wages, and the economic conditions under which he lived, had been fully investigated by an independent commission.

The following additional points were made during the debate:

Wage-levels

It was pointed out⁽⁸⁵⁾ that one of the main reasons why commerce and industry have found it difficult to pay higher wages is that artificial barriers are placed on the productivity of labour.

Age at which persons become liable for taxation

A Government speaker maintained⁽⁸⁶⁾ that it was not really correct to say that White youths of 18 years of age did not pay personal tax. Their earnings were in many cases added to those of their fathers, who were taxed on the combined amounts.

⁽⁸⁴⁾ Dr. D. L. Smit, M.P., Hansard 10 col. 3880.

⁽⁸⁵⁾ Col. 3949.

⁽⁸⁶⁾ Col. 3891.

One of the Natives' Representatives said⁽⁸⁷⁾ she thought that at least the Minister might have raised the African tax-payer's age to 21. Young Europeans, who did not pay personal tax, were being enfranchised; but young Africans, who had no vote, were being required to pay 75 per cent more in taxation than they did formerly.

Other payments made by Africans

The Minister of Native Affairs said⁽⁸⁸⁾ that African tribes had not imposed levies under pressure from the Government. The decision was their own in every case: in fact he had sometimes interceded if it appeared that they were proposing to tax themselves too highly.

A United Party speaker⁽⁸⁹⁾ reminded the House that on one occasion the Minister of Native Affairs had said that the Consolidated Revenue Fund came from White sources. That was an astonishing statement, he remarked. "If we had the figures we would find that the amount the Native pays . . . is colossal".

Imprisonment for non-payment of taxes

The same speaker said⁽⁹⁰⁾, "In the case of other races, there is no criminal sanction for failure to pay, but the Native goes to gaol if he does not pay his tax . . . No less than 177,890 Natives were arrested and brought before the court last year for failing to pay tax . . . That was an increase of 50,204 over 1956 . . . The fact that so many arrests are made each year shows how severely the incidence of this tax is felt by the lower income group".

Government spokesmen replied⁽⁹¹⁾ that exemptions are granted to certain Africans who cannot pay, e.g. in cases of illness. The Act provides that any tax defaulter may be placed in employment by the Native Commissioner, and monthly instalments may then be deducted from his wages to cover the arrear taxes. Prison sentences are not imposed if the taxes can be recovered from wages. Extensions of time are granted if an African is in temporary difficulties.

Poverty of Africans

Numerous examples were given of the poverty of Africans as revealed in cost-of-living studies⁽⁹²⁾.

Dr. D. L. Smit said⁽⁹³⁾ that the Prime Minister had been kind enough to allow him to see the report of an inter-departmental committee which, between 1951 and 1956, examined various aspects of African taxation and submitted proposals on which the Bill was based. Goodness only knows how the committee had come to

⁽⁸⁷⁾ Col. 3997.

⁽⁸⁸⁾ Hansard 3 col. 863.

⁽⁸⁹⁾ Hansard 10 col. 3887.

⁽⁹⁰⁾ Cols. 3886, 3880.

⁽⁹¹⁾ Cols. 3889, 3985.

⁽⁹²⁾ Cols. 3882-5, 3890, 3935, 3967, 3909.

⁽⁹³⁾ Cols. 3885-6.

the conclusion that African taxes should be raised, he said. "In accordance with departmental practice, the committee accepted £180 per annum as the dividing line between tax-payers who should pay flat rate and those on the higher scale. They estimated that out of 2,180,000 male taxpayers, 2,135,000 belonged to the under £180 or lower income group . . .

"Attached to the report there are a number of schedules of Native earnings, and if anything is required to prove the inability of the Natives to pay, one has only to refer to these schedules . . . Schedule M shows the wages earned by Natives in commerce. It appears that 6,416 males earned from £51 to £60 a year, 24,940 earned £61 to £70 per annum, 47,744 £101 to £110, and only 159 were above £180.

"On European farms they found that the annual earnings in cash were as follows according to estimates: the Cape, £49 1s. 0d., Natal £33 2s. 0d., Transvaal £36, Orange Free State £29 17s. 0d. The average for the total farm labour force of 636,794 Natives in the Union was £37 1s. 0d. This does not include, however, income from crops or from stock sold.

"In Schedule Q there is an estimate of the number of male taxpayers in the Union in order of income, excluding rations and accommodation, with this result: (reserves not included)

1,107,730 Natives belong to the under £50 p.a. group
 209,820 belong to the £51 to £60 p.a. group
 22,791 belong to the £61 to £70 p.a. group
 253,431 belong to the £101 to £110 group

Some 40,000 are shown as being above the £180 group.

. . . "While it is perfectly true that wages have risen during the past 30 years and that large sums have been provided by Parliament for Native housing and development, the figures avoid the irrefutable fact, Sir, that £1 was worth 20s. in 1925 and that it is only worth about 7s. 6d. to-day, and that with the constant rise in the cost of living the Native is no better off to-day than he was then".

A Natives' Representative added⁽⁹⁴⁾, "I do not want to know how much Native wages have gone up; I want to know how much Native starvation has been overcome".

Conclusions

Some of the more general remarks made were:

1. "People keep on talking about Bantu education as if it was a privilege and a service to the African population. It is nothing of the kind. It is simply part of the obligation of a modern state to see that its community is adequately educated, for its own benefit as well as for that of the individual. No modern state can afford to have an uneducated, illiterate population"⁽⁹⁵⁾.

⁽⁹⁴⁾ Col. 3970.
⁽⁹⁵⁾ Col. 3966.

2. "It seems to me that particularly in regard to the Natives in the urban areas, they are part and parcel of the economy. Their taxation and the principles which govern it, should be the same sound basic principles that govern taxation as applied to the whole of the community"⁽⁹⁶⁾.

3. "I want to refer the hon. member to the UNO report entitled *Taxes and Fiscal Policy in Under-Developed Countries*. It was published in 1954 . . . *Inter alia* UNO says that the primary requirement for a modern income tax system is a predominantly money economy . . . They say that if a form of income tax is to be applied, there should be a high standard of literacy, because they find that filling in an income tax form requires a measure of intelligence and even instruction. They also point out that a reliable . . . accounting system is a prerequisite for an income tax system. We do not find this amongst the Natives of South Africa. . . . (The flat rate system) gives the Natives an opportunity to contribute towards the revenue of the country. And it impresses on him the realization that he must contribute towards the cost of the services made available to him . . . and not merely ask the Government to provide free services"⁽⁹⁷⁾.

4. (A previous speaker) "says that this whole debate should be considered in the light of the Natives as a separate community . . . We on this side of the House do not accept the Native community as . . . being completely divorced from our economy . . . We are arguing from different basic premises"⁽⁹⁸⁾.

The Bill was passed at its Third Reading in the Assembly by 86 votes to 49.

Petition by Africans

Petitions calling for the withdrawal of the Natives Taxation and Development Bill, signed by several thousand Africans, were sent to the Natives' Representatives during the Parliamentary debate.

GENERAL RESEARCH

Research projects connected with education, employment, health and other matters are dealt with in appropriate chapters of this Survey. Some of the more general projects recently completed or in progress are described below.

General inter-group relations

S.A. Institute of Race Relations:

Political Systems in Plural Societies: a study being undertaken by Mr. K. Heard.

⁽⁹⁶⁾ Col. 3924.

⁽⁹⁷⁾ Col. 3940-43.

⁽⁹⁸⁾ Col. 3945.

AFRICAN NATIONAL SOIL CONSERVATION ASSOCIATION

During August 1958 A.N.S.C.A. (the African National Soil Conservation Association) organized a three months' part-time course in soil conservation for its members and for African teachers.

EMPLOYMENT

THE GENERAL ECONOMIC SITUATION

South Africa's gross geographical national income for 1956-57 was £1,931-million, which was £134-million, or 7.5 per cent, above the figure for the previous year. In his address at the thirty-eighth ordinary general meeting of stockholders, during August 1958⁽¹⁾, the Governor of the S.A. Reserve Bank said that, after making due allowances for increases in the retail price index and in the population, it would appear that the real geographical income per head of the population rose by about 3½ per cent in 1956-57, as compared with an increase of about 3 per cent in 1955-56. As far as the year ended June 1958 was concerned, the available information seemed to indicate a reduction in the rate of growth.

Despite the adverse effects of the economic recession in the United States and certain other parts of the world, he continued, there had thus far been no actual decline in the total volume of economic activity in the Union, but merely a decline in its rate of growth. In recent months, however, there had been signs of a more marked slowing down and of a levelling off or actual decline in some branches of the economy.

MANPOWER

In the same speech, the Governor of the Reserve Bank said that although there was evidence of an increase in unemployment and in short-time working in some industries, there were as yet no signs of any employment problem. There still appeared to be a shortage of labour in some industries, such as the gold mining industry, and of skilled labour generally.

The Minister of Labour announced in the Senate during September⁽²⁾ that he had instructed his Department to ascertain the scope of the total manpower of the Union, and the shortages in each calling. This information was now available and would shortly be made public. The figures showed that the shortage of White workers in the country as a whole was not such that it had a dislocating effect on the economy.

The unemployment figure, the Minister continued, was higher than for the previous year. In August 1958 the number of unemployed Whites was only 0.8 per cent of the total number of all Whites in employment, many of those out of work being in the upper age groups. The number of unemployed Coloured and Asian workers was 4.6 per cent of the total number of

(1) *Star*, 20 August 1958.

(2) Senate, 14 September 1958, Hansard 7 cols. 1922-5.

persons of these racial groups in employment: this was a very high percentage. A proportion of up to 2 per cent was accepted internationally as indicating full employment.

Had the Government encouraged immigration, the Minister said, the unemployment position would have been worse. (According to the official *Bulletin of Statistics* for September 1958, there were 14,615 White immigrants and 10,943 White emigrants during 1957). The Minister's views on immigration were not shared by the Commission of Enquiry into Policy Relating to the Protection of Industries, which, in its recently issued report⁽³⁾, called for a positive and effective policy for the immigration of skilled workers, with the appropriate financial assistance of the State.

In the speech quoted above, the Minister of Labour announced that his Department was engaged in a survey of the vocational selections of White school-leaving youths, which would make possible deductions as to the annual White labour potential.

INFLUX CONTROL AND THE SUPPLY OF AFRICAN LABOUR

Except for those returning to a previous employer within twelve months, all African labour must now be obtained through labour bureaux. Local (municipal) bureaux deal with Africans already legally in the area, including those who become unemployed.

New regulations have recently been introduced by the municipal authority in Johannesburg. Africans are no longer given general work-seeking permits, but must report to the bureau within three days of their discharge from a job, and then go into the pool of unemployed. Employers must register a vacancy within three days of its occurrence, and are sent the applicant for the type of work concerned who happens to be at the top of the waiting list. Both employers and work-seekers are entitled to refuse to enter into a contract of service; but although the latter are entitled to return to the bureau and request that another post be found for them, Africans are afraid of doing this more than perhaps a couple of times. Their freedom of choice has, thus, been still further curtailed.

The Acting Manager of the Johannesburg Non-European Affairs Department said⁽⁴⁾ that this new arrangement was necessary, firstly, because employers had been lax in notifying vacancies, which made it difficult for the demand for labour to be assessed; and secondly, because Africans who were not *bona fide* work-seekers were roaming the streets on nefarious activities.

The district, regional and central labour bureaux are under Government control. Africans who are surplus to labour requirements in any town, and do not qualify to remain there permanently, are referred to the district bureaux. Conversely, local authorities that need additional labour apply to the district bureaux.

(3) U.G. 36/1958.

(4) *Star*, 23 September 1958.

should be joint trials in all such cases, and that no plea of guilt by either party separately should be accepted. No action has yet been taken to incorporate these suggestions in the law.

EXTERNAL AFFAIRS

MEMBERSHIP OF UNITED NATIONS

The Minister of External Affairs announced in the Assembly on 15 July 1958⁽¹⁾ that "in view of the more reasonable and conciliatory attitude towards South Africa shown by a fairly large number of delegations, the Cabinet has agreed that the policy of 'token representation' has achieved its purpose, and that in the circumstances the Union could now return to full participation in the work of the United Nations". The Cabinet had further agreed, he continued, that South Africa should in future, in a greater measure, play its full part in the organization and in the discussions. It would continue to stand inflexibly by Article 2(7) of the Charter: any discussion of essentially domestic matters would be ignored. The Minister concluded by saying that he, accompanied by the Secretary for External Affairs, would attend the beginning of the forthcoming session of the General Assembly, and a permanent representative to the United Nations would be appointed, with the diplomatic rank of Minister Plenipotentiary.

UNITED NATIONS' CONSIDERATION OF SOUTH-WEST AFRICA

At the 1957 session of the General Assembly of the United Nations, it was decided to set up a 'Good Offices' Committee composed of Britain, the United States and one other member to be appointed by the President of the General Assembly, to explore with the Union Government the possibility of reaching an agreement which would continue to accord to South-West Africa an international status. Brazil was later appointed as the third member of the committee.

After preliminary discussions in London, the members of the committee visited South Africa during June for formal discussions with the Union Government. Later, at the latter's invitation, two of the members visited South-West Africa.

The terms of the committee's report were made public during September. It believed, it stated, that a form of partition in the territory might provide a basis for agreement between the world organization and the South African Government. Under such an agreement the southern part of the territory would be annexed to the Union, while the northern part, containing the great majority of the African population, would be administered by the South African Government as an integral part of the Union, but under a trusteeship agreement with the United Nations.

⁽¹⁾ Hansard 2 col. 351.

The Committee hoped that the General Assembly would encourage the Union Government to investigate the possibility of partition, on the understanding that if the investigation proved that the idea was practicable, the Union Government should draw up precise proposals for submission to the United Nations. If not, the Union should inform the United Nations, and the matter would lapse.

South Africa's Minister of External Affairs told the Trusteeship Committee that his Government was of opinion that this suggestion merited further consideration and would, if asked, be prepared to investigate its practicability. South Africa put forward an alternative proposal: that it would be willing to accept, as the second party to an agreement, the Governments of Britain, France and the United States, as the three remaining principal allied and associated powers under the original mandate. Such agreement would specify that the territory possessed an "international character" deriving from the arrangements made at the peace conference at Versailles, and that this character could be modified only with the consent of both parties to the agreement.

Besides appointing the Good Offices Committee, the General Assembly at its 1957 session had reappointed the United Nations Standing Committee on South-West Africa, this time with representatives of Uruguay, Egypt and Indonesia. This committee (whose jurisdiction South Africa does not acknowledge) reported that in order to preserve the "sacred trust" undertaken by the South African Government on behalf of the League of Nations, it was essential that the manner of administration of South-West Africa should be changed, so as to ensure the political, economic and social development of the whole population, and the recognition and application of the principle of equal rights and opportunities for all the inhabitants.

The Trusteeship Committee rejected the suggestion made by the Good Offices Committee and the alternative suggestion by South Africa. It adopted a resolution inviting the Good Offices Committee to renew discussions with the South African Government with a view to finding a basis for agreement which would continue to accord the territory as a whole an international status, and which would be in conformity with the principles and purposes of the United Nations. On 31 October this resolution was adopted by the General Assembly by 61 votes to eight, with seven abstentions.

TREATMENT OF PERSONS OF INDIAN ORIGIN IN THE UNION

In 1957 the General Assembly appealed to the South African Government to negotiate with India and Pakistan with a view to solving the question of the treatment of persons of Indian origin in the Union in accordance with the purposes and principles of the Charter and the Universal Declaration of Human Rights.

The Indian delegate reported to the Secretary-General during July 1958 that he had written in April to the South African delegate, proposing Indian-South African negotiations in New York or elsewhere. No reply had been received.

RACIAL POLICIES IN THE UNION

On 30 October 1958, the General Assembly, by 70 votes to five, with four abstentions, adopted a resolution expressing its regret and concern that the Union Government had not heeded its appeals to modify the apartheid policy.

TECHNICAL AND ECONOMIC ASSISTANCE IN AFRICA

The Foundation for Mutual Assistance in Africa South of the Sahara (FAMA) was inaugurated at a meeting held in Accra during February, under the aegis of CCTA (the Commission for Technical Co-operation in Africa South of the Sahara), and backed by South Africa, Britain, Belgium, France, Portugal, the Federation of Rhodesia and Nyasaland, and Ghana. It will act as a clearing-house for technical information, and will provide technical aid such as the services of experts and the training of personnel.

The United Nations is planning to set up an Economic Commission for Africa (to be sited at Addis Ababa), which will be responsible to the Economic and Social Council, with the object of maintaining and strengthening the economic relations of all countries in Africa both among themselves and with other countries in the world. It will assist and advise any African state that cares to use its services.

INSTITUTE OF RACE RELATIONS IN BRITAIN

The Institute of Race Relations (6, Duke of York Street, London S.W.1.) came into being as a separate body in April 1958, but continues the work begun five years earlier by the Royal Institute of International Affairs in Chatham House.

ANNEXURE I RECENT PUBLICATIONS OF THE S.A. INSTITUTE OF RACE RELATIONS

- South Africa's Internal Boundaries*, by Leo Marquard (Presidential Address).
A Survey of Race Relations, 1956-57, compiled by Muriel Horrell.
The Assault on Our Liberties, by Donald B. Molteno, Q.C.
The Government of Divided Communities, by Dr. David Thomson (Hoernlé Memorial Lecture).
28th Annual Report of the Institute, 1956-57.
Race Relations Journal—
 Vol. XXIV Nos. 3 and 4—
Apartheid and University Freedom, by Prof. H. G. Stoker.
Racial Ideology and University Apartheid, by Prof. I. D. MacCrone.
Institute Statement on the Bill, by Dr. Ellen Hellmann and R. B. Ballinger.
 Vol. XXV Nos. 1 and 2—
The Pathology of Apartheid—A Reply to Professor Stoker, by R. B. Ballinger.
The Treatment of Australian Aborigines, by Hugh Gilchrist.
A Review of Legislation in 1957, by Quintin Whyte.
Human Relations in a Multi-Racial Society, by I. D. MacCrone.
Thought (A Journal of Afrikaans Thinking for the English-Speaking)
 December 1957.
 March 1958.
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 December 1957.
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Race Relations News—9 issues.
Fact-Papers—
 No. 1/58—*An Analysis of the Proposed Increases in African Taxation*.
 No. 2/58—*Race Classification in South Africa—Its Effects on Human Beings*, by Muriel Horrell.
- #### MEMORANDA ISSUED IN RONEOED FORM
- RR 176/57 *Evidence Submitted to the Commission on the Separate University Education Bill.*
 RR 218/57 *Civil Liberty in South Africa*, by Dr. the Hon. Edgar H. Brookes and J. B. Macaulay (An address based on the first two chapters of a book subsequently published by the Oxford University Press).
 RR 225/57 *The Implementation of the Bantu Education Act*, by J. W. Macquarrie.
 RR 3/58 *Techniques in Race Relations*, by F. J. van Wyk.
 RR 19/58 *Some Observations on the Group Areas Act*, by A. D. Lazarus.
 RR 25/58 *Findings of the Institute's Council, January 1958.*
 RR 41/58 *Interim Report No. 1 on Reference Books and Permits for African Women*, by Muriel Horrell.
 RR 43/58 *First Interim Report on Position in Regard to Certificates and Letters of Exemption*, by Muriel Horrell.
 RR 55/58 *Counsel's Opinion on Points Raised in RR 43/58.*
 RR 63/58 *Second Interim Report on the Position in Regard to Certificates and Letters of Exemption.*