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SOUTH AFRICAN

NATIVE AFFAIRS COMMISSION

1903-1905.

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REPORT

WITH ANNEXURES NOS. 1 TO 9.



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REPORT

OF THE

SOUTH AFRICAN NATIVE AFFAIRS COMMISSION.

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SOUTH AFRICAN NATIVE AFFAIRS COMMISSION.

R E P O R T .

To

His Excellency,
The High Commissioner.

MAY IT PLEASE YOUR EXCELLENCY,

WE, the undersigned Commissioners, having been appointed under Commission* issued by Your Excellency, dated the 22nd September, 1903, for the purposes hereinafter mentioned, have the honour to submit the following Report :—

PREFACE.

1. The Terms of Reference† to Your Excellency's Commissioners were more especially to enquire into and report on the following matters :—

- (1) The status and condition of the Natives; the lines on which their natural advancement should proceed; their education, industrial training; and labour.
- (2) The tenure of land by Natives and the obligations to the State which it entails.
- (3) Native law and administration.
- (4) The prohibition of the sale of liquor to Natives.
- (5) Native marriages.
- (6) The extent and effect of polygamy.

2. The following resolution passed at the Bloemfontein Conference in March, 1903, quoted in Your Excellency's Commission, further indicated the scope of the work to be done :—

“ That in view of the coming Federation of South African
“ Colonies, it is desirable that a South African Commis-
“ sion be constituted to gather accurate information on
“ certain affairs relating to the Natives and Native
“ administration, and to offer recommendations to
“ the several Governments concerned, with the object of
“ arriving at a common understanding on questions of

* Annexure 1.

† Annexure 2.

“ Native policy ; such Commission to consist of two
 “ representatives from each of the Colonies, and one
 “ each from Rhodesia and Basutoland, with the addition
 “ of a Chairman to be nominated by the High
 “ Commissioner.”

3. In view of the comprehensive character of the Terms of Reference and the wide issues arising therefrom, it was essential to seek and admit full oral and written evidence from those competent to give it, and to visit not only each of the Colonies and Territories concerned, but those centres in each where differing conditions obtain.
4. It thereupon became necessary to indicate to the public the points upon which the opinions of witnesses were to be invited. This was done by means of a schedule of the subjects of enquiry* and a list of questions,† which showed clearly the scope of the enquiry and the lines on which the examination of witnesses would proceed. They were widely circulated and elicited valuable information. The replies to these questions are printed.‡
5. In pursuance of instructions, Interim Reports§ were submitted to Your Excellency at the conclusion of each session.
6. The Commission held sittings at the following places, *viz.* :— Cape Town, King William's Town, East London, Queen's Town, Lady Frere, Butterworth, Umtata, Kokstad, Pietermaritzburg, Durban, Salisbury, Bulawayo, Mafeking, Bloemfontein, Maseru, Pretoria and Johannesburg.
7. The witnesses, a list of whom is given,|| were either invited to give or, in response to advertisement, proffered their evidence. They represented the views of officials, politicians, ministers of religion and missionaries, lawyers, educationalists, land-owners, farmers, traders, municipalities and other public bodies, employers of labour, and Natives of all classes.
8. The Commission desires to record its appreciation of the readiness in general of invited witnesses to attend, often at much personal inconvenience, for the purpose of giving evidence, and of the frank manner in which the questions were answered by them.
9. In addition to the oral evidence¶ and the written replies to questions, numerous communications bearing more or less upon the subjects of enquiry were received.
10. Opportunities were taken to visit and inspect certain Native Educational and Industrial Institutions, Municipal Locations, Location Reserves, Land Settlements, Allotments, Labour Compounds and Hospitals. These visits afforded, by means of personal observation, much useful information to the Commission on some of the most important features of its work.
11. There have been unavoidable adjournments which interrupted the work and so delayed the final Report.

* Annexure 3.

† Annexure 4.

‡ Appendix D.

§ Annexure 5.

|| Annexure 6.

¶ Appendix C.

HISTORICAL.

12. It is important, before proceeding further, to state briefly certain historical facts affecting the Natives of the Colonies and Possessions within the sphere of enquiry.

CAPE COLONY.

13. The Cape Colony became a Possession of Great Britain by its formal cession, during 1814, by the Prince of the United Netherlands in consideration of the payment of £6,000,000; an arrangement which was confirmed the following year by the International Congress of Vienna. British troops had then been in occupation for eight years, dating from the capitulation of Governor Janssens after the battle of Blaauwberg in 1806.
14. At that time the Colony was bounded on the east by the Fish River and on the north by Bushmanland, an almost uninhabitable tract of country south of the Orange River. Gradually it extended, until by the incorporation of East Griqualand in 1879, Pondoland in 1894, and British Bechuanaland in 1895, it reached its present limits. It embraces an area of 276,565 square miles, and has a population of 2,409,804, consisting of 579,741 Europeans, 1,424,787 Natives, 395,369 coloured people of mixed race and Malays, and 9,907 Asiatics. It has had Responsible Government since 1872.
15. The earliest known inhabitants of the Cape Colony were Hottentots and Bushmen, the latter a pigmy race of hunters, yellow in colour, without any form of government other than parental, and quite incapable of adopting the habits of European civilisation. The Hottentots were a nomadic pastoral people not dissimilar to the Bushmen in appearance. Whence they came is not known, but they appear to have been fully established as early as the 15th century. Their government was a weak despotism varying in efficiency with the character of the Chief. Socially they were superior to the Bushmen, and they were able to adapt themselves to European modes of life. Few pure types of either race remain, though many of their characteristics are preserved in the coloured people who constitute a considerable proportion of the population.
16. The Natives inhabiting the eastern portion of the Colony to-day, known generally as the Kafirs, are an offshoot of the great Bantu race believed to have sprung originally from Central Africa. They are first heard of in connection with South African history in 1593, when the "Santo Alberto" was wrecked on the coast south of the Umtata River, and words mentioned as used by the savages are readily recognisable as being of Bantu origin. In the 17th century the Fish River was the boundary between the Kafirs and the Hottentots; in the 18th century Kafirs were encroaching on the Zuurveld west of the Fish River, and in 1798 a horde of them ravaged as far west as George, where they were turned back by the burghers of Stellenbosch. No Kafir tribe has at any time permanently established itself west of the Fish River.

The conquests of the cruel and tyrannical Zulu Chiefs, Tshaka and Dingana, at the beginning of the 19th century, caused internal redistribution of the Xosa tribes, but the presence of European settlers in the Colony prevented the advance westward which would otherwise probably have taken place. The greater part of the Native population of the Colony is now to be found in the Transkeian Territories lying between the Kei and the Umzimkulu Rivers, where their traditional manner of life is more closely followed than elsewhere.

17. In 1880 an important Cape Colonial Commission upon Native Laws and Customs was appointed, and as an outcome of its recommendations the Transkeian Territories Penal Code was adopted. It embodies in a convenient form the spirit of the statute and common law of the Colony, from which it differs only in providing for the punishment of criminal offences arising peculiarly from local aboriginal conditions and in the adoption of certain principles of the Native spoor law.
18. Reference to the annexed table* will show the comparative increase of the European and Native populations of this and the other Colonies and Possessions where obtainable.

NATAL.

19. Natal was discovered by Vasco da Gama in 1497. In the years 1836-38 a large body of Dutch farmers from Cape Colony migrated thereto. In 1842 it was occupied by the British, and in 1843 was proclaimed a British Possession. It was treated as a district of the Cape Colony until 1845, when Letters Patent were issued creating it a separate Colony with a Lieutenant-Governor subordinate to the Governor of the Cape Colony. In 1856 Natal became a distinct Government, and in 1893 was given Responsible Government.
20. Zululand, with which had previously been incorporated the territories of the Native Chiefs Umbegeza and Sambana and the Amatongaland Protectorate, was annexed to Natal in 1897, and in 1903 the area constituting what is known as the Northern Districts was transferred from the Transvaal Colony and became part of Natal, which now embraces an area of 36,173 square miles and has a population of 1,108,754, consisting of 97,109 Europeans, 100,918 Indians, 6,686 coloured people, and 904,041 Natives.
21. In the early part of the last century the despotic rule of the Zulu Chiefs caused many of the formerly independent tribes to flee from Zululand and Natal. Many sections of tribes fled into the Cape Colony, largely contributing to the Native population there; others broke northwards into the Transvaal and Matabeleland, while some migrated across the Zambesi River into Central Africa.
22. During the rule of Tshaka and Dingana, Natal, as distinguished from Zululand, became transformed from a country with an

*Annexure 7.

estimated Native population of 100,000 to one with a few remnants of tribes who were forced to seek inaccessible parts as a refuge from their oppressors. Thus, on the arrival of the first Dutch settlers, there was but a small Native population in Natal. From 1839, the year in which Dingana was defeated by the Dutch immigrants, and for some years after, many of the Native refugees from Natal returned from Zululand and other parts to re-occupy their ancient homes, accompanied by others who preferred the protection of the European settlers to savage rule.

23. In 1838 there were estimated to be in Natal proper about 10,000 Natives. These were all that were left out of the population of 100,000 believed to have been previously settled there. In 1843, many Natives having taken the opportunity afforded to return to Natal, the population had increased to 50,000, and is at the present time given at 700,668, exclusive of Zululand.
24. Law No. 19, 1891, of the Colony of Natal, enacts what is known as the Code of Native Law; it does not abrogate Native unwritten law and it comprises generally the main principles of Native law which were first codified in a more limited way in 1878. Law No. 19, 1891, has been repeatedly amended since 1893, when Responsible Government was given to Natal. It has not been extended to the Province of Zululand, where uncodified Native law is administered. It has been extended to the Northern Districts recently transferred to Natal. The Native High Court, Magistrates and Chiefs administer Native law as already described under limitations as to jurisdiction defined by law. The Governor is Supreme Chief of the Native population in the Province of Zululand, with powers and authority defined by section 7 of Law No. 44, 1887, and in the rest of the Colony as defined by this law, amended by Law No. 19, 1891 enacting the Code. Chiefs have power to try all civil cases, divorces excepted, between Natives. In the Province of Zululand they have considerable criminal jurisdiction, but in the rest of the Colony this jurisdiction is much narrower. Appeals from Chiefs may go to the Magistrates or direct to the Native High Court. In addition to Law No. 19, 1891, and its amendments, and uncodified Native law, the Natives of Natal are also subject to special laws applicable to them only. Where the Code, or Native law, or special laws do not apply, then the Natives come under the ordinary Colonial law as applicable to Europeans.

ORANGE RIVER COLONY.

25. The settlement of this Colony by Europeans was brought about by the Great Boer Trek of 1836 from the Cape Colony. At that time the Dutch immigrants settled around Winburg and along the Caledon River, but it was not until 1818, owing to troubles between the European settlers and the Natives, that the territory was proclaimed part of Her Majesty's Dominions. In 1854 the British Government resolved upon its abandonment, and, under the Convention of Bloemfontein, it became an independent Republic under the name of the Orange Free State. In 1900 the State was annexed as a Crown Colony and is now known as the Orange River Colony. The area is about 55,180 square miles, with a population

of 385,045, made up as follows :—143,419 Europeans, 6,160 coloured people and Asiatics, and 235,466 Natives.

26. This Colony has not within record been occupied to any large extent by Native tribes of importance, but in the early part of the 19th century portions of the country immediately north of the Orange River and extending to the Modder River were inhabited by Griquas, a people of mixed Hottentot and slave descent with an infusion of European blood. They were found there by the Dutch settlers when the latter arrived in 1838. Towards the east the country was hilly and was occupied by the Basuto, with whom the settlers were more than once at war. In 1866 the Dutch defeated the Basuto Chief Moshesh, who was compelled to cede to them a great portion of his best agricultural land now known as the Conquered Territory and lying north-west and west of the present border of Basutoland.
27. The Native population is now made up from various tribes: Basuto, Fingo, Bechuana, Bathlokoa, Koranna, and others of Hottentot and Bushmen descent, the prevailing type being Barolong, who are a branch of the Bechuana family. These fragments dispersed themselves among the European settlers, and their affairs have been administered under the common law of the country, subject to certain class legislation. The Natives are not allowed to acquire land.

TRANSVAAL.

28. As with Natal and the Orange River Colony, the first European settlers in the Transvaal were emigrant farmers who left the Cape in 1836. On the annexation of Natal many of these settlers recrossed the Drakensberg and settled, some in the Orange River Colony and others in the country north of the Vaal River. In 1852, under the Sand River Convention, their independence was recognised. In 1877 the South African Republic, as the country was then called, was proclaimed British territory. Retrocession followed in 1881, and in 1900 it was again annexed to the British Dominions. It comprises an area of 111,196 square miles, with a population of 1,268,716, consisting of 299,327 Europeans, 23,891 coloured people and Asiatics, and 945,498 Natives, of whom 133,745 are estimated to be Natives from other parts of South Africa temporarily resident for labour purposes.
29. The central and western districts of the Transvaal were the first definite resting-place of the large body of Zulus which under Umzilikazi fled from Tshaka's rule in 1817. The various Bechuana and Bapedi tribes then inhabiting the Transvaal were overwhelmed by Umzilikazi and either exterminated, driven away or compelled to submit to his rule. In 1830 Umzilikazi, fearing further attacks from Dingana's army, which he had fought the previous year, moved west, occupying the Marico district, whence he was ultimately driven north by the Dutch into the country now known as Matabeleland. The subdued and scattered tribes thenceforward enjoyed comparative immunity from war with other tribes, but they came into collision from time to time with the white settlers.

30. The majority of the Natives in the Transvaal belong to what may be called the central group of the South African Natives, *i.e.*, the Bechuana and those tribes whose people went to make up the present Basuto nation. There are, however, to be found many Natives of the Swazi, Zulu, Matabele, Shangana, Magwamba and other tribes living there, some under petty Chiefs, and others as independent families on private farms. The majority of the Natives in the Transvaal are to be found in the northern and eastern districts.
31. Up to 1885 there was no special law in the Transvaal for regulating Native administration. In that year the late Republic made legal provision for:—
- (1) The recognition of existing Native laws and customs not repugnant to the general principles of civilisation.
 - (2) The appointment of officers to exercise the authority formerly exercised by Chiefs.
 - (3) The constitution of the President as Paramount Chief of all Natives in the Republic.
32. By the Grondwet no equality between white and black was to be recognised in Church or State.

SWAZILAND.

33. Swaziland lies between the Transvaal, Natal and the Portuguese possessions.
34. It comprises an area of 6,536 square miles, with a population of 898 Europeans, 55 coloured people, and 84,531 Natives. The people belong to the Zulu-speaking race.
35. Though never incorporated with the late South African Republic, it came under the laws of the Republic for administrative purposes. It is now a dependency of the Crown, administered by the Governor of the Transvaal Colony, and a special Commission is sitting to determine questions affecting its future settlement.

BASUTOLAND.

36. Basutoland comprises an area of 10,293 square miles, and is situated between the Cape Colony, Natal, and the Orange River Colony. It has a population of 348,848, of whom 895 are Europeans, 163 coloured people, 59 Asiatics, and 347,731 Natives.
37. The recorded history of Basutoland dates back to the early part of the 19th century. In those disturbed times a Chief of the Bakwena tribe, by name Moshesh, was living near the Caledon River. A native of great resource and ability, he rose to eminence, and, taking up his abode at Thaba Bosigo, succeeded in gathering

- around him many of the remnants of Sesuto-speaking tribes which had been shattered by warlike marauders. In this fashion he mustered a great following and consolidated it into what is now known as the Basuto nation.
38. The recognition of Basutoland as a Native State took place in the year 1842.
39. In 1852 an expedition under General Cathcart entered Basutoland to exact reparation from the Basuto for their depredations in the Orange River Sovereignty, and an action was fought at the Berea which resulted in the capture of a large number of cattle by the British and was followed by an expression of penitence from Moshesh. For the next sixteen years there was intermittent war between the Orange Free State and Basutoland, until, in 1868, the territory was proclaimed British and was annexed to the Cape Colony in 1871.
40. From the close of 1880 until 1884 the country was in a state of revolt and resistance to the authority of the Cape Government. This period ended in its disannexation by the Cape Colony, and administration was resumed by the Imperial Government in 1884.
41. The territory is administered by a Resident Commissioner under the direction of the High Commissioner for South Africa, in whom is vested the legislative authority, which is exercised by Proclamation.
42. The law of the Cape Colony as it existed in 1884 has effect so far as the circumstances of the country permit. Regulations provide for the establishment of Courts of the Resident Commissioner and Assistant Commissioners, and confer jurisdiction upon recognised Native chiefs in purely Native cases in which Native law may be administered. In all cases there is right of appeal to the Resident Commissioner.

RHODESIA.

43. That portion of the British South Africa Company's territories which falls within the scope of the Commission's enquiries is known as Southern Rhodesia, and comprises the Provinces of Mashonaland and Matabeleland, with an area of 143,830 square miles. The territory was, in 1888, declared to be under British influence and, certain powers of administration having been granted in 1889 by Royal Charter to enable it to carry out the objects for which it was formed, the Chartered Company occupied the country in 1890.
44. In 1893 the Matabele came into conflict with the forces of the Chartered Company and were, after some severe fighting, reduced to submission. In 1896 fighting again ensued with the Matabele, who were joined by the Mashona, peace being finally established in 1897.
45. The population of the territory is set down at 605,764, made up of 12,623 Europeans, 1,944 coloured people and Asiatics, and 591,197 Natives, of whom 20,367 are residing temporarily in the country for labour purposes.

46. The Natives of Southern Rhodesia consist chiefly of:—
- (a) The Matabele or Mandebele, who inhabit the Province named after them and are the descendants of the great Zulu following which under Umzilikazi broke away from Tshaka's rule in 1817, and, after many warlike vicissitudes, settled between the Limpopo and Zambesi Rivers. The Barozwe, a physically inferior branch of the Bantu race, then inhabiting that part, succumbed to their powerful enemies and, much reduced in numbers, retired into Mashonaland.
 - (b) The Mashona or Baswina, the inhabitants of Mashonaland, who are the descendants of the once powerful Makaranga tribe which in the early part of the 16th century was found living in the country south of the Zambesi stretching from the sea westwards. Discord and oppression destroyed the power of this tribe. The survivors are now divided into clans of varying strength, each under independent chieftains. During the latter half of the 18th century a number of small tribes from Central Africa found their way across the Zambesi and settled in Mashonaland. These people appear to have been of the same stock as the Makaranga, their language and customs being similar. Scattered about in the southern parts are to be found relics of the once fairly numerous Barozwe. The Mashonaland Natives suffered severely from the incursions of the Matabele, and came under their sway.
47. The Province is administered under an Order in Council, which provides for a Constitution with large powers of control to the High Commissioner for South Africa.
48. The laws of the Cape Colony were adopted for administrative purposes until June, 1891, when fresh legislation ensued.

BECHUANALAND PROTECTORATE.

49. This territory, which comprises an area of about 275,000 square miles and was proclaimed a British Protectorate in 1885, is governed by a Resident Commissioner under the direction of the High Commissioner. It has a population of 1,004 Europeans, 119,411 Natives, and 361 coloured people. The Natives are of the Bamangwato, Bakhatla, Barolong, Bangwaketsi and Bakwena tribes. Scattered through the Bechuana are families and individuals of the Bakalahari tribe who, formerly slaves, are still largely dependent upon the Bechuana for their livelihood.

TERMS OF REFERENCE

INTRODUCTORY.

50. From the preceding historical outline it will be seen that the Commission's enquiries embraced a large and varied area, totalling approximately, 914,773 square miles, with a population of 1,135,016 Europeans and 4,652,662 Natives, and that at one period or another aboriginal races of Bantu origin were in occupation of the greater part of this land, being displaced at intervals by European advance or by the ravages of other tribes which alternately asserted their dominance. This area is composed of seven Colonies and Possessions, each with its own Administration, legislating and conducting its affairs independently of its neighbours.
51. The diverse character of legislation in South Africa is shown in the Comparative Digest of Laws affecting Natives* compiled at the request of the Commission by Mr. Advocate McGregor, of the Cape Colony Bar. A study of the Digest reveals differences of law even between Divisions of the same Colony.
52. On all important questions, although marked differences exist, it should be possible to arrive at uniform principles to be followed in the future policy of South African Governments, but the diverse conditions under which different sections of the Natives live, and the varying degrees of civilised advancement to which they have attained, suggest the impracticability of immediate uniformity in Native administration. In illustration of this may be cited the conditions prevailing in various parts of South Africa, where are to be found Natives comparatively advanced in the scale of civilisation, holding land in their own right, and in the same neighbourhood masses who still cling to the tribal system and communal occupation of land.
53. That the Cape Colony has recognised the need for flexible Native administration based on varying local conditions is shown by the fact that in the Transkeian Territories legislation is still by Governor's Proclamation, except where an Act of Parliament by express provision extends its application beyond the Kei. Greater tolerance also is there given to such customs as polygamy and "lobolo," and claimants for the restoration of dowry cattle on desertion by the wife may bring their cases for adjudication before the Magistrate; while in the Colony proper, although the rights of children by marriages contracted according to Native custom are secured by the Native Successions Act, claims for the recovery of "lobolo" cattle are not entertained in the Law Courts.
54. Again, Zululand, which is incorporated with Natal, is not subject to the Code of Native Law which prevails in the remainder of the Colony.

* Appendix A.

55. It is obvious that advance towards general assimilation of laws affecting Natives throughout the various Colonies and Possessions of South Africa must of necessity be slow.
56. The early part of the last century may be adopted as the period at which Europeans came actively into contact with the Bantu tribes, none of whom, therefore, have been under the influence of civilisation for more than a century—some of them for much less.
57. The advisability of harmonising so far as practicable the direction of Native affairs in the various States of South Africa is admitted. Uniformity of practice also should be aimed at, but reckoning must be taken of the process of evolution and the effect of changes upon people passing from semi-savage life to enlightenment.

DEFINITION OF "NATIVE."

58. One of the first difficulties presented in connection with the consideration of laws was the varying definitions therein of the term "Native." So great indeed is the variation that in the same Colony it has several meanings.
59. In the CAPE COLONY, for instance, the practice is to define "Native" in every Act in which the word occurs. The definition in one of the latest Acts, *viz.*, No. 40 of 1902, relative to Native locations, is :—
- " Any Kafir, Fingo, Zulu, Mosuto, Damara, Hottentot, Bushman, Bechuana, Koranna or any other aboriginal Native of South or Central Africa, but shall not include any Native while serving in any of His Majesty's Ships and while in uniform."
60. The Glen Grey Act enumerates Kafirs, Fingos, Basutos, Zulus, Hottentots, Bushmen, and adds "and the like."
61. In the Liquor Law, 1898, the definition is :—
- " Any Kafir, Fingo, Basuto, Damara, Hottentot, Bushman, or Koranna."
62. In NATAL there is a special law, No. 14 of 1888 (To Extend and Define the Meaning of "Native"), of which clause 1 reads :—
- "The word 'Native' shall mean all members of the aboriginal races or tribes of Africa south of the Equator, including liberated Africans commonly called 'Aman-

“dawo” who are not exempted from the operation of Native Law in terms of Law No. 28 of 1865: Provided, that Griquas and Hottentots shall not come under the provisions of this law: Provided, further, however, that the provisions of Law No. 22 of 1878, entitled ‘Law to Prohibit the Sale and Disposal of Spirits and other Intoxicating Liquor to Persons of the Native Race,’ shall extend and be applicable to “Griquas and Hottentots.”

63. Provision is made by Law No. 28 of 1865 to exempt certain Natives from Native law. after which, according to Law No. 14 of 1888. they do not come under the above definition. except for the purposes of the Liquor Act.

64. In the Liquor Act of 1896 the word “Native” means and includes :—

“ All members of the aboriginal races or tribes of Africa south of the Equator, including liberated Africans, commonly called ‘Amandawo,’ and whether exempted or not exempted from the operation of Native Law, and Griquas and Hottentots, and any person whose parents come under the description of Natives, Griquas or Hottentots.”

65. Under the late TRANSVAAL Republic the definition under Law No. 28 of 1895 read :—

“ Any person of any kind belonging to or being a descendant of any Native races of South Africa whatever.”

66. Under Law No. 23 of 1899 :—

“ The word ‘Native’ shall apply to the males of all “ ‘coloured people’ and coloured races of South Africa.”

67. Under Law No. 19 of 1898 (Liquor Law) :—

“ The term ‘coloured person’ shall signify any African or Asiatic Native or coloured Americans or St. Helena person. Coolie or Chinaman. whether male or female.”

68. Under Proclamation by the British Government. No. 37 of 1901 (Pass Law), the definition was :—

“ Every male person above the age of 14 years, belonging to any of the aboriginal races or tribes of Africa south of the Equator, and every male person, one of whose parents belongs to any such race or tribe as aforesaid.”

69. By an amending Ordinance for the purposes of the Pass Law there was an alteration providing that both parents must belong to an aboriginal race.

70. In the ORANGE RIVER COLONY Law No. 8 of 1893 reads :—
- “ The expression ‘ coloured person ’ or ‘ coloured persons ’
 “ appearing in this law shall be interpreted and taken,
 “ unless the context clearly forbids it, to apply to and
 “ include a man or men as well as woman or women
 “ above the age or estimated age of 16 years of any
 “ Native tribe in South Africa, and also all coloured
 “ persons, and all who, in accordance with law or custom,
 “ are called coloured persons, or are treated as such, of
 “ whatever race or nationality they may be.”

71. In RHODESIA there is a definition in Section 3 of the Order in Council. *viz.* :—

“ Any person not of European descent who is a Native of
 “ South Africa or Central Africa.”

72. These variations are quoted in order to show the difficulty with which the Commission was confronted. It was imperative to clear the position, and a resolution was therefore passed to the following effect :—

For the purposes of the Report, the word “ Native ” is used by the Commission in the sense accepted in the several British Colonies and Possessions in South Africa.

73. There, however, the matter did not end, for it appeared of the utmost importance to proceed further and suggest a broad definition for future adoption. This is admittedly a most perplexing problem. It is notorious that a great deal of racial inter-mixture has taken place, and many of the so-called coloured people have, by their industry, intelligence and self-respect, raised themselves to a high standard. In coming to a conclusion, due weight was given to the circumstances under which many of the class above-mentioned have attained their present worthy position, which it is not proposed to disturb. But there should be a basis upon which the Colonies shall approach each other with a view to a common understanding.

74. The Commission recommends :—

That the word “ Native ” shall be taken to mean an aboriginal inhabitant of Africa, south of the Equator, and to include half-castes and their descendants by Natives.

LAND TENURE.

75. The first item of reference, and perhaps the most important, is Land Tenure. From it there is a common origin of many serious Native problems. It dominates and pervades every other question,

it is the bedrock of the Native's present economic position, and largely affects his social system. It was clear from the mass of evidence tendered that the public attention to a great extent centred round it.

76. In order to reduce the subject to suitable proportions for consideration, it was divided into five principal sub-sections, *viz.* :—

- (a) Communal Occupation.
- (b) Individual Tenure.
- (c) Squatting.
- (d) Purchase and Leasing.
- (e) Vesting of Appropriated Lands in Trust.

77. Before treating these sub-sections in detail, it is necessary to outline the land system now obtaining in each Colony and Possession.

78. In the CAPE COLONY, Natives occupy land as follows :—

- (a) In locations or reserves set apart for Native occupation.
- (b) In locations on private property.
- (c) As servants in continuous employment of land-owners.
- (d) As holders of individual titles in freehold or leasehold or under quitrent tenure.
- (e) In urban locations.

79. There are in this Colony 6,400,000 morgen (= 13,440,000 acres) of land reserved for Natives, carrying a population of 1,057,610 persons, giving an average of 6 morgen (= $12\frac{1}{2}$ acres) per Native, or a density of 50 persons per square mile.

80. There is, in addition, a population of 39,506 Natives living on 1,263 private locations established under Act No. 30 of 1899. The balance of the Native population will be living as domestic servants on farms, or on Native farms, together estimated at 213,843, or in town locations, estimated at 113,828.

81. The policy followed by the Government of the Cape Colony in respect of Native land tenure has been, to begin by adopting the communal system of occupation observed by tribes in their independent state, and, by gradually adapting it to the changing conditions of life attendant upon the march of civilisation, while at the same time establishing a just and sound administration of their personal as well as tribal affairs, to prepare the way for recognition by the people of the advantages of an individual system tending towards assimilation of European methods. Upon peaceable annexation of territory where tribes continued in occupation as before, or upon conquest of territory upon which loyal tribes or clans were in the early days located as a means of protection to the settler population from the frequent raids and disturbances created by those beyond the frontier, the rights and obligations pertaining to the land passed to or have been assumed by the Crown. In the

first case, then existing lines of occupation were recognised, and in respect of later annexations the people were assured of full protection in the enjoyment of their rights in the land without, in most instances, any formal act of reservation or insistence upon any special conditions other than fealty to the Crown. In the other case of allied tribes under Government rule being located on conquered territory, the land was sub-divided into locations and reserves and set apart for the use of the tribe either by Proclamation (as, for example, the Herschel Reserve), or by title (as in Fingoland), or without such formal reservation (*e.g.*, the Ox Kraal and Kamastone Locations), subject always to the express or implied condition of forfeiture for rebellion.

82. The initial step of importance in the administration of land matters has been the registration of occupiers for hut or, as it might properly be called, land tax purposes. Thereafter, the sub-division of the whole tribal area into locations has been effected, boundaries being at first widely fixed, and subsequently demarcated according as circumstances permitted.
83. In this process the tribal influence of the Chief has been kept under control and, according to his character, utilised. The power of allotting lands has been vested in the Governor, but in general has continued to be exercised by the Headmen subject to the decision of Magistrates in cases of dispute.
84. The system of individual tenure introduced first at the Kat River Settlement, and subsequently followed until modified by the Glen Grey Act, was to divide each location into a sufficient number of arable and residential allotments to enable grants under title being made to Native occupiers, the remaining extent being reserved for the use of registered holders of allotments as commonage under the management of a local body elected by them and acting under regulations approved by the Government. This system the Legislature definitely approved by the provisions of Act No. 40 of 1879, and it is well to note that, throughout, a measure of protection has been and is still afforded by the condition of title deed requiring the consent of the Government to any transfer of a grant, the Government being thus enabled to carry out the principle of one man one lot, the arable allotment and building lot being regarded as one, and the better to secure enjoyment of the rights of occupation by the people for whom the land was reserved.
85. The desire of the Government to promote the moral and material interests of the Natives by commutation of tenure led to the introduction of the measure in some of the earlier instances—notably those of the locations in the Peddie Division and in Gealekaland—in parts where the people were not prepared for it; the surveys thus proving abortive. On the whole, however, the evidence shows that the system has been successful and is undoubtedly appreciated, but two important drawbacks are noticeable. First, in the large number of cases the building lots, which were laid out for the most part without regard to the then existing lines of occupation or mode of life, have never been taken up. The survey contemplated the establishment of villages, involving changes which, apart from other considerations that raise doubts as to the desirability of the

system in this respect, the people were insufficiently advanced to accept. Second, in the absence of provision for some simple means of effecting or insisting upon the necessary transfer when property has changed hands by death of the registered holder or otherwise, many of the titles to allotments remain in the names of the original holders, and in some cases the cost to the rightful owners of putting through consecutive deferred transfers, as compared with the value of the land, is so disproportionate as to be prohibitive. Moreover, there is a serious difficulty affecting transfer, arising out of the peculiar condition of the law in respect of Native succession, to which reference is made elsewhere.

86. These objections or difficulties have been met or remedied under the system provided for in the Glen Grey Act, No. 25 of 1894. This Act lays down in broad detail the basis upon which change of tenure should be carried out in Native areas. Districts occupied by Natives to which the Act is applied are divided into locations for local government purposes. Lists of the persons in occupation of and claiming allotments are framed by an officer appointed for the purpose, who, in company with a surveyor, undertakes a complete inspection, during which a preliminary survey is made, the number and size of allotments and the position of the grazing or commonage land roughly determined as far as practicable according to existing lines of occupation, and any re-arrangement of arable lands deemed advisable tentatively settled in the presence of the parties concerned. The impartial investigation, adjustment and settlement of disputes and difficulties preceding detailed survey have gone far, not only to remove prejudice and misapprehension from the minds of the Natives, but also to facilitate subsequent work. Upon completion of the preliminary work the detailed survey is taken in hand under the guidance of the surveyor and in consultation with the Magistrate employed during the inspection, and notice is issued for the initial payment of survey expenses and cost of title, averaging about £3 10s., which is in the first instance advanced by the Government. Half the amount is repayable in the first year and the balance in four equal annual instalments.

87. The broad principles recognised in this form of tenure may be summarised as follows:—

- (1) The grant is subject to the payment of perpetual quitrent at the rate of 15s. per five-morgen allotment, which is the average, and 3s. for every additional morgen, and survey expenses including cost of title.
- (2) It is inalienable without the Governor's consent.
- (3) It is hereditary according to the law of primogeniture as observed by the Natives themselves, powers of disinheritance for good cause and after due enquiry being conceded.
- (4) Transfer upon approval of the Governor or according to the table of succession is effected by simple endorsement of the Resident Magistrate upon payment of a registration fee of 2s. 6d.
- (5) It cannot be sub-divided or sub-let.

- (6) Rights of way and rights of expropriation for public purposes are reserved, mineral rights being subject to the provisions of the Mineral Law of the Colony.
- (7) It is liable to forfeiture for non-fulfilment of conditions, particularly for :—
- (a) Rebellion.
 - (b) Conviction of theft.
 - (c) Non-beneficial occupation.
 - (d) Non-payment of outstanding instalments of survey expenses or quitrent, after summary process of distraint.
- (8) The value of the land cannot be counted for the purpose of qualifying for the franchise.

88. In the Glen Grey district the land is liable to execution for debt, but not in the districts of Fingoland, where a similar system of sub-division has been applied. Grazing and water rights are subject to regulation by a local body under Government control. At the outset no building sites are surveyed, although provision is made for such grants, upon the holder of an allotment erecting, or giving proof of his intention to erect, a substantial building. From the fact that few applications have been made for title to such sites it can be concluded that the people are not prepared for this part of the measure, their mode of life being unsuited to the conditions belonging to village centres.

89. In a number of instances, in arranging for re-settlement of lands vacated as the result of wars, recognition of good services rendered by loyal Natives has been given in the form of individual grants, notably in the old Tambookie Location (Glen Grey), in Emigrant Tembuland (Xalanga), the Tsolo district, and the King William's Town Division. In each of such cases the right to transfer has been reserved, and forfeiture for rebellion provided for, but in other respects the conditions of such special grants do not differ materially from those of ordinary titles. Encouragement has also been given in the direction of conversion of tenure by the law (Act No. 16 of 1899) providing for individual grants to Chiefs under conditions based on Act No. 25 of 1894.

90. Outside tribal areas there has not been, nor is there at present, any bar to the acquisition of landed property by Natives. In the European district of Elliot, in Tembuland, certain farms were sold to Europeans with the special condition that transfer should not take place without the sanction of the Governor. The reservation has been used in some cases to bar purchase by Natives, but has not been stringently maintained, and similar protection in another part of the same district in favour of Native holders has also been set aside. The occupation of private property by Natives who are not the owners of such properties or lessees paying annual rent of a certain value under a *bona fide* written lease (£36 for a sole lessee, £48 for two joint lessees, and £12 for each

additional lessee) or who are not in the *bona fide* and continuous employment of owners is discouraged. Such occupation of private property by Natives constitutes a private location, for the establishment of which a licence is required by law, which is issued only upon the authority of the Governor and with the consent of the Divisional Council. Licence fees amounting to £1 per annum for each male adult, as well as hut tax of 10s. per hut, are payable by the owner of the land. Exemption from licence fees can be granted by the local Inspector in respect of labour tenants. This exemption having been obtained there is no control or supervision or record kept of the terms and conditions of the contract which is left entirely to private arrangement between the landlord and tenant. The law (Act No. 30 of 1899) does not operate within municipalities, although municipal bodies are empowered by the Act to apply its provisions by regulations.

91. In NATAL, Natives occupy land as follows :—

- (a) Locations vested in the Natal Native Trust constituted under Letters Patent dated the 27th day of April, 1864.
- (b) Mission reserves vested in the Natal Native Trust for religious and educational purposes.
- (c) Crown lands.
- (d) Private lands.
- (e) Special trusts created for European immigration not yet so utilised, and for educational purposes.

92. The greater portion of the land in the Province of Zululand is vested in the Crown and is occupied by the Natives communally. A Commission has recently been appointed to make recommendations with regard to the disposal of this land.

93. There are 42 locations set apart for Natives in Natal proper, comprising approximately 1,044,080 morgen (= 2,192,568 acres) of ground. The population on these locations is set down at 227,708 Natives, giving an average of $4\frac{1}{2}$ morgen (= $9\frac{1}{2}$ acres) per Native.

94. These location lands are vested in the Natal Native Trust. The Governor and Executive Council of the Colony are the trustees. Under the provisions of the Letters Patent constituting the Natal Native Trust, the trustees are empowered to take and hold lands within the Colony of Natal, or any interest in such lands, and they may grant, sell, lease, or otherwise dispose of the lands as they shall deem fit for the support, advantage, or well-being of the Natives referred to in the Letters Patent, or for purposes connected therewith.

95. The locations were vested in the Natal Native Trust, as constituted under the Letters Patent aforesaid, for purposes connected

with the support, advantage, or well-being of the inhabitants of the Colony of Natal of African descent, called "Natives." In respect of certain of the locations in Alfred County, the trust has been modified to one for certain specified persons.

96. Under authority of an Act recently passed, the Natal Native Trust has mortgaged location lands for the purpose of raising money to construct irrigation works for the benefit of the Natives residing thereon.
97. There are two locations, named respectively Mnini and Putili, which are vested in special trustees named in the deeds of trust.
98. Location lands and Mission reserves are occupied communally by the Natives residing thereon. Seventeen blocks of land, comprising 127,211 acres, have been granted or set apart as Mission reserves, 4,078 acres of which have been granted to Natives in freehold with permission to dispose of or alienate the same with the approbation of the Government. The Supreme Court in 1891 held in respect of this protective restriction on transfer that the holder of such land could pass a transfer in the ordinary way without approval by Government.
99. The grants of Mission reserves were always to trustees, of whom the Secretary for Native Affairs was one and the others were persons connected with Missionary bodies. In some cases there was only one other trustee. The Secretary for Native Affairs ceased to be a trustee in 1895. Act No. 49 of 1903 constituted the Natal Native Trust sole trustee for these grants, but the terms of the trust remained the same.
100. The following, among other conditions in the deed of grant, may be specially mentioned :—
- “ Any trust for Natives with intent and object that the said
 “ lands may be occupied and inhabited by Natives in
 “ order that the Missionary body referred to in the deed
 “ might have a fixed population to labour among as
 “ Missionaries without let or hindrance upon certain
 “ conditions imposed, set forth and declared.”
101. Another condition was as follows :—
- “ It shall be lawful for the trustees to demand and receive
 “ such rents as they may determine upon and as the
 “ Natives who may hereafter wish to live on the said
 “ land shall agree to pay, and to demand and receive
 “ compensation in money by way of licences or otherwise,
 “ for the cutting and removing of wood and trees, and
 “ for the taking or removing of minerals or other
 “ natural products of, upon, or from the land, whose sale
 “ or removal would not be injurious to the Natives law-
 “ fully occupying the land: Provided, however, that after
 “ defraying the expenses of carrying out the trust, and
 “ after the improvements and ameliorations before men-
 “ tioned, should any be necessary, on the lands which pro-

“ duce the money, have been completed, the trustees are
“ empowered, with the consent of the Lieutenant-
“ Governor for the time being, to expend such moneys in
“ ameliorating the condition of the reserves or in the
“ building and maintenance of schools on such reserves.”

102. It is also stated in the grants that the Governor may at any time upon application from the trustees, transfer to any of the Natives resident on the land such portion or portions thereof as to him may seem fit, provided that the purchase money of the lands so transferred shall be used for the improvement of the land or the construction of roads, the erection of houses thereon, or such other purposes as to the trustees may seem fit and proper.
103. In 1903, Act No. 49, to make provision for the control and use of Mission reserves, was passed. Under Section 15 of that Act, regulations have been framed by the Governor in Council and have been put into operation. An annual rent of £3 per hut on these reserves is payable.
104. The latest returns from Natal show that the Natives possess 67,957 acres of ground in freehold and 33,515 acres in quitrent, while 215,516 acres of Crown lands have been sold to Natives under long terms of payment. A large number of Native owners of land have become possessed thereof by purchase from the Government of the Colony by payments extending over at first ten and later twenty years, on terms and conditions similar to those applying to European purchasers. In some instances individual Natives have purchased farms, and in many cases purchases have been made by syndicates or companies of Natives. On these farms are to be found Native tenants paying rent to the proprietors.
105. Act No. 7 of 1895 enables Natives to dispose of immovable property by will, and regulates the devolution of such property in cases of intestacy in accordance with Native law. Under subsection B of section 6 of the Courts Act of 1898, cases involving questions of ownership of immovable property, or questions of title thereto, or rights therein, are excluded from the jurisdiction of the Native High Court.
106. There are in Natal more Natives living on private lands than on the locations and Mission reserves combined. The figures show 421,080 Natives on private farms and 265,603 Natives on locations and Mission reserves. Natives on private farms pay annual rents varying from £1 to £5, and in some cases more. A large number render service in lieu of rent. They pay to the Government in addition a hut tax of 14s. per hut per annum.
107. A great number of Natives live on lands owned by absentee landlords, for which they pay rent.
108. Law No. 2 of 1855 was enacted by the Natal Legislature to prevent the unlicensed squatting of Natives on Crown lands or private farms, and to ensure the annual rendering to Government of accurate returns of such squatters and their families. This law, however, has become a dead letter; in fact, it is not clear that it

was ever enforced. Several sections of Law No. 15 of 1871 deal with labour tenants on private land. These may also be said not to have been fully complied with.

109. Crown lands in Natal are occupied by Natives who are subject to certain conditions of occupation and have now to pay £2 per hut per annum in addition to hut tax. The payment of rent by Natives occupying Crown lands has not been extended to the Province of Zululand, on the ground that the land question in that Province is still the subject of consideration.
110. Natives residing on special trust lands (class (e) above) do so under conditions as to rent and occupancy imposed by the trustees from time to time.
111. In certain townships in Zululand, and in the case of certain lands in Natal vested for European immigration purposes, it is not permissible to sell land to Natives.
112. In the ORANGE RIVER COLONY. Natives occupy land as follows :—
- (a) In locations or reserves set apart for Native occupation.
 - (b) As servants in continuous employment of land-owners.
 - (c) As squatters and as labour tenants periodically employed.
 - (d) As owners of farms.
 - (e) In urban locations.
113. There are two locations (class (a)) in this Colony, viz. :—
- (1) At Witzies Hoek. In 1867. Paulus Mopedi, a Mosuto Chief, desired to become a subject of the Orange Free State, and the land known as Witzies Hoek was assigned for his occupation.
 - (2) At Thaba 'Nchu, where certain farms have been used as Barolong locations since the annexation of that territory by the Free State Government in 1884.
114. On these locations there are 17,000 Natives, who occupy the lands tribally.
115. Under Law No. 4 of 1893 the number of Native squatters permitted on any farm or registered portion of a farm is limited to five families, which number may by special permission be increased to not more than fifteen families. There are 195,494 Natives living on private farms.
116. Under the articles of chapter XXXIV. O.R.C. Law Book (see part I., sections 1, 2, 3 and 6) Natives may not purchase or lease land, but the articles of part II. of this chapter make special provision in respect of Natives who own ground in the Thaba 'Nchu

district. In this district there are 87,761 morgen (= 184,298 acres) of ground, in fifty-one lots, owned by Natives, whose rights thereto were guaranteed under the Proclamation annexing the late Barolong territory.

117. In the TRANSVAAL Natives occupy land as follows:—

- (a) In locations or reserves set apart for Native occupation.
- (b) On land owned by Natives.
- (c) On other private lands.
- (d) On Crown lands.
- (e) In urban locations.

118. There are in the Transvaal approximately 2,120 square miles (646,095 morgen = 1,356,800 acres) of ground set aside as Government locations for occupation of Natives in communal tenure, carrying a population of 123,309. On these locations the garden lots are apportioned by the Native Chiefs, and the people enjoy common rights in regard to water, wood and grazing. No payments are made to Government as rent in return for the use of these lands.

119. Section 22 of the Pretoria Convention of 1881 provided that:—

“ The Native Location Commission will reserve to the Native
 “ tribes of the State such locations as they may be fairly
 “ and equitably entitled to, due regard being had to the
 “ actual occupation of such tribes. The Native Location
 “ Commission will clearly define the boundaries of such
 “ locations, and for that purpose will, in every instance,
 “ first of all ascertain the wishes of the parties interested
 “ in such land. In case land already granted in indi-
 “ vidual titles shall be required for the purpose of any
 “ location, the owners will receive such compensation,
 “ either in other land or in money, as the Volksraad shall
 “ determine. After the boundaries of any location have
 “ been fixed, no fresh grant of land within such location
 “ will be made, nor will the boundaries be altered with-
 “ out the consent of the Location Commission. No fresh
 “ grants of land will be made in the districts of Water-
 “ berg, Zoutpansberg and Lydenburg until the locations
 “ in the said districts respectively shall have been
 “ defined by the said Commission.”

120. Section 21 of the Convention laid down the constitution of the Commission, but the late Transvaal Government found it more practicable to appoint local Commissions to deal with Native locations. These local Commissions had not completed their labours at the time of the outbreak of the war in 1899, but had been instrumental in bringing about the setting apart of land for several tribes. Since the British occupation the work of these Commissions has been resumed.

121. There are 853 square miles (259,962 morgen = 545,920 acres) of ground privately owned by Natives, almost all of which has been purchased by tribal subscription, and is occupied communally by tribes or portions of tribes.
122. Section 13 of the Pretoria Convention of 1881 provided that:—
 “Natives will be allowed to acquire land, but the grant or
 “ transfer of such land will in every case be made to and
 “ registered in the name of the Native Location Com-
 “ mission, hereinafter mentioned, in trust for such
 “ Natives.”
123. The late Transvaal Government subsequently appointed the Superintendent of Natives to take the place of the Location Commission as trustee in respect of all Native lands so acquired. The Commissioner for Native Affairs is now the trustee. In many cases land purchased by Natives was registered in the names of unofficial Europeans and Missionaries as trustees.
124. On occupied and unoccupied lands owned by Europeans and companies there is estimated to be living about one-half of the Native domiciled population, approximately 438,000. Under the provisions of the Squatters' Law, No. 21 of 1895, the number of Natives allowed in respect of every farm or divided portion of a farm is five families. This number may, however, be increased on any farm by special permission from Government.
125. This law has not been enforced throughout the whole of the Colony, and is practically now a dead letter. On many farms throughout the Colony, especially in the Zoutpansberg, Lydenburg, Waterberg, and Middelburg districts, there are large numbers of Natives congregated, forming unauthorised locations on private farms.
126. The Natives living on these private farms pay to the owners thereof an annual rental in labour or money varying in amount, the minimum being £1 per inhabited hut per annum.
127. The Crown lands comprise an area of 30,840 square miles (9,398,857 morgen = 19,737,600 acres) upon portions of which it is estimated there are living 180,427 Natives. Every adult cultivator on Crown lands is liable to pay to the Government, as landlord, an annual rental of £1. He also pays poll tax. As with those on private farms, Natives on Crown lands have free water and grazing rights, and have not in the past been restricted as to the extent of garden lands they cultivate.
128. In SOUTHERN RHODESIA, Natives occupy land as follows:—
 (a) In reserves set apart for the Native population.
 (b) On unalienated lands belonging to the Chartered Company.

- (c) In locations on private lands by tenancy agreement under the provisions of Proclamation of 14th October, 1896.
- (d) On private farms without agreement.
129. The land set apart for Native reserves comprises an area of 38.871 square miles (11,846,400 morgen = 24,877,440 acres).
130. All garden plots in these reserves are allotted by the Native Chiefs; water, wood and grazing rights being enjoyed in common.
131. The Natives on the reserves (class (a)) pay poll tax, but no rent. All mineral rights are retained by the British South Africa Company. The Natives are in no way restricted as to the amount of land they may cultivate.
132. There are a large number of Natives living on unreserved and unalienated lands. These occupy their lands on the same conditions as those on reserves, with this exception, that they are liable to be removed to reserves without compensation, or to be charged rent. At present they are not called upon to pay any rent.
133. There are 416,121 Natives living on land described under the foregoing headings (a) and (b) *viz.*, 264,618 and 151,503 respectively.
134. There are 62,727 Natives living on private locations established on farms under Proclamation of 14th October, 1896, which provides for such locations, of not less than seven heads of families each, with a view to the production of grain and other crops. Once located on the land, such Natives cannot be removed against their will for a period of two years unless with the consent of the Chief Native Commissioner. The landlord can, subject to the approval of the Chief Native Commissioner, enter into agreements, which must be made in writing, with such Natives as are desirous of working on his property, for any period not exceeding one year. He is, however, not allowed to enter into agreements with Natives whose residence at their own homes is, in the opinion of the Chief Native Commissioner, necessary for the cultivation of their lands and the protection of their crops. The Chief Native Commissioner determines the amount of arable land to be allotted to each head of a family. The landlord is forbidden to enforce compulsory labour upon his Native tenants, nor can he call upon them for payment under agreement until after the expiration of the first year of their tenancy, the amount of rent to be approved by the Chief Native Commissioner, or, failing any agreement, to be fixed by that officer. The usual rent is £1 per hut per annum in money or labour.
135. Rent is not recoverable by the land-owner from Natives living on private lands who are not brought under the provisions of the Private Location Proclamation.
136. As rewards for services rendered to the British South Africa Company during the Matabele War of 1893, about 80 one-hundred-acre plots of ground were granted to Natives, Cape Boys

and Indians. Of these, only two appear to have been granted to aboriginal Natives, and these, together with the majority of the others, are no longer held by the original grantees but have passed into the hands of Europeans.

137. It is interesting to note that near Bulawayo a settlement of Fingo families from the Transkeian Territories has been effected on lines similar to those provided in the Glen Grey Act. Arable allotments with suitable commonage have been provided, and each head of a family was promised title to his ten-acre lot on compliance more particularly with a condition that at least three months in each year he should be in service as a labourer; title to be claimable on completion of three full years' service, or on the production of a certificate that he has worked 36 months. In default of this service, the holder is liable to pay a sum of £3 annually, in addition to the poll tax for which every adult male Native in the country is liable. The settlement has proved successful, and, although occupation began only in the year 1894, there are already many qualified applicants for title. The people are contented, and are doing well.
138. They number 1,291, including women and children. More would have been ready to join them from the Cape Colony as well as the Transkeian Territories, but the Rhodesian Government has not seen its way to extend the system.
139. All Natives in Rhodesia pay the annual poll tax of £1 per male adult.
140. In BASUTOLAND, all land is occupied by the Natives under tribal tenure, the allotment of arable plots resting with the Native Chiefs, grazing being in common. No purchase of land within this territory is permitted.
141. The area of Basutoland is 10,293 square miles (3,136,914 morgen = 6,587,520 acres), containing a Native population of 347,731.
142. In the BECHUANALAND PROTECTORATE, Natives occupy land communally. Large reserves totalling 127,630 square miles (38,896,762 morgen = 81,683,200 acres) are set apart for the Native population of 119,411 souls, 100,100 of whom reside on these reserves. The area of these reserves would appear to be excessive, but much of it is waterless and unproductive.

(A) Communal Occupation.

143. It will be seen that in all the Colonies and Possessions tracts of land have been recognised, set aside and reserved to Natives for communal occupation.* History and tradition bear eloquent testimony to the fact that this form of tenure was admirably suited to the needs and habits of the aboriginal races; indeed it was originally the only possible form. It constituted a portion of the great tribal system under which the land was administered by the Chief and his Councillors for the people.
144. The Native population as a whole instinctively cling to and cherish the communal system. But there is an increasing number who fret under the conditions of communal life, seeking alike for the opportunity to gain independence and assert individualism. Education and contact with civilisation seem to augment the number. There is an apparent yearning amongst many who have progressed which requires satisfaction. The aspiration is healthy and trends in the right direction.
145. There arrives a time when it becomes necessary to consider whether a system has served its purpose and prepared the way for change, and, if so, what that change should be. To unduly perpetuate that which hinders a lower race from advancing, if it shows the desire and capacity to do so, is neither intelligent nor right.
146. The question then is: Are progressive tendencies manifested among the Natives of South Africa which require State recognition in the matter of re-adjusting the form of land tenure? In reply to this question the Commission has no hesitation in recording the conviction, derived both from overwhelming evidence and personal impressions, that progressive tendencies are manifested and that it is essential to provide for a change capable of extension according as local circumstances may warrant.
147. The Commission accordingly passed the following resolution:—
- Recognising the attachment of the Natives to and the present advantages of their own communal or tribal system of land tenure, the Commission does not advise any general compulsory measure of sub-division and individual holding of the lands now set apart for their occupation; but recommends that movement in that direction be encouraged, and that, where the Natives exhibit in sufficient numbers a desire to secure and a capacity to hold and enjoy individual rights to arable plots and residential sites on such lands, provision should be made accordingly under well-defined conditions.
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148. The Natal representatives, while concurring in this resolution, do so as regards Natal only so far as it affects lands in that Colony at present set apart or dedicated for Natives as locations, reserves, or otherwise, where individual

* Annexure 8 and maps attached.

tenure is contemplated in the grant or deed of trust. With this exception they exempt from the resolution Natal Native Trust lands, and give the following reasons :—

- (a) They were in a major part vested in trust for the benefit of the Natives generally in the Colony proper, and not solely for Natives residing on them.
- (b) They are incapable of and generally unsuitable for a minute division.
- (c) The location regulations at present in force make adequate provision for marking off, when necessary, lots coinciding with actual occupation.
- (d) Sufficient permanency and security of occupation consistent with necessary political control are assured.

(B) Individual Tenure.

149. For many years the question of individual tenure of land by Natives has engaged the attention of the older Colonies of the Cape and Natal. In the Cape Colony experiments of a definite nature have been tried.

150. It has been held, as it is largely held to-day, that individualism is ultimately conducive to greater industry, enterprise and production, although it must be said that our limited experience of the system among the Natives up to the present has not in all cases furnished proof of this; that it disintegrates tribalism, checks retrogression, and promotes progressive growth in a healthy manner; further, that a higher sense of responsibility is created, whereby those in occupation of holdings must realise that they have much to lose by misbehaviour.

151. At various times and for various reasons during the latter half of the past century attempts have been made to settle Natives under allotment schemes. Among such reasons have been, to erect in certain areas screens between civilisation and barbarism; to reward public services rendered; to encourage deserving progressive people; or, to provide against overcrowding. Whatever reasons were predominant, the prospect has been clearly seen that at no distant date many existing locations where land is held under communal tenure will become congested; the land will be occupied in insignificant lots, and thereby eventually fail in economic productiveness.

152. It is not material to describe the various settlements or to dwell on the comparative merits of each. It is sufficient to say that the Glen Grey Act of the Cape Colony is the latest effort in pursuance of a policy well established there capable of application in due time to the Native races as a whole.

153. The design of that Act was to provide against congested areas, to limit holdings to a useful working size, to offer inducements to enterprise, to stimulate labour, and to give security to those who adopted the scheme.

154. The Commission has subjected the Act, its amendments and Parliamentary Reports thereupon to a critical examination, and has had the further advantage of studying on the spot the manner of working.
155. If in actual administration the local results hoped for have not been fully achieved, it must be borne in mind that difficulties will always arise in the carrying out of a measure new to the people and involving such great changes. Certain amendments in the Act have been recommended after an enquiry by a Select Committee of the Cape House of Assembly. These, if finally adopted, should go far to meet the objections felt and raised by the Natives against an Act designed to secure their occupation of the land and grant them a considerable voice in the management of their local affairs. In these remarks, however, the Commission does not thereby commit itself as a whole to approval of all the recommendations of the Committee mentioned. It may be added that no sustained effort was made to enforce the labour clause of the Act, which soon became in fact a dead letter.
156. The following recommendations of the Commission have relation to the conditions under which individual tenure should be granted in respect of location and reserve land now held by Natives under the communal system.
157. The right of permanent occupation should be assured subject to the following principal reservations :—
- (1) Liability to forfeiture on account of :—
 - (a) Conviction for rebellion, treason or sedition.
 - (b) Failure to beneficially occupy.
 - (c) Failure to punctually pay such rent or tax as may attach to the land.
 - (d) Second conviction for stock theft.
 - (2) The right of resumption of the whole or any portion of the lands for public purposes, subject to due compensation in land or otherwise.
 - (3) All rights to minerals and precious stones.
 - (4) The payment of an annual rent.
158. Some explanation is necessary as regards a portion of these reservations.
159. In respect to the liability for forfeiture on account of second conviction for stock theft, it must be remembered that the Cape Colony Government, when incorporating as it did a provision of this character in the Glen Grey Act, was animated by powerful reasons which appeal to the whole of South Africa. Stock thieving is the besetting sin of the aboriginal Natives, and against this, strong remedies are found requisite in every Colony. It is imperative to

attach severe penalties for stock thieving to lands under individual tenure, otherwise they might become harbours for criminals who, more than any other, tend by such propensities to embitter relations with the European community. It was suggested that there should be liability to forfeiture for the crime of malicious killing of stock prevalent in some parts of the country, but the majority of the Commission regarded this as a local feature, which would be best dealt with by the Legislature concerned.

160. The right of resumption by the State may appear to be subversive of the security it is desired to give, but no violation of the principle is intended. It may be that in the course of development of any Colony, it might become of absolute importance to command the use of particular areas for public purposes. In such circumstances there is warrant for expropriation, subject to the payment of due compensation in land or otherwise.

161. The question of taxation will be dealt with in another section, but it is pertinent here to offer an explanation of reservation (4), expressed in the words "The payment of an annual rent." The fixing of rent should be governed by a variety of considerations, and in general be determined by :—

- (a) Amount and quality of land.
- (b) Water.
- (c) Proximity to markets, and other local conditions.

162. The reservations to be made in the granting of individual tenure having been stated, it remains to indicate what general conditions should, in the opinion of the Commission, be included :—

- (1) The limitation of the area of each holding to be determined by :—
 - (a) Present occupation.
 - (b) Quality of land.
 - (c) In the absence of special circumstances the limit to be approximately four morgen (= 8·4 acres).
- (2) Mortgaging or pledging to be prohibited and invalid.
- (3) Alienation or transfer not to be allowed without the sanction of Government.
- (4) Succession to be to the lawful heir, subject to :—
 - (a) The right of widows to use and occupy until re-marriage or death.
 - (b) The heir who already occupies a holding electing to abandon that holding.
- (5) The setting apart of a commonage.

- (6) The holdings and commonage to be subject to all such duties and regulations as may be established with regard thereto.
- (7) The occupier's interest not to be liable to attachment in execution.

163. In pointing out the lines upon which the granting of individual tenure should be conducted, the Commission does not advocate the exercise of undue pressure for its acceptance. In Cape Colony the demand for it is gradual, whilst in certain localities it meets with opposition. In other parts of South Africa it may be a long time before the advantages of this change are realised by the Native people.

164. It may be stated here that objections not shared by the majority of the Commission were made to any Native becoming by purchase the owner or occupier of more than one lot, it being urged that the principle laid down in respect of succession should apply to purchase.

165. In the opinion of Col. Stanford, Mr. Sloley and Capt. Quayle Dickson, Natives in occupation of reserves which have descended to them from their forefathers or which for other good reasons have been set aside for their permanent use by any Government, have a just claim to a greater fixity of tenure than is implied in the occupation and conditions approved by the majority of the Commission, and more particularly so in respect of those tribes which by voluntary submission to our government have been received into its protection upon the understanding that save for rebellion their land should not be taken from them. They are in favour of the principle embodied in the Glen Grey Act by which perpetual quitrent title is granted to each individual holder of land upon the sub-division of any location or reserve. Less than this would not, in their opinion, afford an adequate sense of security to Natives whose advance in civilised ideas is indicated by their readiness to abandon their long-cherished tribal system of occupation of land; nor do they think it would be a just recognition of existing rights.

166. Messrs. Krogh, Hamilton, de la Harpe and Thompson voted for the following sentence after paragraph 161:—

“ There is an underlying first principle of business which the Natives must
 “ and should learn to realise as they advance, *viz.*, that, if they are to
 “ enjoy the assurance of their land and the benefits they seek under
 “ individual tenure, they must pay rents as Europeans do, based upon
 “ producing value.”

(C) Squatting.

167. The term “squatter” includes Natives residing on Crown lands not formally set apart for Native occupation and whose settlement thereon is regarded as not entitled to the recognition accorded those who have permanently allotted locations, and Natives on private property who are not labour tenants nor in the continuous service of the owner or occupier of such property.

168. As these Crown lands are disposed of the Natives in occupation are left to make the best terms they can with the owners, and are generally permitted to remain upon condition of paying rent, furnishing labour, or both, as the case may be. No doubt it has been found profitable by land speculators to purchase Crown or other land and let it to Native tenants at high rates. Such occupation is pernicious to both races, encouraging the far-reaching evil of absentee landlordism on the one side and on the other barring the progress of the Native by insecurity of tenure. Other objections are, that the system restricts the supply of labour; that it fills up with Natives much land which would otherwise be better utilised and developed, and that it leads to the absence of due control over them.
169. To meet these evils each of the South African Colonies has enacted laws to restrict and regulate squatting. The most successful legislation to this end has up to the present been that of the Cape Colony by its Location Act (No. 30 of 1899), the principles of which are embodied in the recommendations of the Commission.
170. The general tendency of South African legislation is in the direction of limiting European owners or lessees to a certain number of Native families, three to five, on any one farm, irrespective of its size and requirements. On the other hand, the Cape Colony bases its limit on the working requirements only. In excess of this limit no Native is allowed to live on private property in the Cape Colony unless the place is licensed as a private location. By such limitations it was expected, with other advantages, to secure that labour would be more evenly distributed amongst the farmers. In some Colonies squatting is tolerated in spite of restrictive enactments, as the rents derived are a fruitful source of income to a large number of owners.
171. Whatever the influences at work, however, the fact remains that many Natives are now established on the land in an irregular manner. Two alternatives are open, *viz.* :—
- (1) To remove them.
 - (2) To regulate their occupation.
172. In dealing with this difficult problem the Commission has been much hampered by the want of reliable statistics relating to these people. Cape Colony and Southern Rhodesia are in a position to state with accuracy the number of authorised private locations and the people comprised therein. In addition, the Cape Colony has a record of their stock.
173. Although reliable figures are not available, the Commission is satisfied that in some of the Colonies, and more particularly in Southern Rhodesia, the Transvaal and Natal, a large number of Natives are squatting on Crown or private lands.

174. It is obvious that to summarily eject this population is calculated to cause discontent and serious distress. In advising the direction that legislative action should take, the Commission recognises :—
- a) That in Southern Rhodesia special conditions, obtaining as a result of the last Matabele and Mashona rising, have led to the large locations now found on private farms.
 - (b) That in the Transvaal the Natives on Crown lands have not yet had the full benefit of the investigations and recommendations of the Commission intended by the late Government to enquire into their claims.
 - (c) That in Natal the process of disposal of the Crown lands is proceeding slowly, as much of the land is still occupied by Natives, and is more suited for Native than for European occupation.
175. Removal can only be gradual after the most careful consideration and under circumstances which will enable the Native to find work and to live elsewhere. What appears immediately desirable and practicable is to regulate such occupation as a policy on clearly-defined lines.
176. In recommending such a policy attention may be drawn to the Cape Colony system, which admits of private locations upon certain governing conditions.
177. Before dealing with the conditions under which such locations should be permitted, it is necessary to define certain terms as a working basis.
178. "PRIVATE LOCATION" to mean any number of huts or other dwellings on private property occupied by one or more Native male adults, such occupants not being in the *bona fide* and continuous employment of the owner or occupier of such land in or about the farming operations, trade, business or handicraft by him carried on upon such land.
179. "PROPRIETOR OF LOCATION" to mean the owner of any private property on which a private location is established, or the occupier, or representative in the district of any absentee owner or occupier of such property.
180. "LABOUR TENANTS" to mean any male adult in a private location who is *bona fide* required, but not continuously employed, by the proprietor of such location for the due working of his property in or about the farming operations, trade, business or handicraft by him carried on upon such property.
181. The Commission, after consideration of this question, resolved as follows :—
- 1) That the unrestrained squatting of Natives on private farms, whether as tenants or otherwise, is an evil and against the best interests of the country.

- (2) That no Native other than *bona fide* servants of the owner or occupier, with their families, should be permitted to live on private lands, except under Government sanction and control, and, further, that such sanction should only be given on proof that it is necessary or desirable, and, save in the case of labour tenants, should be subject to an adequate annual licence to be paid by the owner or occupier of the land. The word "families" does not include adult sons unless they themselves are *bona fide* servants.
- (3) That the main principles contained in the resolutions relating to locations on private property should be applied to Natives on Crown lands other than those duly set apart as Native reserves or locations, and that sanction for Native occupation on such Crown lands should not be given unless an adequate rent is charged to the Native occupier, based upon the producing value of the land.
- (4) That contracts of tenancy exceeding one year should be in writing and duly attested.
- (5) That, so far as may be practicable, lands held by municipalities or other public bodies or societies which are occupied by Natives should be subject to regulations similar to those applicable to private or Crown lands, as already recommended by this Commission.

182. In connection with the foregoing resolution the majority of the Commission does not recommend that any Government Department should be regarded as liable for payment of an annual licence in respect of Natives occupying Crown lands.

183. In the matter of contracts of tenancy it is important that the terms should be clear and be understood by the Natives. There is evidence that labour is at times unreasonably tied up under these contracts. Often enough it is alleged that Natives, if they become tenants, are not allowed to leave the farm in order to labour elsewhere temporarily, although their services are not at the time required by the farmer. Thus, not only does the country lose the benefit of a good deal of available labour, but many Natives industriously inclined are barred by servitude from the earning of wages for the betterment of their condition and the payment of their taxes. The reason for recommending written contracts duly attested is to secure so far as possible that both parties to any such contracts fully understand the terms and conditions thereof.

(D) Purchase and Leasing.

184. The conditions and restrictions which regulate the purchase of land by Natives vary considerably.

185. Briefly summarised, they are as follows :—

In the Cape and Rhodesia, and in Natal—with the exception referred to on page 21 (paragraph 111)—land, except that reserved for Natives only, may be held in freehold or upon lease, without distinction of race.

In the Orange River Colony, land may not be purchased or leased by Natives.

In the Transvaal, as provided in the Convention between the British Government and the late Republic, they may acquire land subject to its transfer on trust to an officer of the Government.

In Basutoland the land is inalienable.

In the Bechuanaland Protectorate, the land reserved to Natives is inalienable.

186. In discussing the subject, it must be remembered that throughout South Africa, as already shown, large areas have been set aside or recognised as available only for the occupation of Natives, and within those areas it is not permissible for Europeans to acquire holdings. Even under the Glen Grey system of the Cape Colony restrictions are imposed which in practice reserve the land exclusively for Natives.

187. In the Transkei and elsewhere in Native areas in Cape Colony a limited number of Europeans are permitted to occupy trading sites with the consent of the Government, and in the townships which are laid out round Magistracies Europeans may buy plots. In other Colonies and Possessions traders are similarly admitted, but they may not acquire any real right to the land they occupy.

188. We may, accordingly, approach the question of Natives purchasing land within spheres of European occupation with a consciousness of the special protection afforded them in respect of the lands reserved or set aside for their use.

189. Where the circumstances are exceptional, and the numerical disproportion between the races is so great as in South Africa, the question is : what effects are to be expected if Natives are allowed free traffic in land? No emphasis is required in stating that, wherever Europeans are living, repugnance is shown to the invasion of their neighbourhood by Natives for residential purposes. Farmers resent the intrusion amongst them of Native owners of land, and similarly Natives in their reserves are strongly opposed to surrendering any portion of the land they occupy to Europeans for farming purposes.

190. In urban areas the principle of the segregation of the races has already been recognised ; but in the case of the Cape Colony, Natal and Rhodesia this does not interfere with the right of the Natives to buy land, as already stated.

191. It is the fact that, say, 25 years ago there were comparatively few Native land-owners by purchase in the Cape Colony and Natal where to-day they exist in considerable numbers. The capacity to purchase, by collective process if necessary, is to-day in excess of what it formerly was. Furthermore, there is a manifest effort on the part of Natives to-day being made to possess land which is not counteracted by any reluctance on the part of European holders to dispose of it so long as the sellers are not themselves bound to live in proximity.

192. If this process goes on, while at the same time restrictions exclude Europeans from purchasing within Native areas, it is inevitable that at no very distant date the amount of land in Native occupation will be undesirably extended. Native wages and earnings are greater than they used to be, their wants are few, and their necessary expenses small. They will buy land at prices above its otherwise market value, as their habits and standard of living enable them to exist on land that it is impossible for Europeans to farm on a small scale. There will be many administrative and social difficulties created by the multiplication of a number of Native units scattered throughout a white population and owning the land of the country equally with them. Such a situation cannot fail to accentuate feelings of race prejudice and animosity, with unhappy results. It will be far more difficult to preserve the absolutely necessary political and social distinctions if the growth of a mixed rural population of land-owners is not discouraged.

193. The Commission has arrived almost unanimously at the conclusion that it is necessary to safeguard what is conceived to be the interests of the Europeans of this country, but that in doing so the door should not be entirely closed to deserving and progressive individuals among the Natives acquiring land, and has resolved as follows:—

That certain restrictions upon the purchase of land by Natives are necessary, and recommends

- (1) That purchase by Natives should in future be limited to certain areas to be defined by legislative enactment.
- (2) That purchase of land which may lead to tribal, communal or collective possession or occupation by Natives should not be permitted.

194. It should be explained here that the words "collective possession" are not to be considered to bar the joint ownership of a piece of land in the defined areas by a limited number of Natives, the object of the Commission, which is unanimous in this respect, being to prevent large numbers of Natives evading the spirit of the resolution by acquiring and holding land in undivided interests, and thereby, in effect, extending tribal or communal occupation.

195. The intention of the first resolution is twofold. It is a recommendation in the direction of limiting the purchase and leasing of land by Natives to areas within which the privilege

may be exercised by them without bringing them into conflict with European land-owners, and of the extension of this privilege by the creation of such areas in all Colonies and Possessions where this can be conveniently done.

196. It is recognised that in those Colonies where the acquisition of land by Natives has been hitherto unrestricted, vested rights have been set up. The above recommendations are, of course, made without prejudice to such rights.

197. The Commission further resolved :—

That whatever principles govern the settlement of the question of the purchase of land by Natives should apply equally to the leasing of land by Natives.

198. Col. Stanford dissented from the view of the majority on the question of restricting to certain areas only the right of the individual Native to purchase land. He holds that the acquisition by the more advanced Natives of vested individual interests in the land is a powerful incentive to loyalty, and that only in the event of its leading to the extension of the tribal system beyond the reserves or locations would the right of Native purchase be contrary to the best interests of both races. In his opinion sufficient cause has not been shown for the curtailment of privileges enjoyed for many years in the British Colonies. No depopulation of any area or district in respect of European occupiers has been proved; and he foresees that in the course of time, as the Natives in their locations advance in civilisation and receive full rights to individual holdings, the barriers now quite rightly placed in the way of their selling such holdings will be removed, and transactions in land proceed as freely in the reserves as is now the case elsewhere. Urban areas may be protected against undesirable Native occupation, as is done against the undesirable occupation of Europeans, by regulations.

The contention that the safety of the European races must be guarded by such restrictions as have been under discussion he does not hold to be sound. The Church, professions, commerce, trade, and labour are open to the ambition and energy of the Natives, and with so many avenues open to their advance the danger of their swamping the Europeans, if a real one, is not avoided by denying them the right individually to buy land.

He can see no decadence of the vigour, the enterprise and the courage which, since the occupation of the Cape Peninsula by the early Dutch settlers have resulted in the extension of European control and occupation to the limits now reached. Moreover, artificial restriction of the purchase of land, when attempted in the late Dutch Republics, resulted in the evasion of the law by various forms of contract whereby Native occupation of farms was effected, while at the same time advantage was taken of the opportunities thus afforded of fraudulent practices on the part of Europeans employed as agents or so-called trustees.

The proposed areas are not recommended for demarcation in existing reserves or locations. Therefore, in the older British Colonies and in the Orange River Colony, if demarcated at all, they must affect present European occupation. If, on the other hand, the design be to allow purchase by Natives in localities regarded as unsuitable for Europeans, sight is lost of the fact that usually the Native who desires to become a landed proprietor belongs to the civilised class and such localities offer to him no attraction.

Europeans are more and more entering upon occupation of land regarded as set aside for Natives. Missionaries, traders and others are permitted to establish themselves and carry on the duties or work of their respective callings. Townships spring up at the various seats of Magistracy, and Census returns clearly show that this influx is steadily increasing in volume. It is thus demonstrated that the idea of separate occupation of land by Natives, even in their own reserves, is not maintained at the present time, nor can it be in the future,

The Commission has no reliable data to go upon in making any comparison of the relative strength of these two streams: Europeans into Native reserves as owners of land or occupiers under Government sanction leading up to title, and, *vice versa*, Natives out of their reserves into surveyed parts as owners. From his own observation, so far as it goes, Col. Stanford's opinion is that the former is the greater.

199. The representatives of the Colony of Natal dissent from the recommendation that the purchase of land by Natives should in future be limited to certain areas to be defined by legislative enactment, and they give the following reasons:—

- (1) That Natives in the Cape Colony, Natal and Rhodesia can, like all other persons, purchase and hold land in their own right at the present time, excepting in cases where Government or any other owner of land for special reasons may place a contrary condition on public or other lands when put up for sale.
- (2) That the resolution limits and restricts the sale of land by Europeans and races other than Natives.
- (3) That the resolution is in conflict with the spirit of other recommendations of the Commission, which have for their object the encouragement of individual tenure.
- (4) That Asiatics and other coloured races not of African descent may purchase land anywhere, whereas by this resolution the Natives, who are the aborigines of the country, will be excluded from this privilege except in limited areas selected, probably, for their unhealthiness and unsuitability for irrigation and cultivation and other kindred reasons.
- (5) That the resolution affects and limits the right of free trade possessed by every other subject of the British Empire, a right which is enjoyed by the Natives of South Africa in every other sphere of business.
- (6) That the resolution recommends a demarcation based practically on racial or colour lines unaccompanied by any other considerations such as the attainment by Natives of material and social progress, evolution and advancement from Native law, customs and usages, and polygamy, and the introduction of better modes of living and cultivation stimulated by the sense of security and proprietorship.

They are of opinion that the determining factors in the ownership of land by Natives should be:—

- (a) The degree of civilisation attained.
- (b) Devolution and inheritance under the ordinary Colonial law applicable to Europeans, and not under Native law.
- (c) The abandonment of polygamy.

Subject to this standard being attained, they are in favour of unrestricted right and opportunity of purchase of land by Natives.

(E) Vesting of Appropriated Land in Trust.

200. This sub-section may be divided into three principal parts, *viz.*:—

- (1) The objects and desirability of vesting in trust.
- (2) The limitation of existing reserves.
- (3) The expediency or otherwise of reserving more land for Natives.

201. The land set aside or recognised as reserved for Natives, being in some cases tracts to which they have ancestral or tribal rights, and in others rights given for past good services. is, in the legal sense :—
- (a) In the Cape Colony, Transvaal, Orange River Colony, Basutoland and Bechuanaland Protectorate, vested in the Crown.
 - (b) In Natal the greater part is vested in the Natal Native Trust, constituted by Letters Patent. the personnel of which consists in practice of the Governor and the members of the Government of the day.
 - (c) In Rhodesia, by Order in Council, provision is made for the assignment of land for Native occupation, but it remains vested in the British South Africa Company.
202. The Colony of Natal stands alone in the adoption of a separate Trust, constituted by Letters Patent dated 1864, for the disposal and management of reserved lands by vesting them in one body politic and corporate in deed and in name for the purpose of taking and holding such lands, and of granting, selling, leasing or otherwise disposing of them in such wise as might be deemed fit for the support, advantage and well-being of the Natives.
203. According to the evidence received in Natal, it appeared that this Trust enjoys the confidence of the Colony of Natal, inasmuch as by recent enactment the Parliament vested in it the Mission reserves.
204. The Commission considered whether it should recommend that the Natal system or some similar system embodying the principle of a separate trust in which to vest Native lands should be adopted in the other Colonies, and the majority of the Commission decided against the principle and in favour of these lands being administered by the respective Governments, such lands having first been accurately defined by special legislative enactment and formally dedicated to the use of the Native people. Certain members claimed that the vesting of Native lands in a separate trust gave better security to the Natives than any other form, and that such better security was necessary.
205. The important point next arises as to whether it is expedient to reserve and set aside any more land exclusively for Natives.

206. The areas at present so reserved and set aside are as follows :—

Name of Colony.	Area in square miles.	Population on Reserves.
CAPE COLONY	21,000	1,057,610
NATAL... ..	13,892	463,382
TRANSVAAL (including SWAZILAND)	8,656	207,840
ORANGE RIVER COLONY	128	17,000
SOUTHERN RHODESIA ...	38,871	264,618
BASUTOLAND	10,293	347,731
BECHUANALAND PROTECTORATE	127,630	100,100
	220,470	2,458,281

207. The Commission is of opinion and recommends :—

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

208. In some Colonies land has been purchased by Natives and is held for them by trustees. This system the Commission does not recommend should be continued, but is of opinion :—

That it is undesirable to extend the system of officially or otherwise taking into trust lands purchased by Natives, and that any land so held and acquired should be converted into individual holdings so soon as a desire for a change in that direction is manifested by those who can establish that they have proprietary rights in such lands.

209. In specially setting apart any land for Native occupation, certain obligations may be held rightly to attach thereto; that is to say, the Crown should reserve :—

- (1) All minerals and precious stones.
- (2) The right to removal and re-entry in the case of rebellion.
- (3) The power to apply regulations.

210. The Natal representatives do not concur with the resolution of the Commission in respect of the definition : delimitation and reservation by legislative enactment of lands set apart for Natives : and they give the following reasons :—

- (1) That where land dedicated or set apart for Natives has already been defined, delimited and reserved by some deed of trust or grant or the like, no legislative enactment in this direction is called for or necessary.
- (2) That where land has been dedicated or set apart and has not yet been defined, delimited and reserved by some deed of trust or grant or the like, it is the duty of the Imperial Government, in the first instance, to secure and safeguard Native interests and rights in the land in a permanent and legal manner, in accordance with the objects and intentions under which such land was set apart or dedicated.
- (3) That where land is at the present time in process of being set apart or dedicated in recognition of the righteous and undoubted claims and rights of Natives, as aborigines, to some provision in land being made for them, the same course should be followed as indicated in clause (2) hereof.
- (4) That action under clauses (2) and (3) hereof should not be delegated to a Legislature in which the Natives have no share, in which they would be unable by constitutional means to resist an adverse vote or to protect their interests, and which, in consequence of its being composed of members representing only the European population, and having other interests more in view, and also being more conversant than the Natives with the present or future value of the land, might be unwilling or opposed to such land being dedicated or set apart for the Natives.

The Natal representatives, however, concur with the recommendation that there should be finality in the provision of land for the Native population.

The Natal representatives, with Mr. Sloley and Capt. Dickson, are in favour of vesting in special trustees created for that purpose all lands set apart or dedicated for Natives as locations, reserves, or otherwise, for the following principal reasons :—

That an incorporated Board of Trustees, created by Letters Patent, subject to specified conditions and powers with regard to the control, management and disposal of lands set apart and dedicated as aforesaid,

- (a) Gives greater security and permanency of appropriation than if the land were held by Government as Crown lands or vested in an individual officer of Government.
- (b) Renders it incapable of being directly or hastily affected by the pressure of any temporary popular feeling or agitation.
- (c) Removes suspicion and unrest from the Native mind, and conveys a sense of *bona fides*.
- (d) Guards the Natives against their own ignorance and protects them against the advances of speculators or other persons who, by purchase, mortgage, or otherwise, might dispossess them of their land.
- (e) Securely binds the trustees by definite terms and obligations.

- (*f*) Reserves to the Crown the full power and authority to alter or revoke Letters Patent, or any part of them, and to veto any legislation, rule, order, or resolution made in respect of the land.
- (*g*) Generally secures and protects for the Natives in a more permanent and inviolable manner than can otherwise be done what has been recognised as due and right to them.

211. Messrs. J. C. Krogh and J. A. Hamilton, (Transvaal representatives) desire to recommend that the principle of payment of rent should be applied in the case of the land set apart for Native occupation referred to in the above recommendations. The matter is dealt with under the head of Taxation, but it requires a passing reference here.

TRIBAL SYSTEM—NATIVE LAW AND CUSTOM— ADMINISTRATION.

212. A characteristic of the Natives of South Africa is their tribal organisation. The tribe is a community or collection of Natives forming a political and social organisation under the government, control, and leadership of a Chief who is the centre of the national or tribal life. It is through the existence of a Chief that the tribe is conscious of its unity. As the father is to the family, so is the Chief to the tribe. He is sometimes the Chief of a congeries of tribes and then is known as Paramount or Supreme Chief, or he may be the head of a single tribe composed of a number of families usually members of the same clan or using the same totem. Each member of the tribe owes him personal allegiance and service, to be performed gratuitously when called upon, in the interests of the Chief or the tribe. Each member has the right to maintenance from the land of the tribe.
213. As a father exercises authority within his family, as the Headman of a kraal or collection of kraals rules them and exercises authority over them, so the Chief rules the tribe and guides its destinies. Furthermore, as the father consults his family, and the Headman consults the men in the kraals under him, so a discreet and wise Chief consults the elders of his tribe. He is their chief court of appeal, he sanctions all changes made in the traditional usages of the tribe, but everywhere amongst the Natives the absolutism of the Chief is tempered by institutions which keep it in check. It cannot be said that the judgments of Chiefs were always equitable, but in the generality of cases they were so, and their administration on the whole was acceptable to the people.
214. The tribal system has either been modified or displaced by, or is being gradually brought under, statutory and administrative European control. It was a form of government perfectly understood by the Natives, carried with it mutual responsibility and suretyship, and required implicit obedience to authority. It possessed a ready means of communication and control extending from the Paramount Chief to the individual Native in

his kraal. It embodied an unbroken chain of responsibility—the responsibility of the Headman for his people, of the head of a kraal or family for its members, and of every individual of a tribe to the Chief.

215. Such then, briefly, was the tribal system which, either by direct legislation or by administrative methods, has been modified and moulded into the forms thereof in existence at the present time in British South Africa.
216. The laws, customs and usages prevailing amongst the Natives previous to the establishment of European government over them have not been abrogated or forbidden, except so far as the same may be repugnant to the general principles of humanity and civilisation.
217. It may fairly be said of the Natives of South Africa that though there are variations of details in the laws of succession and inheritance, and in other customs and usages of the various tribes, there is great similarity in their tribal systems.
218. The Chiefs continue to be recognised as a means of government of the Native races, as it has not in general been deemed desirable to dispense with them, but their jurisdiction, more particularly in criminal matters, has been, and is being, gradually transferred to European Magistrates and Commissioners. In a few words, the abolition of the tribal system and chieftainship is being left to time and evolution towards civilisation, assisted by legislation where necessary and administrative methods.
219. In Natal, the Transvaal and Southern Rhodesia certain powers are vested by law in the Governor or the Officer for the time being administering the Government. This was done with the object of retaining certain administrative powers formerly possessed by Chiefs which could not be exercised ordinarily by a Governor or Administrator, and also to supersede in a manner comprehensible by Natives their Paramount Chief or Chiefs by the substitution of the Head Officer of the Government.
220. In the year 1850 the Governor of the Colony of Natal was first specifically constituted Supreme or Paramount Chief over all the Natives. He was then vested with more extensive powers than at present. His legislative powers were taken away by the creation of the Legislative Council, and his jurisdiction as a Court of Appeal was removed by subsequent legislation. His powers have now practically been reduced to matters of administration, except in the case of disputes about general heirship of a deceased Chief of a tribe, where he decides finally, no right of appeal being allowed.
221. By Royal Instructions to the Governor of Natal, dated 20th July, 1893, it is directed that “Before exercising the Powers of “Supreme Chief, other than those by law vested in the Governor “and Council, the Governor shall acquaint his Ministers with the “action which he proposes to take, and so far as may be possible

“ shall arrange with them as to the course of action to be taken.
“ The ultimate decision must, however, in every case rest with the
“ Governor.”

222. In the Transvaal, by Law No. 4, 1885, which has not been repealed the State President was constituted Paramount Chief over all Chiefs and Natives in the Republic. He was empowered further with the advice and consent of the Executive Council, to make and frame regulations for the administration of the law. These powers are now exercised by the Lieutenant-Governor in Council.
223. In Southern Rhodesia, the Administrator in Council exercises over Natives all political power and authority.
224. The powers given in the two latter cases are in many points analogous and similar to those conferred on the Governor of Natal as Supreme Chief—if anything, they are more extensive and comprehensive—but the authority is not given in either case to enforce compulsory labour which is given to the Governor of Natal.
225. In the Cape Colony and the Orange River Colony neither the Governor nor the State President appears to have been placed in any special relationship towards the Native population which he did not occupy towards the rest of the inhabitants. In the Cape Colony, however, it has been found necessary to provide for certain special cases in the Transkeian Territories, by legislation. This, in Colonies where the Governor or the Administrator possesses extraordinary powers would not have been necessary, thus showing that some special Executive authority conferred by Parliament is required in respect of the large masses of Natives inhabiting British South Africa.
226. The Commission does not recommend abrogation of the special powers which have been described. But in respect of the self-governing Colonies and other Colonies or Possessions as they become self-governing, it feels that such powers should be regulated by Parliamentary enactment and that the responsibility of their application should rest, under constitutional usage, with the Ministry of the day responsible in all its actions to the local Legislature.
227. In the Cape Colony, Transvaal, Orange River Colony, and Southern Rhodesia, Chiefs do not exercise any criminal jurisdiction. In Natal, more particularly in the Province of Zululand, in Basutoland, Bechuanaland, and the Bechuanaland Protectorate, they still have a more or less limited jurisdiction in criminal cases.
228. Basutoland and the Bechuanaland Protectorate may be regarded as exceptional in their conditions, but as a policy it would appear best that Natives charged with criminal offences should be tried by trained officers who have no personal interest in the revenues accruing from fines or forfeitures resulting from proceedings before them.
229. In lieu of the incomes of which Chiefs and Headmen now exercising criminal jurisdiction would thus be deprived, and in recognition of the valuable services they render to the Government in administrative work, they should be granted adequate pecuniary

emoluments or pensions so as to assure to them a measure of independence in their living, and due remuneration for the duties they continue to discharge.

230. Past legislation by the various South African Governments has recognised the principle that the application of certain special laws to Natives is necessary and the Commission does not advise a change of policy in this respect. At the same time it is recognised that the protection of the law should be extended impartially to all alike.
231. Native Law, which is distinct from laws specially framed and enacted for the Native population, is administered in some form or other in all the Colonies and British Possessions in South Africa.
232. The weight of the evidence adduced before the Commission is against the enactment of a statutory code based on Native Law. It has been suggested, and with this the Commission agrees, that a text-book or hand-book, for reference only, descriptive of Native law and custom would be useful as a help towards uniformity in administration.
233. Many of the existing Native laws and customs are so interwoven with the social conditions and ordinary institutions of the Native population that any premature attempt to break them down or sweep them away would be inadvisable. At the same time the object of improvement and, so far as may be, assimilation with the ordinary Colonial law should be kept in view as an ultimate goal.
234. The principle of communal or collective responsibility was recognised by the Natives wherever the tribal system prevailed. Under it a man was bound to report to his superior the commission of any crime that he might become aware of or any extraordinary or suspicious circumstances that might come to his knowledge. For instance, if a member of a kraal saw a crime committed he was bound to report the fact to the head of his kraal; the latter was bound to act if necessary upon the report and to inform his superior; and so on until the Paramount Chief himself was aware of what had taken place. The omission in any of these grades to report involved subsequent liability to blame or punishment.
235. Collective responsibility has been adopted in the Spoor Laws of the Transkeian Territories and Natal, and it is that which makes them effective. The Spoor Law, it should be explained, is applied to the community, only when the actual criminal cannot be traced or identified, and in the Transkeian Territories the proceedings thereunder for recovery of value of stolen stock are in the nature of a civil action.
236. The principle of communal or collective responsibility when applied by us has been taken over very much as it existed amongst the Natives themselves. In Natal and the Transvaal it is applied in need in cases of homicide, assault, or other injury to person or property. In the Transkeian Territories it is limited to stock thefts only. As injustice may be done in its administration there should in all cases be trial and right of appeal.

237. In the Cape Colony, a Native may, with the exception of land held under the Glen Grey Act, leave his property by will. In Natal he has this right only in respect of immovable property held under title. In Southern Rhodesia the Cape law applies. There is nothing in the laws of the Transvaal or Orange River Colony to prevent a Native from disposing of his property by will. There appears to be no good reason for withholding from the Natives the power to make a will, and this power should be given to them in respect of devisable property.
238. An important question affecting the status of Native women arises in connection with the custom of "ukungena," or the taking over of widows by brothers, or even in some instances by sons, of the deceased. This practice should not be countenanced in any way whatever.
239. In the Cape Colony and the Orange River Colony a Native woman attains majority at the age of twenty-one years. This confers upon her rights and a legal status which under Native law and custom she could never attain. By these she is held to be under guardianship all her life, and, strictly speaking, may not hold property in her own right, even when such property is earned by her own labour. Moreover, by recognition of a Native woman's right to attain majority, she is placed in a position to emancipate herself from a condition which may have become distasteful to her and be free to choose her own path in life. As Christianity and education spread, a woman's endeavours towards a higher and more self-respecting position than that appointed to her by ordinary kraal life should not be thwarted by perpetual tutelage unsuited to present-day conditions. Experience in the above Colonies has not justified the fears sometimes expressed that this emancipation of Native women would have disastrous results on Native family life. Evidence is rather the other way. Reference has already been made to the increasing number of self-respecting Native women now to be found in the country. Moreover, the women and girls, when free agents, go in larger numbers into domestic and other service. Many are teachers in schools, others accompany their husbands or relatives to farms and labour centres, and thereby promote continuous instead of intermittent work at those centres. For these and other reasons it is recommended that in those Colonies and Possessions where it is not already the case, and so soon as local circumstances permit, Native men and women should be held to have attained their majority at the age of twenty-one years.
240. In this connection there arises the question of how far the principle of family responsibility should be maintained in respect of the head of a family being liable for the payment of the debts of his adult children or *vice versa*. Already the tendency is to leave each man to answer alone for his own debts or torts. Much injustice is wrought by exacting payment from individuals no longer able, in view of changed conditions, to control the actions of those related to them, and the granting of majority and independence to young Native men and women as recommended above should be accompanied by sole responsibility being placed on them for their own debts and torts. Nor should sons be liable for debts incurred by their fathers except to the extent of the property inherited by them from their fathers.

241. On the subject of succession and inheritance to land in intestate estates, the following resolution was passed :—

The Commission is of opinion that in the case of a Native dying intestate the succession and inheritance to all land in his estate held under title in the form customary in South Africa should, unless otherwise provided in such title, be determined in accordance with ordinary Colonial law.

242. The Commission deprecates any tendency to impede or prevent Natives pleading their own cases in Court, and holds that Natives should nowhere be compelled to employ attorneys or agents-at-law, the matter to be left to their own free will. On the other hand, it favours the exclusion of attorneys or agents in cases between Native and Native tried under Native law, except in special cases where the Magistrate is satisfied that the admission of an attorney is necessary; nor should they be allowed to intervene in matters of administration.

243. The Commission suggests the desirability of establishing in each of the Colonies a system of compulsory registration by Natives of all births and deaths, so soon as it is deemed practicable.

244. The Commission has formed the conclusion that in the Transvaal, and in a lower degree in Natal and elsewhere, there is in largely-populated Native areas a numerical insufficiency of Magistrates and Native Commissioners qualified by experience to deal with Natives. The Commission is of opinion that, in order to secure more efficient supervision and expedite the despatch of business, these officers should be increased. It should be borne in mind that Courts within easy reach have a distinct influence for good and that large territorial jurisdictions weaken the hold of Government on the Native population and affect the efficiency of the Administration in many ways.

245. The Commission is of opinion that periodical meetings of representatives selected by the Government of each Colony and Possession in South Africa, for the purposes of discussion and advice, would be useful and are desirable, and that their reports on all matters affecting the Native population would be of value in the unification of Native laws and administration. Inter-Colonial Conferences between men of influence and knowledge, including those who are carrying out and those who devise the policy of Governments, could not fail to be beneficial, and the Commission recommends the above suggestion to the consideration of the Governments concerned.

Urban Locations for Natives.

246. Native Locations in urban areas may be divided into :—
- (1) Those within municipal areas and under municipal control.

- (2) Those within municipal areas and under the direct control of Boards or Companies, as compounds.
- (3) Those in the neighbourhood of Municipalities and controlled by Government.

247. The Commission approves the present practice that wherever a location is within an area controlled by a Municipality or other Local Authority the responsibility for its control and management should be left to such Authority. But it is necessary that Government should always reserve the power of inspection and be able to exercise it with effect. Such inspection should be frequent and regular and if possible be made in the daytime. It was disclosed to the Commission that in various parts of the country inspections of municipal and other locations in urban areas were sometimes carried out in a harsh and injudicious manner, respectable Natives and their families being turned out of their dwellings at night time, and subjected to objectionable personal handling. Conduct of this sort is extremely harmful, and rankles long in the minds of the people.
248. The Commission has visited and inspected several municipal locations and records its opinion that in some respects their condition leaves much to be desired. The Natives who reside in or frequent these locations are in the main working people. As such there is every reason why they should be encouraged to stay as useful members of the community. The tendency of inadequate accommodation is to make them dissatisfied and restless; the standard of comfort is low, and they are liable to be over-crowded and over-charged.
249. The object should be to afford those who desire it the opportunity of acquiring in their own right holdings for residential purposes within these locations, and, with or without this, encouragement to make, and security for, improvements.
250. Where buildings are put up by the Local Authority they should be of a suitably comfortable class and the whole arrangements should be such as to enable the occupiers to live under sanitary and healthy conditions. Natives who erect their own buildings should be bound to conform to this standard.
251. In establishing these locations easy access to the place where the Natives go to work should be kept in view. The charges necessary to be borne by the Natives, in the way of rent, etc., and railway fares, should be as low as possible. The Commission thinks that the charges at present imposed are in some cases too high, and although a substantial revenue may thereby accrue to Municipal Treasuries and Railway Departments they ultimately fall on the employers, who have to pay correspondingly high wages.
252. A thorough registration and constant control by means of resident Superintendents should be maintained for the purpose of the better regulation of town locations by which the respectable industrious Natives may be encouraged, and no room allowed for criminals and others who indulge in vagrancy, drink and open prostitution.

253. These locations should not be made a refuge for surplus or idle Natives for whose labour there is no local demand or who will not work, and power to expel such Natives from the location and from the entire urban area should be vested in the Local Authority, who should receive the full support of Government in this work.

254. In connection with this question of urban locations for Natives, the following resolution already quoted in another place should be here referred to, and it is recommended that the principle thereof be adopted by defining an area within each Municipality in which Natives may reside and hold property without being subject to location regulations :—

“ This Commission is of opinion that certain restrictions upon
“ the purchase of land by Natives are necessary, and
“ recommends :—

“ That purchase by Natives should in future be limited
“ to certain areas to be defined by legislative enact-
“ ment.”

255. In calling attention again to the following resolution, also already quoted in another connection, it is desired to point out that the absence of any accommodation near labour centres for wives and families of Natives at work there affects very adversely the supply of labour with respect both to the number of labourers and the length of their service. The general principles affirmed above in regard to locations as at present understood apply so far as they are suitable to these suggested labour locations, but the following possible differences in the latter may be indicated :—A somewhat larger plot of land for each hut or building ; greater distance from a town ; a modification of the regulations to suit the conditions and circumstances of the Natives affected :—

“ The Commission recommends the creation subject to
“ adequate control of Native locations for residential
“ purposes near labour centres or elsewhere on proof
“ that they are needed.”

Appeal Courts.

256. This is an important question, affecting as it does the contentment of the Natives, who value the right of appeal. Even under the tribal system they were at liberty to appeal from a judgment of a local Sub-Chief or Headman to their Chief and ultimately to the Supreme Chief, if there was one, beyond whom there lay no appeal.

257. When, in the different Colonies, European Courts were established, provision was made for appeal in Native civil and criminal cases from the judgments of Magistrates, Commissioners and Chiefs. In the Transkeian Territories there is still a Special Appeal Court in civil cases ; in other cases appeal lies to the Higher Courts of the Cape Colony : in Natal there is a Native High Court for specified cases, for other cases the Supreme Court. In Basutoland and the Bechuanaland Protectorate there is appeal to the Court of the Resident Commissioner. In Cape Colony proper, Orange River Colony, Transvaal and Rhodesia an appeal lies to the Supreme Court,

258. The Native Appeal Court in the Transkeian Territories, the proceedings of which are subject to review in the Supreme Court of the Cape Colony, is of great value to the Native population, affording as it does an early and inexpensive settlement of appeals in civil matters from the decisions of Resident Magistrates. Similarly in other Colonies, where adequate arrangements have been made to secure the same object, much satisfaction has been given to the Native people.
259. The Native High Court in Natal is a striking illustration of an independent Court free from the jurisdiction of the Supreme Court. The risk, indeed the certainty, under such conditions of the different Courts giving decisions inconsistent with each other is shown by the fact that in these two Courts conflicting judgments involving serious issues have been given. An instance of this quoted to the Commission is where the Native High Court refused to hear a case brought before it by a coloured man on the ground that the party or parties were Europeans, and that the case should go to the Supreme Court, while in the same or an identical case the Supreme Court held that the party or parties were Natives, and that the case should go to the Native High Court. The decision of neither Court is binding on the other. The result is that a whole class of persons in Natal are deprived of all legal remedy—a disability as grave as it is singular.
260. Whilst, therefore, attaching much value to the necessity of not undermining the influence of those who preside over Native Courts, and deprecating that any ideas be created in the ignorant Native mind suggestive of appeals being made easy, the Commission records the following resolution :—
- (a) The Commission disapproves of the creation or existence in any British Colony or Possession in South Africa of a separate and independent Judicial Court or Courts to deal with Native cases, except as hereinafter set forth, outside the jurisdiction of the Supreme Court of such Colony or Possession. It recommends that subject to the regulations of the Court there should be a right to appeal to and review by the Supreme Court in all Native cases, civil and criminal, tried in any other Court under Colonial Law, Statutory or Common.
 - (b) That in civil cases or disputes arising purely upon Native law and custom, and in which both parties to the suit are Natives, special Native Courts of Appeal now established should continue to exercise the powers of final decision conferred upon them by the Legislature, subject to the distinction drawn above between cases tried under Native law and custom and cases tried under Colonial law, and provided always that the Supreme Court shall retain its powers of review.
 - (c) That revision of and appeals against verdicts and sentences in criminal cases in any lower Court should be by or to a Judge or Judges of the Supreme Court.

271. The hoe has largely given place to the plough and other superior implements of agriculture, with the result that the Native woman who formerly did much of the tilling of the ground is now in a great measure emancipated from that form of labour; the men and boys taking her place.
272. It is sometimes said that civilisation, or the beginnings of it, have not tended to make the Native happier, more trustworthy, more civil, courteous and obedient, and stronger physically and morally; and at the first glance there is some excuse for forming this opinion. True it is that the advent of civilisation has weakened the power of what long ages had taught the Natives to regard as most necessary to their social and communal life, that it has tended to loosen tribal ties, to undermine wholesome patriarchal control, and has let loose in the midst of the resultant disorganisation all the temptations and vices which dog the steps of civilised advance. But where it has destroyed it will again construct; it has not taken away without offering something in return. The great powers of Christianity and education are at work. There has been and there continues a great struggle between the powers of good and evil, of light and darkness, of enlightenment and ignorance, of progress and tradition, of Christianity and heathenism. Is it, therefore, surprising that much of what was picturesque, attractive and even admirable in the Native when untouched by European influences has been swept away? The final outcome of a righteous war is not to be judged by the devastations of opposing armies or by the scenes of slaughter and bloodshed on the field of battle. No less fallacious would be the attempt to gauge the eventual issues of the civilisation of the Natives by the many unfortunate features of the struggle which still prevail. Already there are more encouraging aspects. The lax morality among the women which has been so often dwelt upon as the result of freeing them from the absolute control of their parents and sowing new temptations among them is diminishing, and there is growing up an ever-increasing number of self-respecting Native women who are learning to understand the freedom which has come to them and are careful not to abuse its privileges.
273. In their homes the Natives are a hospitable and social people, clever and bright in repartee, fond of music, open-hearted and generous hosts, imitative and tractable, and interesting in many ways. They are, speaking generally, not energetic of disposition, but the struggle for life has not been so hard with them as with the European nations, and there has in their past history been little to make them continuous workers.
274. They are attached to their homes and even when they go away to labour centres to earn money prefer in general to do so for short periods, and then to return and look after the interests of the family and the welfare of the stock, participate in the sociable joys of beer gatherings, and superintend the ploughing for the coming year. So long as it is impossible for the Native to marry and make his home, return nightly to his family, and live comfortably near the great centres of labour, so long will there be the yearning to return frequently to his distant home, and so long will the flow of labour be impeded by this really amiable trait in his character.

275. In the first movement towards establishing model locations aiming to provide for this need, it would possibly be necessary to face the reluctance of the Native temperament to adopt anything new and unproved, but once a system has been tried, and has proved suitable, the Natives are not slow to recognise and take advantage of it, and attempts in this direction in the Cape Colony have already met with a considerable amount of success.

276. The following are the resolutions passed by the Commission on the subject of this chapter:—

The Commission finds that education and contact with Europeans are beginning to effect a change in the family life and habits of that large section of the Native population who have not formally adopted Christianity or civilised ways of life. This change has taken the form of a movement towards a higher standard of comfort in the matters of housing, clothing and diet; and improvement in the position and treatment of women has been brought about by the influence of Christian and civilised views on the marriage question; and the labour of women has been much lightened by the introduction of the plough and other appliances.

The Commission considers that evidence has shown that polygamy is on the decrease, that the Natives are gradually losing their faith in, and are resorting less to, witch doctors, and that, though still strongly attached to their Native customs as to cattle marriages, considerable change in the form of the dowry or "lobolo" has followed the destruction of the cattle by rinderpest.

Concurrently with these changes, certain demoralising influences have been at work. The inevitable relaxation of the stricter and more arbitrary of the tribal customs, though on the whole commendable, has been accompanied by a decrease of parental authority and a consequent assumption of independence by young men and women which has tended to the disregard of certain wholesome restraints upon misconduct.

The Commission, in view of these changes in the family life and habits of the heathen, recommends the encouragement of religion and education, the adoption of any measure calculated to preserve the inviolability of the marriage tie, the support of the authority of parents and guardians over minors, the enforcement of laws against immorality and drink, and the preservation of the Natives' sense of self-respect by sympathetic recognition of any legitimate aspirations, and by assistance in any well-regulated plans for their material welfare.

277. It is felt that much good may be effected by gradually educating the Natives out of superstitious practices and the employment of unskilled men untrained in the use of medicines and surgery. The Commission visited several Hospitals specially provided for the use of the Natives and was greatly impressed with their efficiency, potency for good, and their value in the

Native Jurymen and Assessors.

261. In certain Colonies Natives can be placed on the Jury List ; in one Colony Natives are 'exempted' by law from serving as jurors ; in the others they cannot serve. Consideration was given to the desirability or otherwise of Natives being registered as jurors and being summoned to serve as jurors. The Commission is of opinion that Natives should not be used as jurors in any case in which a European or any person other than a Native is concerned, and in cases in which Natives only are interested it considers that the time has not come when it would be either advisable or right that Natives should be empanelled as jurymen.

262. The Commission has passed the following resolution :—

That in the opinion of this Commission Natives should not be empanelled as jurymen.

263. In Bechuanaland and Basutoland, possibly also in Colonies with large Native populations, the advantage derived from the use of carefully selected and intelligent Headmen and other Natives, as assessors in the Courts at the trial of members of their race, as provided for in the Transkeian Territories Penal Code, is recognised. The use of assessors will gradually educate the Natives up to the system of trial by jury, and it gives satisfaction to Natives to feel that in matters where their own people are concerned they have the confidence of the Courts and the Government

Pass Laws and Travelling.

264. The Commission gave careful consideration to the subject of Pass Laws, and, while agreeing that the pass system was still necessary in most of the Colonies and Possessions, was unanimously of opinion, that Natives travelling with a pass should be hindered as little as possible by local regulations, and that attention should be specially directed to the needless and vexatious detention of Natives for long periods at border and other stations when travelling to and from labour centres. It is recommended that better facilities on the railways, and rest houses at certain stations and along main labour routes remote from the railways, be provided for Natives travelling, and that greater attention be given to sanitary arrangements in the way of latrines, lavatories, etc.

265. The following resolution was unanimously adopted :—

That travelling passes issued under the recognised regulations of any Colony or Possession should be in force till the journey has been completed, requiring only to be *viséd* if thought necessary, and without charge, on arrival at the first Pass Office in any other Colony or Possession.

266. The following suggestions are submitted :—

Uniformity in the form of pass issued : a distinctive colour to be adopted by each Colony.

That on trains by which Natives mostly travel there should be a Native conductor, or other similar official, to give them necessary information and generally to assist them.

That railway officials should be instructed to remember that the travelling Natives are paying passengers and are entitled to reasonable attention.

267. On the subject of separate accommodation for Natives travelling by rail the Commission passed the following resolution :—

That while there is no desire to prevent Natives travelling by train in any class (first, second or third) for which they pay, provided there is separate accommodation for them, the Commission recommends that in the interest of goodwill and order and for the comfort of travellers of both races carriages of each class be set apart for Natives only and that tickets issued to them shall entitle them to travel only in such carriages.

268. With reference to the above resolution, the amount of the accommodation provided must necessarily depend on the extent of the traffic.

FAMILY LIFE AND HABITS.

269. Native family life is undergoing a great change; in some parts, owing to various causes, more rapidly than in others. Contact with Europeans, with their mode of life, their industries, their Christianising influences, their business dealings; the laws and forms of government, facilities for travelling, exchange of ideas, and a number of other factors appertaining peculiarly to civilised races, are slowly but surely transforming the whole social system and life of the Natives. European influence and example have variously impressed and operated upon them, and not in all cases for their good.

270. European clothing, which is coming more and more into general use, has not been an unmixed blessing. It has promoted public decency, but, not being adopted in its entirety, and being necessarily of inferior material, it has not proved equally conducive to the promotion of health. The use of cotton shirts by the men and the habit of allowing wet clothing to dry on the person have been peculiarly harmful. The heavy woollen blanket or skin kaross of earlier times would have been thrown aside for vigorous exercise, to be resumed with the first sensation of chill; but civilised attire does not lend itself to equally rapid adjustment, and a marked increase in consumption, pleurisy, inflammation of the lungs and rheumatism has been the result. European clothes, too, require much more frequent cleansing than their ancestral garb, a fact which, unfortunately, is not sufficiently realised by the Natives who have partially adopted our style of dress; but the hard school of experience will teach them as it has taught us to use greater care in these matters. The evils are not inseparable from European dress, but arise from an imperfect understanding of the laws of health.

direction suggested in the following resolution which was passed unanimously :—

The multiplying of District Surgeons and the establishing of Dispensaries and Hospitals in connection with Magistracies in Natives areas would have a beneficial effect, not only for the restoration or preservation of health, but also for weaning the Natives from faith in witch doctors, diviners or soothsayers, or men who profess to have supernatural power or knowledge whether as medicine men or otherwise.

278. The danger of the influence of old and hardened criminals on youthful offenders has been recognised in many parts of the British Empire by the provision of suitable corrective establishments, in which such offenders undergo terms of imprisonment passed upon them. Youthful offenders should not be associated with habitual and hardened criminals whose influence and precepts will have the certain tendency of confirming and strengthening the young offenders in a career of crime. It should rather be the aim to give such offenders a moral and corrective training under sympathetic supervision in a separate place, with a view to their being induced to lead a moral and useful life on their discharge.

279. Boys and girls are frequently sentenced to terms of imprisonment, for offences under the Masters and Servants Laws, for petty thefts and small misdemeanours, which they have to serve in the common gaol.

280. The following resolution was unanimously passed :—

That Reformatory Institutions should be provided for Native youths convicted of crime and sentenced to imprisonment, in which to undergo such sentences passed upon them, in order to prevent their mixing with and being contaminated by old criminals.

281. The desire to possess cattle has been in the past a strong incentive to Natives to earn money. Natives have often been heard to say that cattle were their bank and the means of securing their money in a visible and reproductive manner. The destruction of cattle by rinderpest and other cattle plagues has made the investment of money in the manner above stated more difficult. The increase of population and the partial conversion of the people from a pastoral to an agricultural people have also tended to reduce their holdings of cattle. Money is the great medium of business where formerly cattle were used. There are more difficulties in the way of possessing cattle and more reasons for retaining money. With a view, therefore, to encouraging thrift in Natives and the safe custody of their earnings, the Commission has passed the following resolution :—

That Natives should be encouraged to use Government Savings Banks, and that steps should be taken to enable Natives in large centres of population to avail themselves of their use.

CHRISTIANITY AND MORALS.

282. In considering the relations between the European and the Native populations certain responsibilities on the part of the race which occupies the position of the governing and superior caste claim attention. Among such responsibilities there is a duty as to the moral and intellectual elevation of the subject race, and the Commission recognises that upon the Governments of the South African Colonies this duty is laid.
283. For the moral improvement of the Natives there is available no influence equal to that of religious belief. The vague superstitions of the heathen are entirely unconnected with any moral ideas, though upon sensuality, dishonesty and other vices there have been always certain tribal restraints which, while not based upon abstract morality, have been real, and, so far as they go, effective. These removed, civilisation, particularly in the larger towns, brings the Native under the influence of a social system of which he too often sees and assimilates the worst side only.
284. It must apparently be accepted as an axiom that contact with what we are accustomed to regard as civilisation has a demoralising tendency as its first effect upon primitive races. It is clear that the Native year by year is becoming familiar with new forms of sexual immorality, intemperance and dishonesty, and that his naturally imitative disposition, his virility and escape from home and tribal influences provide a too congenial soil for the cultivation of acquired vices.
285. The testimony contained in the volumes of evidence is abundant to this effect, but the Commission has no wish to dilate upon this aspect of the question, it being sufficient to direct attention to the evidence of the witnesses who have especially touched upon these subjects.
286. The Commission considers that the restraints of the law furnish an inadequate check upon this tendency towards demoralisation, and that no merely secular system of morality that might be applied would serve to raise the Natives' ideals of conduct or to counteract the evil influences which have been alluded to, and is of opinion that hope for the elevation of the Native races must depend mainly on their acceptance of Christian faith and morals.
287. In this connection it has been observed by more than one witness that all that has been done for the regeneration of the Native has been by the efforts of Christian Missions, but such a statement cannot be accepted too literally. The Commission feels that from the earliest period of European settlement much good influence has been brought to bear upon the Natives by individual benevolence and attention to their spiritual welfare. It was, and in certain localities still is, the practice of Dutch and English farmers and other Christian families to include Native servants in family worship; while many of the larger employers of Native labourers, both at the mining centres and in the rural districts, provide buildings and afford opportunities for religious services.

288. By admission to Christian households, and by the example of the uprightness and purity of many of those around them, a large number of Natives have doubtless been brought under improving influences, but to the Churches engaged in Mission work must be given the greater measure of credit for placing systematically before the Natives these higher standards of belief and conduct. It is true that the conduct of many converts to Christianity is not all that could be desired, and that the Native Christian does not appear to escape at once and entirely from certain besetting sins of his nature; but, nevertheless, the weight of evidence is in favour of the improved morality of the Christian section of the population and to the effect that there appears to be in the Native mind no inherent incapacity to apprehend the truths of Christian teaching or to adopt Christian morals as a standard.
289. It does not seem practicable to propose any measure of material support or aid to the purely spiritual side of Missionary enterprise, but the Commission recommends full recognition of the utility of the work of the Churches which have undertaken the duty of evangelising the heathen, and has adopted the following resolution:—
- (a) The Commission is satisfied that one great element for the civilisation of the Natives is to be found in Christianity.
 - (b) The Commission is of opinion that regular moral and religious instruction should be given in all Native schools.

MARRIAGE BY NATIVE CUSTOM.

Polygamy.

290. The institution of polygamy doubtless had its origin in very early times and under conditions differing widely from those which now obtain. At that time constant inter-tribal fighting kept down the number of the men, while even in those conflicts which were in their nature almost wars of extermination, the marriageable women and female children were spared to be carried away captive—not the least prized of the conquerors' spoil. The result was the numerical preponderance of females which inevitably led to polygamous unions.
291. From generation to generation the same conditions prevailed until the practice became so closely interwoven with all the intricacies of the social system, that not until the passing of the very system itself can it ever be hoped that polygamy will cease to be one of the cherished customs of the conservative heathen.
292. But the end is gradually drawing near. There is ample evidence that polygamy is on the decrease, and it could not well be otherwise. The recent Census shows a comparatively slight surplus of women over men, and in such case polygamy on any extensive scale is impossible in the absence of almost equally widespread bachelorhood—a condition all but unknown to the Natives and happily at total variance with all their domestic ambitions.
293. The tendencies of contact with European modes of life are all in the same direction. Christianity teaches that marriage is the sacred union of one man and one woman for life, and that fidelity to a single love is as much the duty of the man as the woman. The

example of civilisation purports to be the same. The increased needs which attend the introduction of European comforts into the Native home are rendering the maintenance of more than one establishment impracticable for all but the wealthy. Cattle plagues have so reduced the numbers of stock that "lobolo" cattle are not readily forthcoming, and, more than this, the intending polygamist can no longer regard the outlay as productive—in the manner of former times—of a self-supporting establishment whereby to attain greater weight and more dignified tribal status; but on the contrary has learned from the experience of others that his new home will prove a source of constant expense and unending complications with the neighbouring trader. These and many similar considerations point to the conclusion that the custom has almost run its course, and that a time may be looked for when it will exist only in isolated and ever less frequent instances.

294. That polygamy constitutes an obstacle in the way of advance towards Christianity cannot be denied, and much of what has been written might at the first glance be taken to indicate that the time has arrived when legislation might wisely be introduced with a view to its direct suppression; but this is not the course which the Commission advises.

295. The objection to polygamy is not that it is physically unhealthy, nor can it be urged that it was originally unsuited to the adjustment in a natural manner of numerical disparity between the sexes, for there can be no doubt that by providing for the just recognition of the rights of children born in acknowledged wedlock, it was infinitely preferable to the state of licentious confusion which must otherwise have ensued.

296. On analysis, the objections resolve themselves into the undeniable charge that the custom is essentially material and unchristian. The Commission has no wish to defend it and looks forward to the time when it shall have passed into oblivion. But no attempt to Christianise the heathen by compulsory legislation can be advised. To destroy the remnants of a recognised and in the temporal sense a healthy polygamous system without having the power to check the licentious inclinations by which it is still sustained, or to extinguish the influence of the traditional associations which cling around it, might lead to a last state far worse than the first; and, seeing that all the signs of the times point to the steady decadence of polygamy, the Commission is of opinion not only that sufficient need for legislative intervention has not been established, but that in all the circumstances such intervention would be unwise and more harmful in its effects than the dying evil it sought prematurely to demolish.

297. The Commission passed the following resolutions:—

- (1) That polygamy generally is on the decrease throughout South Africa; that this is due amongst other things to the increased cost of living, the loss of cattle, and the consequent increase of the difficulties in obtaining "lobolo" consideration, and the increase in the proportion of men marrying.

- (2) The Commission is satisfied that considerable disadvantages in their advance towards Christianity result to the Natives from polygamy, which, however, is an old-standing and prevailing social institution amongst these people. The Commission does not regard it as among those customs which have to be put down with a strong hand, but looks forward to its gradual extinction by such means as greater spread of Christianity and of civilisation, by the labour of women being more than it is supplanted by that of men, and by the ordinary laws being voluntarily adopted; and owing to the absence of any great surplus of women in the Native population, without which general polygamy is impossible for any length of time.
- (3) That in respect of marriages under Native custom, the Commission advises:—
- (a) That such marriages should not be accorded the status of a Christian marriage solemnised by a minister of religion or a civil marriage entered into before a marriage officer.
- (b) That all marriages under Native custom should be duly registered.
- (c) Recognition of the succession rights of children.

298. The registration herein recommended is not intended to import into any marriage by Native custom a status or rights which do not essentially exist under that form of marriage.

299. The Natal representatives, whilst concurring with the foregoing resolutions, are of opinion that so long as polygamy is either allowed or tolerated, the Native form of marriage should be recognised as valid and binding in law in the same degree and manner as marriages under common law.

Ukulobola.

300. Traces of the custom by which a bridegroom made gifts to the father of a girl upon his giving consent, or as an incentive to his consent, to his daughter's marriage, are to be found among all the Oriental nations. References to it are seen in the early parts of the Bible; it is mentioned in Homer; it existed among the early Germans; and until recently, if not at the present time, a relic of it survived in Christian Norway.*

301. It is not surprising that a father, who has tended, clothed and fed his daughter till womanhood, who has her cheerful presence and useful service about the home, and who may be credited with a natural love for his offspring, should not be over-ready to fall in with the proposals of the stranger who would fain take to himself the ripening fruit of the father's years of care. Nor is it surprising

* See paper by Rev. Dr. A. Kropf, Natives Laws and Customs Commission Report (Cape Colony, 1883), Appendix C, page 260.

that it should have become customary for the young man to compensate in some sort for all that he is to gain and the father to lose by the contemplated marriage. The sacrifice in itself tends to make the woman more highly prized by her husband, a fact of which the women themselves are very fully convinced, and, as a result of it, take pride in the cattle paid on their account.

302. * “ ‘Ukulobola’ may be taken to be a contract between the “ father and the intending husband of his daughter, by which the “ father promises his consent to the marriage of his daughter, and to “ protect her, in case of necessity, either during or after such “ marriage, and by which in return he obtains from the husband “ valuable consideration, partly for such consent and partly as a “ guarantee by the husband of his good conduct towards his “ daughter as wife. Such a contract does not imply the compulsory “ marriage of the woman. The ‘ikazi’ may, therefore, upon every “ principle of sound law, be recoverable under such a contract, unless “ a Native marriage involves a condition of slavery, and thus becomes “ illegal.”

303. The contract is not one of purchase and sale. The woman does not become her husband’s slave. He may not sell her. He may not kill, injure, prostitute or maltreat her; all of which would be within his power and right were the statement correct that by the passing of “ikazi” or “lobolo” a woman becomes the chattel of her husband. The customs regulating the restoration or retention of “ikazi” or “lobolo” cattle constituted in the heathenish state a salutary check on both husband and wife. Should the marriage have proved a happy one the father was contented with his cattle and the husband with his wife. If the husband ill-treated his wife beyond all reconciliation, she returned to her father’s protection and the husband recovered either a small residuum or, in some cases, none of his cattle, thus losing both wife and dowry. On the other hand, should separation have resulted from the wife’s misbehaviour, most of the cattle were returned, the woman lost caste, and her father suffered. Moreover, by Native custom, no widow or woman separated from her husband might marry a second time except from her father’s village, and with his consent, or, in his absence, that of her guardian.

304. Such, in briefest outline, is the favourable aspect of the custom as it operates among the Natives to-day. It is much to be regretted, however, that cases do occur of avaricious or pecuniarily involved parents bringing pressure upon their daughters to accept wealthy suitors, nor are such instances impossible under the highest forms of civilisation. But, as the law now stands, among the Natives as among ourselves, anything beyond persuasion is not permitted, and the use of force would be severely punished if brought to light.

305. The consent of a Native girl is necessary in every Colony or Possession in South Africa before marriage, and in some of these, where she is permitted to attain majority at the age of 21 years, her position is still stronger and she may marry without the

* Native Laws and Customs Commission Report (Cape Colony, 1883), page 30, paragraph 70.

consent of her father or guardian. Thus such hardships as are suffered are due partly to the clinging of the women themselves, even while they suffer for it, to their ancient customs, partly to their shrinking from the indecorous act of exposing their parents, and partly to ignorance of their rights, but not to any inherent defect in the law itself.

306. Even if it were possible it would not be advisable to do away altogether with the payment of dowry until Christianity and civilisation have advanced sufficiently among the Natives to have substituted something which will take its place in maintaining proper relations between husband and wife, and by that time the custom, in all probability, will have died a natural death.

307. Holding these views, the Commission sees no good reason why a Native married under Native custom should be debarred in any Colony from seeking for redress when deserted by his wife without just cause. This redress under the custom which governs the marriage is by way of restoration of the whole or a portion of the cattle according to the merits of the case. The rights of children born of such marriages are secured by special legislation in most of the States of South Africa, and it is certainly inconsistent that the check imposed by Native custom both on the treatment of the woman by her husband, and on her conduct towards her husband should be disregarded, thus leaving it open to avaricious fathers to trade upon the cattle system which, properly applied, tends rather towards upholding than to breaking down the sanctity, as far as it does exist, of Native family life.

308. The Commission passed the following resolutions :—

This Commission is of opinion that the Native custom of passing cattle known variously as "lobolo," "ikazi," and "bohadi" in connection with marriage by Native custom and usage should not be interfered with by prohibitory legislation, but be left to die out gradually as the outcome of an advance in civilisation. Evidence taken points to a tendency in that direction.

That provision be made for the hearing and determination of claims arising under Native custom for restitution of "lobolo," or such portion thereof as may be deemed equitable where a husband is deserted without sufficient cause by his wife.

MARRIAGE BY CHRISTIAN RITES AND BY CIVIL MARRIAGE OFFICERS.

309. The conversion of a Native to Christianity has consequences beyond the fact that he adopts the Christian faith and is received as a member of a Christian Church. It may bring about automatically an alteration in his relations with his family and in his position with regard to his property. The alteration referred to is not

that which arises from religious and ecclesiastical precepts with regard to his domestic relations—as, for instance, the conversion of the marriage tie from a mere contract to a sacred and permanent union—but it is more of the nature of a change in his legal status and of the laws regulating the disposal of his estate.

310. These consequences are not uniform in the various Colonies, and certain anomalous situations are created by what appear to be the inevitable difficulties attending the transference of an individual from one legal and social position to another.

311. Except in Natal, the principle underlying legislation on the subject appears to have been, throughout, a disinclination to accord to marriages under Native law and custom the full status which a Christian or civil marriage carries with it, but so far as possible to mark the status of a couple married by Christian rites or civil ceremony by bringing them and their property at once under the operation of the common law in such matters as applied to Europeans. The result is to remove the intestate estate of a Native who has contracted a Christian or civil marriage from the operation of the Native law of succession, and to bring it under the ordinary or Roman-Dutch law prevailing in the Colony. This disinclination is based upon the lack in marriages under Native custom of the essential condition in Christian marriage, that it is the union of one man and one woman for life. In the Native marriage polygamy may be, and often is, in contemplation by the husband. Moreover, under their own customs, separation was, and is, effected by the parties concerned without judicial proceedings being necessarily resorted to, simply by restoration to the husband of the cattle, or in some cases a portion thereof, paid by him to his father-in-law.

312. In Natal, on the contrary, the Native marriage is fully recognised and the devolution of estates under the Code of Native Law is prescribed by enactment, and such devolution is not affected by any Christian marriage by Christian rites, nor by anything but formal exemption from Native law. The tendency there has been to level up in certain respects the Native marriage to the Christian marriage, and the status and permanence of Native marriages have been recognised and strengthened by legislation. Divorce by a competent Court has been made necessary to annul a marriage by Native custom. A Native may not marry by Christian rites who already has a wife by Native law; this law is held to prevent even a Native monogamist converting his marriage under Native law into a valid Christian marriage with his own Native wife, and a Native married by Christian rites who subsequently contracts a Native marriage commits the crime of bigamy. A Native may, however, marry an indefinite number of wives under Native custom and commit no crime.

313. Further, in Natal, differing again from other Colonies, Christian marriage, unless the husband be exempted from Native law, does not improve the status of himself or his wife and does not remove his property from the Native law of succession and inheritance, so that, failing sons, his property in the event of his death goes to the male next-of-kin on whom devolves the guardianship of the widow and daughters.

314. Except in Natal, the intestate estate of a Native who has contracted a Christian or civil marriage is administered according to the Roman-Dutch law, the principle of which in this respect is the division of the property in prescribed shares to the widow and children of the deceased. This is distinctly opposed to Native law, which recognises the principle of primogeniture under which the eldest son succeeds to all unallotted property. The effect of Christian marriage under such circumstances is, therefore, to alter the distribution of the intestate estate very much in favour of the widow and minor children but to the disadvantage of the eldest son or other male heir. This does not affect the devolution of land held under the Glen Grey system of title, in regard to which special provisions have been made to a great extent in accordance with Native law.
315. In the Cape Colony a Native can escape from the position by disposing of his property by will, but in Natal, while subject to Native law, he has no such freedom of testamentary disposition except in respect of any landed property owned by him.
316. One of the strongest forces in Native life and one which might be utilised for bringing about an improvement in their social condition is the influence of the woman. That influence is already strong and would be made stronger and better if she were a free agent and a Christian wife. The Commission is impressed by the importance and desirability of furthering the emancipation of the Native woman of full age and of giving every encouragement to the increase of Christian marriages among the Natives, and it recommends that the Native woman so married should be thereby exempted from the tribal law and custom of guardianship, and in the event of widowhood that she should be personally free and independent. It is convinced that these would prove powerful influences in the advancement of the Native people.
317. The following resolutions were adopted :—
- That it should be the endeavour of ministers of religion and civil officers who solemnise the rite of marriage between Natives, to satisfy themselves that such Natives, in Colonies in which the effect of Christian or civil marriage is to bring the administration of their estates within the Roman-Dutch law, fully realise the legal obligations which they are undertaking.
- That no minister of religion should solemnise a marriage without being licensed as a marriage officer.
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318. The Natal representatives, whilst in the main in accord with the foregoing chapter of the Report, desire to record the following special opinions :—
- (1) That Natives who adopt the principle of monogamy by marrying according to Christian rites should, with their offspring, thereafter not contract marriage according to Native law and custom, and should in all respects be subject to the ordinary Colonial law in regard to marriage, and that

“lobolo” which is associated with Native marriages should not, therefore, be claimable or receivable for the widows or female children of Natives married by Christian rites.

- (2) That the ordinary Colonial law should, in the case of Natives married by Christian rites, be only applicable to devolution and to administration *ab intestato* in respect of real estate and not otherwise.
- (3) That it is due and right to Natives about to marry by Christian rites that they should be made to realise fully and to understand the legal effects and obligations of marriages which automatically remove them from the Native law of succession and inheritance before such marriages are solemnised.

THE CHURCH SEPARATIST MOVEMENT.

319. The next subject in the Commission's enquiries is the Church Separatist or “Ethiopian” Movement, having, as its origin, a desire on the part of a section of the Christianised Natives to be freed from control by European Churches. Its ranks are recruited from every denomination carrying on extensive operations in South Africa, and there is in each case little or no doctrinal divergence from the tenets of the parent Church, though it is alleged, and the Commission fears with truth, that relaxed strictness in the moral standard maintained frequently follows.

320. Almost without exception secessions have been led by Church officers who have been unable to co-operate smoothly with their European Superintendents. The Commission has little sympathy with the movement, as there can be no doubt that its leaders have not yet arrived at a stage when dissociation from the control of European Missionaries is likely to contribute increased wisdom in Church administration, or more ennobling examples of personal self-sacrifice and piety; but so long as it remains unassociated with mischievous political tendencies, members unite in advising that any measure capable of being represented as religious persecution should be avoided. The policy they advocate aims rather to secure such wise control and guidance of the movement that its potentialities may be exerted for good and not for evil. Some of those who by restless ambition have become prominent in association with the movement, are not men to whom its destinies could with confidence be entrusted, and in order to maintain some check upon the possibly harmful influence of such, the course which commends itself to the Commission is to accord recognition to such Native Churches as are possessed of sufficiently stable organisation to control their pastors and enforce discipline where necessary and to ensure the appointment to the ministry of reliable and worthy men only; but not to encourage those bodies which owe their existence to the discontent, or, as in some cases, to the very misconduct of men who, with a following of kindred spirits, have severed connection with their parent Church, and own no competent central authority. In pursuance of this policy it has been recommended, under the heading of “Marriage by Christian Rites,” that no minister of religion should solemnise marriages without being licensed as a marriage officer, the granting of a licence to depend on the moral character, education and the general fitness of the applicant for the duties and responsibilities

of the office. It is thought that a judicious exercise of the right to withhold such licences would prove a convenient and effectual means to differentiate between religious organisations recognised by Government as working satisfactorily in the general public interests, and bodies and individuals of whom it is unable to approve. The Commission is led to hope that in this way what is worthless and unstable in the movement will dwindle into insignificance, while so much of it as is lasting and in harmony with the true principles of religious and social advancement will not be unduly impeded, but will grow in the fulness of time to be a power for good.

321. The following are the resolutions passed by the Commission :—

That in the opinion of this Commission the Ethiopian Movement, now represented by the African Methodist Episcopal Church, the Ethiopian Order in the Church of England, and numerous semi-organised schismatic fragments detached from every denomination operating to any considerable extent in this country, is the outcome of a desire on the part of the Natives for ecclesiastical self-support and self-control, first taking tangible form in the secession of discontented and restless spirits from religious bodies under the supervision of European Missionaries without any previous external incitation thereto. Further, that upon the affiliation of certain of these seceders and their followings to the African Methodist Episcopal Church lamentable want of discrimination was displayed by the first emissaries to South Africa in the ordination to the ministry of unsuitable men.

That the Commission is not disposed to condemn the aspiration after religious independence, unassociated with mischievous political propaganda, but at the same time does not fail to recognise that in the case of a subject race such an aspiration misdirected on the one hand by the leadership of ignorant and misguided men and repressed by misunderstanding or harshness on the other might be fraught with the seeds of racial mistrust and discontent.

That the Commission cannot but regard with concern the fact that many who have been prominently connected with the movement in its various phases are men lacking in the breadth of view, wisdom and forethought necessary properly to foster and direct the fledgling ideals of a people just emerging from ignorance and barbarism into a state of semi-enlightenment.

That, reviewing these resolutions, the Commission would not advise any measure of legislative repression, unless unforeseen developments render it necessary, considering that effort should rather be directed towards securing efficient constitutional control and organisation in order that the influences at work may be wisely directed, and any individual cases in which pastors abuse the trust reposed in them, may be amenable to authoritative

discipline. To this end the Commission would deprecate the recognition of detached secessionary fragments acknowledging no efficient central authority.

That no minister of religion should solemnise a marriage without being licensed as a marriage officer.

NATIVE PRESS.

322. The Native Press has on the whole proved itself to be fairly accurate in tracing the course of passing events and useful in extending the range of Native information. It has not, however, arrived at maturity, and while at times it throws interesting light on the present phase of educated Native thought, it is not as yet a faithful reflex of the opinions of the more staid and experienced men who are in closer touch with the masses. The mere fact of its existence is a proof of rapid educational advancement. It cannot be said that nothing but good has accrued from it, but an infant press could not be expected to be wholly free from mistakes and indiscretions. Although the organs claiming to express Native opinion may not have been infallible, freedom of thought and speech within lawful limits is not lightly to be assailed. A minority in the Commission favoured the enactment of a law to punish persons responsible for publications in the Native language creating distrust and animosity between the races or likely to produce conflict between them, but after careful consideration the motion was negatived.

323. The following resolution was passed :—

This Commission considers that the Native press is a result of the educational advancement of the Natives, developing without restriction in the liberty of thought and speech permitted them under the British flag; that the Native is naturally more ready to accept without reserve information conveyed through channels which he regards as peculiarly his own; and, seeing that the Native press has proved on the whole a fairly accurate chronicle of passing events, the result has been a wider dissemination of contemporary knowledge not only amongst those who read but through them amongst the illiterate masses; that the press is at the same time valuable as an index to a certain aspect of Native thought, though not as yet a faithful guide to Native opinion as a whole, much of what appears being immaturely advanced, while the stolid good sense of the more experienced but less lettered men seldom if ever finds expression in print; that while open criticism of a powerful and despotic Chief was rarely practised by the Natives in the past, a free press more or less in touch with European ideas could not be expected to maintain the same attitude towards our Government, and that the change need not be regarded as a symptom of disloyal tendencies, but

rather as the result of a rapid assimilation of European methods before their objects are fully understood, or their privileges sufficiently appreciated to prevent occasional misuse by the unripe judgment of would-be political writers.

NATIVE POLITICAL ASSOCIATIONS.

324. More or less closely associated with the Native Press, Native Political Associations are being formed and in some parts are taking an active and intelligent interest in what they consider to be the political welfare of the Native people. They seek in the main to attain their ends by constitutional means, and their resolutions are made public. The Commission considers that the wishes of such bodies are the more easily dealt with by being openly expressed and clearly understood, and regards such public expression as being far better than discontented silence.
325. The Commission passed the following resolution :—

In view of the progress of education, the Commission sees no occasion for repression of the desire shown by certain sections of the Natives to form Societies for the promotion by constitutional means of what they believe to be their political interests. It considers, moreover, that so long as their deliberations continue to be conducted publicly, as at present, through the medium of the Native Press and otherwise, the danger arising from any mistakes made is far less insidious and proportionately more easily met than the secret plotting carried on in less enlightened days.

EDUCATION.

326. The witnesses who have given evidence have shown very marked divergencies of opinion upon the subject of Native Education. A large class of witnesses, while not absolutely hostile to some form of literary education, apparently have regarded it as of secondary importance as compared with industrial and manual training, and have expressed themselves as opposed to any considerable expenditure of public money in support of Native schools. It has been represented to the Commission with some force that the Native is more useful and contented when brought under the control of the European and so acquires habits of industry and a knowledge of the simpler forms of the agricultural and mechanical arts. That a process of education in the foregoing sense is actively going on has been made clear. The many thousands of Natives constantly employed on farms, railways and public works, and in mines and workshops are inevitably being brought under what is, in the wider sense of the word, an educational influence,

and are thereby becoming more useful and productive members of the community. These occupations involve considerable travel, removal for longer or shorter periods from their home environment and contact with civilised conditions, all of which have the effect of stimulating mental activity and widening their intellectual outlook. It appears evident that the forces surrounding the Natives are tending more and more to bring them into the field of industry, and to effect slowly by a natural process their conversion into an industrial people.

327. The enquiries of the Commission have been largely directed towards the question as to whether education in its more restricted sense as a development of the intellectual faculties by literary instruction had militated against the Native's industrial usefulness, or had had the effect of making him more industrious, contented and law-abiding.

328. The consensus of opinion expressed before the Commission is to the effect that education, while in a certain number of cases it has had the effect of creating in the Natives an aggressive spirit, arising no doubt from an exaggerated sense of individual self-importance, which renders them less docile and less disposed to be contented with the position for which nature or circumstances have fitted them, has had generally a beneficial influence on the Natives themselves, and by raising the level of their intelligence, and by increasing their capacity as workers and their earning power, has been an advantage to the community.

329. Testimony has been given as to the value of education as a concomitant of religious and moral instruction, and as to its economic effect in raising the standard of material comfort and thus creating wants. Apart from the consideration that there is a moral obligation upon the State to provide for the intellectual development of all classes of its subjects, there appear to be very sound reasons of policy for the adoption of a liberal and sympathetic attitude towards the subject of Native education. The Native, in common with the rest of mankind, does not live by bread alone, and possesses certain mental impulses and aspirations which demand satisfaction. Before the advent of European civilisation, the struggle for existence, the chase, war, tribal politics, all furnished a field for the exercise of faculties which new conditions have condemned to inactivity. No policy can be complete or sound which is limited to political or economical considerations only, and which takes no account of the irrepressible forces within each individual. And it is evident that there is among the people themselves a growing desire for education, which cannot and need not be suppressed. Native witnesses have been strong on this point, and the Native Churches which have seceded from European control have established schools for which they have attempted, in most cases unsuccessfully, to secure Government recognition and financial aid. Asserting as they do that they are denied in South Africa opportunities for higher education, the independent Native bodies have already sent or have encouraged the parents to send youths to America for a course of instruction in the Negro colleges. The character of the education at these colleges, with the accompanying grant of "degrees" on low qualifications and the atmosphere of racial animosity in which the education is acquired, render an extension

of this practice undesirable. Another course, which, while equally demonstrating the desire of the Native for education, is free from any objection, except that it would be better to educate the Native youth in South Africa, is that favoured by certain European Missionaries and Native parents who have preferred to seek the desired education for their boys in England and elsewhere in Europe.

330. The votaries of great religions have ever regarded the work of education as a pious duty, and the beginnings of Native education in South Africa were connected with Christian Missionary effort and were originally dependent for support upon the contributions of parent Churches in Europe and America. A later development was the endeavour of the Mission schools to meet the requirements of the Education Departments of the different Governments, thereby obtaining grants in aid of their work.
331. The Governments have responded with varied degrees of liberality, and the result has been that Native education in South Africa has almost completely resolved itself into what may be briefly described as a system of State-aided Mission schools. There has also been in nearly every Colony helpful legislation on the subject.
332. Some idea of the position of this State-aided education may be obtained from the following tabulated form, based upon the latest available official figures, and in the case of the Cape Colony upon information supplied by the Education Department :—

TERRITORY.		Native Population.	Estimated No. of Native Scholars.	Percentage of Native Population in Schools.	Public Expenditure on Native Education.	Rate per head of Grant to Scholars.	Amount Contributed by Domiciled Natives in Direct Taxation.
CAPE COLONY	...	1,424,787	60,451 (<i>a</i>)	4.24	£ 47,657 (<i>b</i>)	s. d. 15 9	£ 105,241
NATAL	...	904,041	10,154 (<i>c</i>)	1.12	7,265 (<i>c</i>)	14 4	162,193
TRANSVAAL (Labourers temporarily resident)	...	811,753 133,745	11,683 —	1.13 —	5,000 —	8 7 —	280,269 —
SWAZILAND	...	84,531	—	—	—	—	29,688
ORANGE RIVER COLONY	...	235,466	6,500 (<i>d</i>)	2.76	1,800	5 6	42,803
SOUTHERN RHODESIA (Labourers temporarily resident)	...	570,830 20,367	334 (<i>f</i>) —	.05 —	154 —	9 3 —	100,806 (<i>e</i>) —
BASUTOLAND	...	347,731	10,484	3.01	7,000	13 5	60,528
BECHUANALAND PROTECTORATE	...	119,411	1,000 (<i>g</i>)	.83	500 (<i>g</i>)	10 0	10,566
		4,652,662					

(a) This figure is an estimate, but approximately correct. The official returns do not separate "coloured" from "aboriginal" scholars, and the figure of 60,451 has been arrived at by excluding centres where the "coloured" population predominates. The number of scholars in the Transkei, where the population is almost entirely aboriginal, is 38,652, and the expenditure on education in these districts is returned at £25,534, which gives a rate per head of 13s. 2d.

(b) The sum of £47,657 is the amount provided on the estimates for 1902 of the Cape Education Department for "Native Industrial Institutions and Mission Schools," and is exclusive of any proportion of Central Administrative Expenditure. It can only be regarded as approximate. Using this figure, £47,657, the rate of expenditure per head of Native scholars is 15s. 9d.

(c) Taken from Report of Superintendent of Education (Natal) for year ending June, 1903.

(d) Taken from evidence of Director of Education in Orange River Colony.

(e) The rate of taxation in Southern Rhodesia has been doubled since these figures were returned.

(f) Taken from evidence of Director of Education, Southern Rhodesia. The figures refer to those schools only which obtain grants. There is no evidence as to the number of scholars in schools not obtaining grants.

(g) Figures given by Protectorate Administration.

333. The foregoing figures may be used for the purpose of forming some general conclusions, but there is such a lack of definite statistics, that it would be unwise to base on the available figures any positive conclusion as to the exact position and cost of education among the aboriginal Natives. The figures reveal that only a very small percentage of the Native population is receiving any education.

334. In the Cape Colony neither the Estimates nor the School Returns take separate account of aboriginal and coloured children, and the number and amount given have been arrived at by a process of estimating. In addition to this, there are, in all the Colonies and Possessions, many schools attended by Native children, whose numbers are not included in the Returns, as they do not receive State aid and, therefore, are not under inspection and control.

335. In addition to the amount set down it would also appear right to include in each of the Territories a portion of Central Administrative Expenditure as fairly chargeable against Native education. It has been found impossible to discover what this proportion would amount to in each case.

336. The liberality of the Cape Government is marked and commendable, but the Commission is of opinion that the evidence discloses the need generally for more liberal total grants in aid of Native education.

337. It has been found impossible to obtain any figures as to the amount of local contribution by Natives in the form of school fees, subscriptions or rates. The Commission recommends for general guidance the adoption of the principle in the distribution of grants that local contributions by Natives should be adequate in amount and that grants should only be given after satisfactory report by Government Inspectors as to the efficiency and conduct of the Native schools to be aided.
338. Evidence points to the fact that a local contribution is more satisfactorily collected in the form of a rate for educational purposes than by the payment of school fees or by irregular and spasmodic collection of voluntary subscriptions by Headmen. The most recent reports of inspections of schools in the districts under the Glen Grey Act reveal a marked increase in the number of qualified teachers and scholars and a distinct improvement in the actual attendances, which good results are traceable to the improved financial system under the Act.
339. The Commission does not recommend any measure of compulsory education for Natives, nor does it consider it advisable that any system of general public undenominational education, independent of existing Missionary organisations should be undertaken at present. There would be a distinct loss in the separation of secular instruction from moral and religious influences, and the cost of any general scheme for establishment of undenominational schools for Native children would be prohibitive. Nor does there appear any present necessity to unduly force the extension of education among the Native population. Their own growing desire for it and the energy exhibited by the Mission bodies to compete with each other in the matter of providing schools seem to assure considerable future expansion. But the resources of these Mission Churches are limited as to men and means, and there are parts which their organisations have not reached and in which there may be, and in places is, a local desire among the Natives for means of education. With reference to such neighbourhoods and elsewhere, it is necessary to consider and decide upon the question whether Native schools established, or to be established, in full compliance with the regulations of Government and under its supervision, but without European Missionary control, should be recognised and aided or not. The Commission, while admitting that there is much opposition to the view, holds that recognition and aid should be given. The movement is a legitimate one, and if such schools are well conducted, adequately supported by local Native contributions or rates, comply with public requirements, and are recommended by responsible Inspectors, their reasonable claims should be met, as this course would bring them under control, and would not only ensure that the teaching should be efficient, but that the moral tone should be what is desirable.
340. The Commission is of opinion that any local demand for Native education not otherwise provided for should be met by the creation of a fund to be administered or not, as circumstances permit, by a local Board or Committee, and to be raised by means of a rate levied upon the Natives in the area concerned, such rate to count in lieu of school fees to those who pay the rate.

341. The Commission is also of opinion that in places where a local desire on the part of Natives for education is expressed, where such education is not otherwise provided for, local effort should be met by Government aid, and that the provisions of the Glen Grey Act appear to supply the most suitable machinery for the necessary financial and administrative purposes.
342. What is particularly needed is to aid and direct, and to promote efficiency in, all existing educational agencies. The practical possibilities at present appear to be embodied in the following resolutions:—

The Commission is of opinion that education has been beneficial to the Natives of South Africa and that its effect upon them has been to increase their capacity for usefulness and their earning power, and therefore recommends:—

- (a) The continuance of Government grants in aid of Native elementary education.
- (b) That special encouragement and support by way of grants in aid be given to such schools and institutions as give efficient industrial training.
- (c) That a central Native college or similar institution be established, and aided by the various States, for training Native teachers and in order to afford opportunities for higher education to Native students.

The Commission further recommends that it should be recognised as a principle that Natives receiving educational advantages for themselves or their children should contribute towards the cost:—in the matter of elementary education and industrial training by payment of school fees or a local rate, and as to higher education by payment of adequate students' fees.

The Commission is of opinion that, where possible, in schools for Natives there should be instruction in the elementary rules of hygiene.

The Commission is of opinion that regular moral and religious instruction should be given in all Native schools.

343. With reference to the terms of the above resolutions, it is advisable, in the opinion of the majority of the Commission, to extend to some form of industrial training the same general support that is accorded to elementary education. In support of this view, it is urged that industrial training and instruction in manual work are of particular advantage to the Native in fitting him for his position in life. The minority, while not failing to recognise the moral and economic value of manual or industrial training and the special importance of this form of instruction, is of opinion that the evidence has shown that this branch of education is attended with particular difficulty and expense, and that, while simple manual training forms an excellent adjunct to ordinary teaching, definite technical instruction must be treated

as a special course which it is impossible to make co-extensive with elementary education, and for which it is unreasonable to make provision at the public charge without an adequate contribution from the students who have the advantages of such higher forms of industrial education. Nor must it be forgotten that the great demand of South Africa at present is for the unskilled or partially-skilled Native labourer.

344. The Commission, however, considers that, where it is possible workshops and school-farms in connection with elementary Native schools should receive a special measure of encouragement and support. More advanced industrial training requires the establishment of trade schools or technical institutions involving somewhat elaborate equipment, and the maintenance of an expensive staff of instructors. Some excellent institutions of this character have been inspected by the Commission, which realises that there is no likelihood of such institutions rapidly multiplying in the near future. The endeavour should be in the direction of establishing and equipping a few high-class technical schools rather than of increasing a number of second-rate ones likely to turn out poorly trained workmen.

345. It recommends special grants in aid of industrial training institutions of the required standard, but considers that such aid should be conditional upon the payment by the students of fees bearing some reasonable proportion to the cost of their board and education.

346. The Commission considers that the question of the curriculum for Native schools should be dealt with by a conference composed of educational experts and men of experience among the Natives, and limits its recommendations in this respect to an expression of opinion on the following points :—

Moral and religious instruction should be given in all Native schools.

In the elementary stages of Native education it would be well to allow the Native language to take the place of English as a medium of instruction in the lower standards, and the teaching of English, which in itself is desirable, should proceed as a separate study. The text books and reading lessons in the Native languages might with advantage, be of a character to impress on the minds of the pupils, among other useful matters, simple scientific and sanitary principles, temperance and the elementary rules of hygiene.

347. The Commission has received much evidence pointing to the necessity for some improvement in the facilities for and methods of higher education for Natives, who themselves are strongly desirous of such advanced instruction, and setting forth the view that it is the duty and should be the policy of the South African States to provide such opportunities. The evidence of Education Officers is to the effect that the supply of Native teachers is far from equal to the demand, and that many of those

whose services are available are of inferior attainments. The Commission is impressed with the advisability of establishing some central institution or Native college which might have the advantage of the financial support of the different Colonies and Possessions and which would receive Native students from them all. The immediate advantages of such a scheme appear to be, the creation of adequate means for the efficient and uniform training of an increased number of Native teachers, and the provision of a course of study in this country for such Native students as may desire to present themselves for the Higher School and University Examinations.

LIQUOR.

348. The weight of evidence before the Commission in regard to the liquor question has been overwhelming in favour of total prohibition to Natives. In the course of its enquiries in this connection it came to the knowledge of the Commission that upon many farms in certain areas it is the practice to supply the labourers employed with intoxicating liquor as an incentive to work, or as part wages. This applies particularly to farms in the wine-producing districts, and in less degree to farms and industrial estates of various kinds in other parts of South Africa. At some mines Kafir beer is supplied to Native labourers as an anti-scorbutic under regulations approved by Government. Other employers and contractors on large works follow the objectionable practice first described. It has been urged by some witnesses that the system of stimulating or rewarding labour by issue of liquor rations is established by long usage, and that without it labour cannot be procured; while others contend that the practice is pernicious and demoralising, and must ultimately lessen the physical value of the labourer.
349. The Commission has carefully weighed the issues and does not consider that there is sufficient justification, where the measure of total prohibition is, or may hereafter be, put in force, to make any exception from its operation in respect of any Native labourers in any part of the country. As will be seen from the resolution quoted hereafter, the Commission does not oppose the use of Kafir beer by such labourers in moderate quantities and under due control.
350. In favour of the exemption from prohibition of Natives who are Parliamentary voters, as in the Cape Colony, excepting the Transkei, it has been urged that having qualified for the franchise they may be assumed sufficiently advanced to have developed self-restraint and self-respect enough to be freed from all restrictions in respect to liquor. Experience, however, disproves the assumption; the fact being that the Native is constitutionally incapable of being a moderate drinker, and that he must either abstain entirely or the chances are that he will drink to excess, and when in drink all the failings of his nature assert themselves.
351. The evidence shows that the Natives themselves and their best friends unitedly desire prohibition. Even were it otherwise, the Commission would not recommend an exemption which must

inevitably increase the manifold obstacles to the effective administration of prohibitive legislation.

352. Where the supply of liquor to Natives has been prohibited, difficulty has arisen, as was to be expected, in the detection of contraventions of the law. The Natives are unwilling to give information against dealers from whom they purchase direct illicitly: while low-class persons, both European and coloured, have opportunities of procuring liquor and of supplying it to Natives under conditions so favourable as almost to defy conviction. The Commission recommends that, in order to deter the class of person mentioned from practices of this kind and to deter licensed dealers and all others from breaking the law, the penalties attaching throughout South Africa to conviction for supply of liquor to prohibited persons should be such as to leave no doubt of the serious light in which the offence is regarded.
353. It is further recommended that no liquor licence should be issued where the surroundings point to the conclusion that a licence is really sought as a cloak to cover illicit sale to Natives.
354. In pursuance of these views resolutions were unanimously passed as follows:—
- (a) That the sale or supply of spirituous liquors to Natives should be prohibited.
 - (b) That the penalties for the contravention of the laws or regulations prohibiting the sale or supply of liquor to Natives should be uniformly severe throughout South Africa.
 - (c) That no licence should be granted to sell or supply spirituous liquors within any Native location or reserve, or in the proximity thereof, where the reasonable conclusion is that no remunerative business can be conducted without sale or supply of liquor to Natives.
355. In regard to Kafir beer it was unanimously resolved:—
- That the manufacture of Kafir beer containing not more than 4 per cent. of spirit be permitted for home consumption; that the holding of Kafir beer parties on private property be under restrictions and in Native locations or areas in which Natives are congregated be regulated by Government; and that the sale of Kafir beer be prohibited.
356. The Commission bears in mind that Kafir beer is food as well as drink, and, taken in moderation, has proved itself of great value as a preventive of scurvy and kindred complaints to which the Native, whose diet seldom comprises anything of the nature of green vegetables, is very liable to succumb when unable to obtain a supply of his accustomed beverage.

LABOUR.

357. The Terms of Reference include Native labour as one of the subjects set down for enquiry and report. The Commission realises that certain aspects of the South African labour question were fully dealt with by the Transvaal Labour Commission of 1903. The questions submitted to that Commission were: what are the requirements of the industries of the Transvaal, and how far is it possible to obtain an adequate supply of labour from Central and South Africa to meet those requirements. That Commission reported in the sense that in respect of agriculture, mining, and other industries, including railways, the demand for labour was in excess of the supply, and that the demand would in all probability increase. With particular reference to the mining industry, the finding was that the demand was in excess of the supply by no less than 129,000 labourers, and that a further number of 196,000 would be required in five years. The Labour Commission, in its Report, went on to express its opinion that no adequate supply of labour existed in Central and South Africa to meet the above requirements.
358. The present Commission sees every reason to agree with the finding of the Labour Commission as to the particular questions which engaged its attention, and it has addressed its enquiries more to the following points in connection with the labour question affecting the whole of the British South African Colonies and Possessions :—
- The number and distribution of the Native population.
- The proportion of such population which, as able-bodied males, may reasonably be looked to for supplying the necessary labour for agricultural, mining, industrial, and domestic work.
- Whether the proportion of labourers and workers which such a population might reasonably be expected to supply is actually forthcoming.
- If such reasonable supply is not forthcoming, what are the reasons or causes of the failure on the part of the Natives to meet such expectations.
- What practical measures can be recommended to improve the present position.
359. In attempting to get reliable figures upon which to base conclusions, the enquirer is met at the outset by the same difficulty that confronts one in dealing with several other South African subjects, namely, the absence of reliable statistics and returns.
360. Attempts have been made to meet this difficulty by obtaining estimates from persons possessing a special knowledge of the circumstances, and certain results have been arrived at. These results are in accord with the general trend of the evidence given before the Commission, and with your Commissioners' personal opinion as to the facts.
361. The following table is an attempt to set forth the existing demand and supply as regards Native labour :—

ESTIMATE.

TERRITORY.	Native Population.	SUPPLY.					DEMAND.		
		Males over 15 = one-quarter of Population.	Married men = one-seventh of Population.	Unmarried men over 15.	Males between 15 and 40 = one-fifth of Population.	Number of married men who may be expected to be at work at any one time = one-third of total married men.		Number of unmarried men who may be expected to be at work at any one time = one-half of total unmarried men.	Total number of males who may be expected to be at work at any one time.
CAPE COLONY ...	1,424,787	356,197	203,541	152,656	284,957	67,847	76,328	144,175	253,000*
NATAL ...	904,041	226,010	129,150	96,860	180,808	43,050	48,430	91,480	65,000
TRANSVAAL (including SWAZILAND)	896,284	224,071	128,040	96,031	179,257	42,680	18,015	90,695	374,000
(Labourers temporarily resident) ...	(a) 133,745								
ORANGE RIVER COLONY ...	235,466	58,867	33,638	25,229	47,093	11,213	12,614	23,827	60,000
SOUTHERN RHODESIA	570,830	142,707	81,547	61,160	114,165	27,182	30,580	57,762	25,000
(Labourers temporarily resident) ...	(a) 20,367								
BASUTOLAND ...	347,731	86,933	49,676	37,257	69,546	16,558	18,628	35,186	2,000
BECHUANALAND									
PROTECTORATE ...	119,411	29,853	17,060	12,793	23,900	5,687	6,396	12,083	3,000
Totals ...	4,652,662	1,124,638	642,652	481,986	899,726	214,217	240,991	455,208	782,000
					38,528			19,264	
					938,254			474,472	
									474,472
									307,528
									Shortfall ...

(a) Of these 154,112, 25% only is estimated to be British South Africa Natives.

* This is after allowing for the work done by Malays, Coloured People, and Hottentots.

362. The first part of the table shows the Native population in the various Colonies and Possessions. The area of the Native reserves and the number of the Native population on those reserves are shown on Annexure No. 8. The estimated number of able-bodied males over 15 years of age, and the estimated number of those between the ages of 15 and 40, which is the period of life during which the Native is disposed to leave his home for the purpose of working for wages, are shown in the foregoing table. The table also shows the estimated number of married men, which has been calculated at one-seventh of the population, and the estimated number of unmarried men, which has been arrived at by deducting the number of married men from the total number of males over 15 years of age. The number of workers available at any one time has, for the purpose of this table, been estimated as being one-third of the married men and one-half of the unmarried men. The calculation thus made shows an estimated total of 474,472 as the number of Natives available for paid labour at any one time, or a percentage of 50·6 of the total male population between the ages of 15 and 40.
363. The table showing the demand is based where possible upon evidence given before this Commission and before the Labour Commission, and, where such evidence has been unobtainable, upon an estimate of the requirements for domestic purposes, farm and other industries.
364. In presenting this table the Commission fully recognises that results based on figures which are largely estimates must be accepted subject to the usual allowance by way of margin for error. Figures which have not been supported by evidence and by general knowledge of the probabilities have been disregarded. In dealing with a mass of people spread over a wide area and under varying conditions, errors in estimating figures have a tendency to balance or correct each other, and when the conclusion arrived at by the consistent application of reasonably sound principles coincides generally with known facts, it may be taken as approximately correct. With these considerations in view the Commission feels justified in submitting these figures as fairly representing the case for all practical purposes.
365. There is one fact which all evidence points to, namely, that the South African Native is not at present a continuous worker. The average period for which he will remain away from his home in the capacity of a labourer has been variously estimated, but there are no figures to prove any definite conclusion as regards all classes of workers. It appears most probable that this period may be estimated at three to six months for the labourers in mines and on other industries, with a longer period in the case of agricultural labourers.
366. The proportion of actual workers at any one time to the possible number of workers is largely a matter of conjecture. Any attempt to obtain definite conclusions from the number of passes issued seems futile. The number of passes issued may illustrate the tendencies of the supply of Native labour, or may render possible comparisons between the supply at the different seasons, but as such passes give no record of the period for which

labourers work, they throw no light on the question as to how many are employed at any one time.

367. Starting with the number of all the males between the ages of 15 and 40 as being the total source of supply from which all workers have to be drawn, it seems reasonable to assume that the conditions of communal life, and the known disposition of the Natives, make it probable that half this number on the average may be expected to work at any one time. That is, that there are about 900,000 able-bodied possible workers, of whom about 450,000 may be held to be always at work. The units of this total alternate between their homes and outside labour, but the approximate total is constant. In endeavouring to arrive at an estimate of the proportion of the Native population which may reasonably be looked to for a constant supply of labourers, the Commission has recognised that the Natives of South Africa have always been a pastoral, and, to some extent, an agricultural people, and that, having regard to the fact that their homes, their wives and families, and their worldly possessions are at a distance from the great labour centres, it would be unreasonable to expect the entire adult male population to leave their homes in search of work.
368. The calculations which have been made show an estimated constant demand of 782,000, and an estimated continuous supply of 474,472, showing a shortfall of 307,528 labourers.
369. Under these circumstances the question naturally arises, how in South Africa agriculture or any industry is carried on? The answer is that when carried on at all it is carried on under difficulties, as to which there is abundant evidence. The British South African aboriginal Native has not fully met the labour requirements of the country. There is no doubt that were these Natives alone to be relied upon, South African industries could at present only be worked at half power. Native labour has had to be supplemented by the employment of Africans imported from other parts of Africa, Indians and Chinese. In the latest report of the Government Mining Engineer of the Transvaal, it is mentioned that of the Natives employed in mines there, only 15 per cent. were British Africans. The economic disadvantage of this position is obvious, and the serious annual loss to British South Africa by the withdrawal of the large sums in wages paid to these foreigners is manifest.
370. There are many causes which may be deemed to have produced this situation. As shown in the table [Annexure No. 8], one-half of the Native population lives on reserves. The bulk of these occupy land for the most part communally and free of charge, except hut or poll tax, upon which it is possible for them in some fashion or other to make a living as agriculturists or peasant proprietors without the necessity, excepting in exceptionally bad seasons, of earning wages.
371. With regard to those who do not live on the reserves and who have, either from personal motives or by reason of compelling circumstances, occupied either Crown lands or the lands of private owners upon payment of rent, it may be said that this portion of the population has continued to be able to farm, on a small scale

indeed, but with sufficient measure of return to enable them to supply their own small wants and pay such rent and taxes as have been demanded from them.

372. Both the above classes of Natives have had access to the land on terms which have enabled them to regard work for wages as a mere supplement to their means, and not as it is regarded in the older industrial communities, namely, as the urgent condition under which the majority of mankind earn their daily bread.

373. The theory that the South African Natives are hopelessly indolent may be dismissed as being not in accordance with the facts. Even the simple wants of the Native population cannot be supplied without some degree of exertion. The population of 4,652,662 has to derive its sustenance from a soil which is not everywhere fertile, and the Native agriculturist has to contend with the same drawbacks of drought and pestilence that beset the European farmer. The labour of tilling the soil, weeding and reaping is shared, but is by no means exclusively performed by the Native women; and the representation of the Native living at his own village a lazy and luxurious life, supported by his wife or wives, is misleading. The Commission is not of opinion that polygamy has any considerable effect upon the Native question in retarding the development of the Native as a worker.

374. The main reasons for the existence of the labour difficulties may be summarised as follows:—

The Native populations have always been pastoral and agricultural.

The rapid increase of South African labour requirements, particularly during the last quarter of a century, has found them to a great extent unprepared to meet the new conditions which surround them.

The normal condition of Native life is that of a small cultivator and herdsman, and the circumstances of their history have never developed among them a class accustomed to, and dependent upon, continuous daily labour.

The inexpensiveness of their living, the limited nature of their wants, and the comparative absence of incentive to labour.

The terms on which they occupy the land.

375. Given such a population, possessing easy access to the land, it would have been extraordinary if the present situation had not followed on a very rapid growth of industrial requirements.

376. Except in the case of farm labour and the like, which is specially suited to the Native, it must not be forgotten that what is known as paid labour generally, means to the Native, as a rule, absence from home and family, and in some employments irksome and often hard and dangerous work, and the abandonment of the ease, comforts and pleasures of Native village life. As further discouragements there have been breaches of agreement by con-

tractors, misrepresentations by labour agents and touts, and occasional harsh treatment, which have tended to shake the confidence of the Native. The rate of wages, nominally high, has to be considered in relation to the purchasing power of money at present South African prices, and it must be remembered that the Native has as a rule to pay top prices for his purchases.

377. Having given weight to all such considerations, the Commission is of opinion that administrative measures are desirable to bring about a healthier economic condition. The agricultural and industrial development of South Africa is retarded by the lack of a sufficient labour supply, and the importation of foreign labour, particularly in the Transvaal and Natal, has, after most careful consideration of the subject, been found to be absolutely necessary. This condition of things is deplorable, but it exists.

378. The supply available from local sources is capable of being increased, and the Commission has given attention to suggestions as to how this is to be done. Any recommendation as to higher wages is quite out of place. In the first place, any departure from the principle that the rate of wages must be a matter of free contract between employer and employé is unsound, nor is any relief from present difficulties to be found in such a measure. To raise the rate of wages in one locality might have the effect of attracting labour to that particular quarter at the expense of other industries, but that would not alter the general situation. Further, it has been stated, and the Commission feels that there is a measure of truth in the suggestion, that while increased wages might have the effect of tempting a larger number of labourers into the market, on the other hand, such increased gains would enable them to remain for a longer period at their own homes.

379. The Commission, therefore, makes no recommendation on the subject of the rate of Native wages.

380. Any measure of compulsion is to be deprecated, not only as unjust, but as economically unsound. Native evidence in Natal was to the effect that the form of compulsory service obtaining there, is intensely distasteful to the Native people concerned. The labour is paid for at less than the prevailing rate, thus penalising the men employed, who, by going out to the ordinary employments open to unskilled labourers, could earn higher wages. Some of the most responsible and important witnesses in Natal expressed in evidence before the Commission their disapproval of this form of compulsory labour.

381. Indirect compulsion in the form of a labour tax, with a remission to workers, has been recommended, but the suggestion appears to the Commission to be open to the same objections as apply to direct compulsion; in addition to which, any measure of taxation of this kind to be really effective, would have to be so high as to be impossible of application. Every Native community includes in its number the old, the infirm, and those who, by virtue of other pursuits, or by reason of family circumstances, it would be very unjust to force from their homes into the labour market or to heavily tax with a view to doing so. But the Commission

considers that in the interests of the State, of the development of the great natural resources of the country, and of the Natives themselves, it would not only be legitimate but wise and just to keep in view in all legislative and administrative measures, the creation of a condition of things which at least will not perpetuate or aggravate the existing labour difficulty. It cannot but be an advantage to the Natives to be induced without compulsion to become more industrious. Economic pressure and the struggle for existence will be felt by many of them at no very distant date, and an industrious people will be better fitted for such conditions—which are even now arising. The formative influences which labour and industry will bring to bear on the character of the Native himself will be most valuable.

382. It might have been supposed that the farmer, by reason of his being a land-owner and because of the fact that he is able to offer the Native, employment that is congenial to him and under natural and healthy conditions, would have had great advantages in the competition for the services of the Native labourer. It is the general complaint by farmers that the attractions of the towns and the high rate of wages given at the mining centres and ports together with the system of unregulated squatting and other causes, increase their difficulty in obtaining an adequate supply of agricultural labour. The Commission considers that an administrative measure which might to a great extent assist the farmers in this respect would be a strict enforcement of the laws designed to check the practice of unrestricted squatting and to regulate and control private locations. In addition, the Commission desires to see in force throughout British South Africa the principle adopted in the Cape Colony, of exempting from hut or poll tax any Native who is a farm servant and in *bona fide* and continuous employment.

383. The following are the recommendations made with a view to stimulate industry among the Natives.

The checking of the practice of squatting, by refusal to license all but necessary or desirable private locations, and the imposition of a tax on such locations as may be authorised, based on the number of able-bodied Natives domiciled thereon.

The imposition of a rent on Natives living on Crown lands as distinct from recognised reserves or locations, such rent to be based upon the value of such land and to be regularly and punctually collected.

The enforcement of laws against vagrancy in municipal areas and Native labour locations, whereby idle persons should be expelled.

The encouragement of a higher standard among Natives by support given to education with a view to increase their efficiency and wants.

The encouragement of industrial and manual training in schools.

The protection of the Native worker in his health, his comfort, his safety and his interests, by provision for his

accommodation and transport when travelling by rail or road to and from his work.

The enactment of regulations which will so far as possible secure that while at the larger labour centres his food his housing, his sanitation, and his medical treatment, should be satisfactory. In this respect the Commission recognises that very much has already been done at Cape Town, Kimberley, Johannesburg, and other centres.

The abolition of all taxes or charges upon passes when travelling.

384. One branch of the Native labour question is the employment of women, and the Commission feels that it is highly desirable that every measure should be adopted which would encourage the employment of Native women in domestic work. The employment of Native women for domestic purposes would, particularly in Natal and the Transvaal, release large numbers of men and boys for employment in occupations more suited to them. One of the results which the employment of females may reasonably be hoped to have would be the introduction into Native domestic life of higher standards of comfort, cleanliness and order. At the same time it cannot be overlooked that the employment of women in large centres of population would undoubtedly expose them to much temptation and the danger of moral ruin. The remedy for this must always rest largely with the individual employer, whose duty it should be to protect and care for the character of female servants. Where it might appear probable that organised efforts to secure a supply of Native female servants would be effective, provision might be made for the formation of Societies which would undertake the duty of protecting female workers by securing suitable employment for them and providing them with homes or refuges while awaiting employment.

385. Reference has been made in another portion of the Report to labour locations. The Commission considers that where found practicable the formation of labour locations, where the Native could reside with his family near his employment, would largely tend to diminish the number of those intermittent workers in whom absence from their families induces a spirit of restlessness and disinclination to remain in continuous employment.

386. Messrs. Krogh, Hamilton, Thompson and de la Harpe desire to add to the foregoing list of recommendations made with a view to stimulate industry among the Natives, the following:—

The imposition of an annual rent on location land based on the producing value.

The substitution of individual for communal tenure, with the right of sale between Native and Native.

Close attention to the enumeration of huts liable to tax and the punctual collection of the tax thereon.

TAXATION.

387 This is a matter in which an accurate knowledge of the actual existing facts would be of the greatest service in considering what changes, if any, should be made in the amount of taxation to be borne by the Natives and in the manner of levying or collecting it. Definite information in clear and reliable figures covering the whole ground is difficult, if not impossible, to get at present, and in this connection the Commission takes the opportunity of suggesting to the Governments concerned that more attention might be given to the continuous collection of complete data and the creation of full and reliable records on many questions of fact touching the Native population: their numbers, their movements going to and returning from work, their marriages, their birth and death rate, their consumption of dutiable goods, and their other contributions to the revenue, the amount fairly chargeable to them for police and administration purposes, the amount spent on them for education, and so forth. Statistics, when true, may throw great light on the path of the administrator and of the legislator.

388 Taxation is of two kinds: direct and indirect; meaning by direct what is paid as a tax by the Native to the Government, and by indirect what the Native contributes to the Government by the purchase of goods on which Customs or other duty or tax has been paid to the Government. We may dispose of the latter first. There are no official figures showing the value of dutiable goods imported into Native territories or areas in South Africa except Basutoland and the Bechuanaland Protectorate, but attempts have been made to arrive at some approximate figure of the amount of such goods consumed by the average Native and the amount of indirect taxation in that way contributed by the Natives to the State. The Commission sought for evidence on the subject, but found great diversity of opinion even among those whose business it is to sell such goods to Natives.

Indirect Taxation.

389 Taking the figures of Basutoland and the Bechuanaland Protectorate as being the most accurate available, they show:—

In BASUTOLAND:—

Total annual imports to 30th	
June, 1904	£298,140
Total Customs duty collected...	£35,882
Native population	348,000
White population	900

or an average annual contribution by the Natives to the State of 2s. per head.

In the BECHUANALAND PROTECTORATE:—

Total Customs duty collected, 1903	£13,355
Native population...	120,000
White population	1,000

390. After allowing for the revenue contributed by the white population these figures also show 2s. per head as the amount of duty paid by the Natives within the Protectorate.

391. In the NATAL Blue Book on Native Affairs, 1903, the following appears:—

“ *Estimated Value of Goods Imported into the Colony of Natal for the Kafir Trade, showing approximately the Amount of Duty collected thereon for the year 1903.* ”

	Value. £	Duty. £
“ Beads	14,378	6,385
“ Blankets	80,000	16,000
“ Picks, Hoes, Shawls and Tobacco	8,400	2,750
“ Other Goods	200,000	15,000
	<u>£302,778</u>	<u>£40,135</u>

392. These figures include importations for Zululand and should therefore be judged in connection with the figures of the whole Native population of the Colony of Natal, Zululand and New Territory, which were, according to the Census of 17th April, 1904:—

Male	426,766
Female	477,275
	<u>904,041</u>

393. On the basis of these figures, therefore, the value of goods imported into Natal for the Native trade amounts only to 6s. 8d. per head of the Native population and the Native contribution to the Government by way of duty to 10½d. per head per annum.

394. This figure differs so materially from the more precise figures shown by Basutoland and the Protectorate that it is necessary to recall the fact that the Natal figure is an estimate only.

395. In the TRANSKEIAN TERRITORIES there are no reliable figures available, which is much to be regretted, as they would be to a large extent typical. The Commission thinks that it is worthy the consideration of the authorities whether a system of ascertaining and recording the value of goods consumed by the Natives in the Territories and the duty paid thereon could be adopted. The evidence of witnesses on the facts was conflicting. A Native witness who had been seventeen years in the Transkei estimated £8 a year as the expenditure on imported goods of an average Native family. A trader thought it might be £10 a year per family, and another £2 a year per head. These figures are guesses, and the amount of duty included in the amount spent can only be guessed at.

396. In the ORANGE RIVER COLONY the official *estimate* supplied to the Commission is:

Total Customs duty contributed by Natives			
in 1903 ... ..	...	...	£27,600
Native population ... ..	...	...	235,500

or 2s. 4d. per head.

397. In RHODESIA :—

Total Customs duty collected 1903-4...	£126,572
Native population	570,830
Coloured population	1,944
White population	12,623

398. Allowing for the spending power of the Europeans, which is probably not less than as 50 to 1 compared with the Natives in Rhodesia, these figures also suggest the view that 2s. per head per annum covers all the indirect taxation borne by the Natives of South Africa. The Acting Chief Native Commissioner of Mashonaland estimates a little over 9d. per head as their contribution in his Province, which coincides roughly with the Natal estimate.

399. An estimate of 2s. per head per annum as the average amount contributed by all the Natives throughout British South Africa in indirect taxation, appears to be a fair one, and as that is the amount shown by the Basutoland and Bechuanaland figures and no equally definite figure is before it, the Commission accepts it as a basis of calculation. On this basis the amount contributed in duty on imported goods by the whole Native population of the country is £465,266.

400. The articles which bring in the largest sum are blankets and rugs, which are subject to a duty of 25 per cent. Hoes and agricultural implements are free.

401. The Commission has no recommendation to make in regard to individual duties, and points out that the way to increase the total of the Native's contributions to the revenue under this head is to increase his wants and his capacity to earn money, while at the same time creating if possible a condition of things which by natural pressure will compel the Native to work more continuously.

402. Direct Taxation.

Turning now to direct taxation :—

In the shape of poll or ordinary hut tax the Natives paid during 1903-4 to the Governments of South Africa	£792,094*
In general rate for local purposes under the Glen Grey Act†. Divisional Council road rate, dog tax, passes, they paid	£80,454
	£872,548

403. The proceeds of the Divisional Council rate and of taxation under the Glen Grey Act, are spent by and on the Natives themselves, through their local governing bodies, for local purposes. The Europeans, however, benefit in common with the Natives in respect

* See Annexure 9.

† The amount paid under the Glen Grey Act as District and General Council rate during 1903, and included above, was £17,519. In 1904, collections under this head reached £38,630.

of expenditure on roads, which absorbs a large share of the amount collected in rates from the Native people. Deducting the estimated total of these rates and taxes, say, approximately, £19,000, there remains an amount of £853,000 annually contributed by the Natives in direct taxation for general purposes, or about 3s. 9d. per head of the total population of 4,652,662.

404. No figures are available to show how much of the total annual expenditure of every Government should be fairly charged to the Natives if an accurate account were struck with them. The first cost of the administration of Natives and their affairs shown in the various Budgets amounts to a little over £184,000. But this first cost of administration is arrived at in various ways, the same head of expenditure being sometimes charged to the Natives and sometimes not. For instance, in Natal the amount is £25,000 only: the cost of Magistrates and police, etc., not being taken into account in this figure.
405. In addition to this total of £184,000, therefore, a proportion of the amount spent on education, on Magistrates and police, on interest on unproductive debt, on public works not yielding revenue, on central administration, and generally, should be debited to the Natives before it is possible to say precisely what they should contribute in the aggregate to the revenue as taxpayers in order to pay their fair proportion of the total public expenditure.
406. The Commission, in making the recommendations quoted below, recognises that the amount of yearly hut or poll tax charged to the Natives may properly vary in different parts of South Africa, but has fixed a minimum below which it should not fall. That minimum is £1 per annum, exclusive of local taxation for beneficial purposes.
407. The Commission also recognises that the value of the land occupied by the Natives and of the produce thereof has increased since the hut tax of 10s. a year now obtaining in the Cape Colony and the 14s. a year obtaining in Natal were fixed: and that money is more easily earned by the Natives now than then. It must, however, be considered that the cost of living has increased for the Natives.
408. The Commission is of opinion:—
- (1) That it is necessary to impose direct taxation upon the Natives.
 - (2) That direct taxation can best be imposed by means of a poll tax or hut tax.
 - (3) That such tax should not be less than £1 per year, payable by every male adult Native, with an additional £1 for every wife after the first.
 - (4) That the following be exempt:—
 - (a) Farm servants in *bona fide* and continuous employment.
 - (b) Natives domiciled within any urban area who pay local taxes.

409. In addition to the taxation referred to above, the Commission is in favour of the extension of the principle of local taxation for beneficial purposes on the lines of the Glen Grey Act.
410. These resolutions do not touch the question, which was fully discussed in Commission, of whether rent should be charged to the Natives for the land given up to their use and occupation. The majority of the Commission are opposed to the idea of rent being charged to Natives on locations and reserves. The resolutions recommend a change wherever the present tax is less than the minimum named therein. *e.g.*, in the Cape Colony, Natal, and the Bechuanaland Protectorate; but a minority of the Commission urge that above and beyond this change in detail, there is the greater question of whether the Natives should be required, or not, to pay rent for the land they occupy. The Commission has affirmed the principle that rent should be paid in the case of squatters on Crown lands, and in the case of the Natives holding under individual tenure what is now location or reserve land.
411. In the opinion of the minority, this principle is sound and should be extended, wherever possible, to all land in the use or occupation of Natives, such as Native locations or reserves, together with the further principle that the rent should be based on the producing value of the land.
412. The minority referred to does not consider that a rent charge by the State could be properly described as taxation, being a payment for value like any other rent. The subject is introduced here because of its collateral bearing upon the matter of taxation, and its direct bearing upon the question of whether the Natives contribute adequately to the State for the benefits they receive from the State. Among these benefits, not the least is the peaceful use and occupation of large tracts of country, aggregating 141,100,800 acres, throughout South Africa, free of rent.
413. The minority of the Commission believes that to do away with free land to Natives would be to strike at the root of much that is most unsatisfactory in Native life—tribalism, communal occupation of land, polygamy, inertness, the comparative unprogressiveness of the mass, the absence of the desire for or incentive to agricultural or industrial paid labour—and that coupled with the right of purchase and sale of land among themselves, leading in time to larger individual holdings, the change would in a relatively short time reduce the number of Natives tied to the locations and reserves, release a large number for work more valuable to themselves and to the country, and would immensely raise the manner of living and the habits of the Natives remaining on the locations and reserves.
414. The minority recommends that hand in hand with the levying of rent on land and out of the greatly increased revenue which would thereby accrue, a liberal encouragement and endowment of schools, industrial training institutions, irrigation works, roads, railways, hospitals and other schemes and works likely to raise the standard of Native life and to increase their efficiency as economic units in the State, should be given.

415. The Commissioners forming the minority claim that the suggested change would bring the Natives under the pressure of the law "If a man does not work neither shall he eat," and by doing so would set in motion certain potent forces which would start the Native races of this country on the upward road more than any legislation which could be devised.
416. The view of the majority of the Commission on the subject of the tenure of land by Natives in what are known as reserves distinctly differs from that set forth above. The majority reject as historically incorrect the view that such land has been given up for the use of the Natives without the existence of any antecedent right on their part. With the exception of certain cases in which land has been granted to Native tribes as an act of grace or in reward for special services (*e.g.*, as was done for the Fingos in what is now known as Fingoland), the people are at present in occupation of the ancestral land held by their forefathers. Often the area of this ancestral land has been restricted and several of the tribes occupy considerably less than the extent of country formerly held by them. In the main the Natives have distinct rights which should be regarded as rights of ownership, and there is no justification for the assumption that they ought to be regarded as in occupation merely as tenants at will of the Crown and subject to the payment of annual rent for the use and enjoyment of the land. These tribes came under European government in most cases by peaceful annexation and did not understand that the transfer of sovereign rights to the Crown involved the surrender or forfeiture of land ownership. Therefore, a special tax based on land values and on the assumption that the Natives have been provided with land and should pay rent for it, would be unjust and would be so regarded by them.
417. The taxation of the Native should be based upon considerations as to what may be deemed to be an adequate contribution, with a due regard to his means and capacity to contribute to the revenue, and to the proportion of public expenditure which may be chargeable to Native administration. Any form of indirect taxation alone would not be effective in dealing with a people who at present are only commencing to develop a necessity for the taxable commodities of European civilised life. Native contributions to revenue have, therefore, to be supplemented by direct taxation, and the form of hut tax or poll tax applied where they are domiciled and where they occupy the land is the most convenient and equitable.
418. The majority of the Commission deprecate the view that any calculation of the amount of land in occupation of Natives can be based upon the total area of reserves referred to in the argument of the minority and shown in Annexure No. 8. The total of 220,470 square miles includes an area of no less than 127,630 square miles in the Bechuanaland Protectorate which has already been described in this Report as "much of it waterless and unproductive," and which carries a population of 78 to the square mile. The table in Annexure No. 8 shows the density of the population on the remainder of the reserves as varying from 6.80 in Southern Rhodesia to 132.81 in the Orange River Colony. Excluding the extreme figures, the density of the population in reserves in the Cape

Colony, Natal, the Transvaal, and Basutoland is such, that the majority regard the conclusion that 2,458,281 of the Native population are occupying 141,100,800 acres of land as fallacious and misleading. A calculation as to distribution of land that may more appropriately be made is that 4,652,662 Natives are allotted in South Africa 220,470 square miles of land as against 694,303 square miles owned by 1,680,529 Europeans and others.

419. The Natal representatives do not concur with the resolutions of the Commission on taxation, with the exception of the first two clauses with which they agree. They are of opinion, however, in view of the increase in wages and in the cost of administration, that Natives generally, but especially those who reside on lands set apart for them as locations and reserves and who do not pay rent, are under-taxed at the present time where the hut tax is less than £1 per hut annually. They therefore agree that where the present hut tax is less than £1 it should be brought up to that figure as a maximum, except in the case of Natives in locations and reserves as already stated, in which case they think that the maximum should be 30s.
- As an alternative to the payment of hut tax, they would be in favour of a poll tax of £1 per annum payable by all male Natives above the age of 18 and under 50 years residing on locations or reserves where no rent is paid, provided that Chiefs and Headmen, who fill official positions, are exempted, and that poll tax takes the place of hut tax and any obligation to render compulsory service.
- In respect of Natal, where Natives are called upon to render compulsory labour, they are of opinion that this obligation should cease on the imposition of increased taxation up to and above £1 per annum.

REPRESENTATION.

420. Under their ancient tribal system the Native people were not without representation and the wishes of the tribe at all times played an important part in guiding the policy of the Chief's government.
421. With the exception of the military autocracies established over the Zulus by Tshaka, over the Matabele by Umzilikazi, and by Umswazi in Swaziland, the rule of Native Chiefs in South Africa was not so irresponsible as it is generally believed to have been. Their will was tempered and to a very large extent controlled by a Council so weighty and influential that no step of serious tribal importance was taken until the whole matter had been discussed by it at length. This Council consisted of advisers of the Chief generally spoken of as Councillors. Certainly they were such, but they were much more; they were the direct representatives of the people's wish, and in the very considerable freedom of speech permitted to them at their gatherings the popular voice found means of expression. A Councillor was not formally appointed, simply becoming such as his opinion at the public gatherings increased in weight and as he acquired popular influence he grew to be accepted more and more as representative of a section of the tribe. It might be courage and warlike achievements, wealth, skill in public debate, penetration in unravelling the intricate windings of Native law suits, or other personal attributes which made him a representative and public man. At their

homes the Councillors were recognised as arbitrators in civil disputes. A few of them were always to be found at the Great Place, where they largely relieved the Chief of the burden of judicial cross-questionings and assisted him in the Executive, fulfilling many of the duties of Ministers under more advanced forms of government. There was, of course, no form of election, but sufficient has been said to show that the Council was distinctly representative of the people's voice. No sooner did any matter of concern to the tribe arise than the Councillors were summoned, no important action being taken until it had been fully discussed in all its bearings.

422. As European government superseded that of the Chiefs the old machinery fell into disuse, save perhaps in Basutoland, where, under a new name, the National Council presided over by the Resident Commissioner maintains to a large extent the tradition of the past. Councils still meet under the presidency of Chiefs in British Bechuanaland and the Protectorate, and affairs of minor importance are decided by them.

423. The present position in South Africa cannot be considered as a whole without regard to the various forms of government obtaining in the several Colonies and Possessions.

424. These are :—

Cape Colony... ..	...	}	Self-governing Colonies.
Natal ... ..	...	
Southern Rhodesia...		}	Royal Charter with Legislature partly elective.
Transvaal ... ..	...	
Orange River Colony		}	Crown Colonies.
Basutoland ... ..	...	
Bechuanaland ... ..	...	}	Protectorates.
(Protectorate)			

425. In Basutoland and the Bechuanaland Protectorate the Natives have not been disturbed in their tribal form of government, though legislative power is removed from the Chiefs and centred in the High Commissioner. In these Territories, as in the Crown Colonies, the Natives have a useful chain of communication with the supreme authority through the officers appointed to manage them and conduct affairs relating to them. Generally speaking, these officers consist of Commissioners, Magistrates and others. In Basutoland, however, a further means of ascertaining the opinions of the people is provided in the Council already referred to consisting of 100 selected Native representatives.

426. In the Crown Colonies there is a member of the Executive Council responsible for Native affairs. In Natal, Transvaal and Rhodesia the Governor or Administrator is Supreme Chief.

427. The Commission is satisfied that in the Crown Colonies and in the Protectorates above-mentioned the interests of the Natives are safeguarded.
428. Under Responsible Government a Minister, who is a Member of Parliament, has control of Native affairs.
429. The main conditions, in addition to being a British subject, born or naturalised, governing the franchise in the Cape Colony, Rhodesia and Natal may be here given :—

CAPE COLONY and RHODESIA :—

Age	...	...	21 years.
Sex	...	...	Male.
Education	...	...	Ability to write name, address and occupation.

Property, alternative:	{ Occupation of building, or land, or both, for 12 months (in Rhodesia 6 months), to value of £75. Receipt for 12 months of wages at rate of £50 per annum.

Land held on communal tenure and under Glen Grey Act title may not be brought into computation.

NATAL :—

Age	...	...	21 years.
Sex	...	...	Male.

Property, alternative:	{ Possession of immovable property to value of £50, or rental of yearly value of £10. Income of £8 per mensem, or £96 per annum, and three years' residence.

Special Qualifications for Natives	{ Residence ... 12 years in Natal. Exemption ... 7 years from Native Law. Certificate of good character. Consent of the Governor.	

430. The following particulars are quoted from the latest official returns relative to registered voters :—

In the CAPE COLONY :—

Number of voters in 1895	...	...	90,985
Number of voters in 1899	...	...	119,738
Number of voters in 1903	...	...	135,168

Statistics relating to race distribution of voters in 1903 :—

European.	Indian.	Kafir.	Fingo.	Other.	Malay.	Hottentot.	Chinese.	Total.
114,450	399	5,455	2,662	10,162	747	1,226	67	135,168

In RHODESIA there were in 1903 :—

Europeans.	Asiatics.	Natives.
5,199	52	51

In NATAL :—

Number of Voters in 1893	...	10,273
Number of Voters in 1903	...	18,946

Race distribution in 1903 :—

European.	Coloured.	Griquas.	Natives.	Indians.	Total.
18,680	103	7	2	154	18,946

431. The position is, then, as regards direct representation of the Natives of South Africa that, except at the Cape, it is practically non-existent ; and there, Native interests have secured a considerable amount of attention because of their political power which is sufficient not only to influence elections but even to turn the balance in certain constituencies, and to affect the general policy.

432. It is not so material to compare the two systems—the one giving freely and the other restricting—as to weigh the prospects if the Natives, within whose comfortable reach the qualification is now deemed to be, are to have the franchise accessible in equal degree with a European community over whom they preponderate so largely in numbers.
433. The Native population of the Cape Colony is about a million and a half, out of which a quarter of a million are adult male Natives and potential voters. The present number of Native voters is, therefore, the merest fringe of the impending mass, and in view of this fact the full magnitude and gravity of the question may be apprehended. A few of the witnesses claimed that full and equal political rights should be granted to all classes of men fulfilling the necessary franchise qualifications, and they urged that anxiety on the score of disproportions might be relegated to the distant future.
434. These views are not shared by the Commission which recognises that a situation has arisen requiring fair but resolute treatment, a situation not only immediately unsatisfactory but pregnant with future danger.
435. In the Cape Colony the Natives have been admitted to the franchise on equal terms, with the result that in the Eastern Divisions such as Victoria East, Fort Beaufort, Somerset East, Queenstown, Wodehouse, Aliwal North, and Tembuland, the Native voters by throwing their weight in favour of one or other of the two European parties now existing can already determine the issue of any election.
436. There are other constituencies in which the Native voters are sufficiently numerous to exercise a strong influence in any election, and in the present state of parties the Native vote has acquired an excessive importance. The growing power of the Native vote is not confined to these Eastern divisions. On the contrary, the movement westward of these people towards the seaports and inland towns is noteworthy. Port Elizabeth already has 1,114 Native voters; Cape Town, Woodstock and Wynberg, 478; Humansdorp, 80; Victoria West, 46. In five only out of the 46 constituencies of the Cape Colony are there no Native voters. Further, the qualifications for the franchise are becoming more easy of attainment by the Natives. Higher wages are being earned by the unskilled labourer, education is spreading fast, and the holding of fixed property is becoming more common. From this it is clear that in the near future Native voters in at least some of the constituencies will outnumber the Europeans. Under such circumstances the voting of the future may proceed upon race lines and no one acquainted with the conditions of life in South Africa will hesitate to say that a conflict would then arise fatal to the good relations which have upon the whole hitherto existed between white and black in this country. The wise course, therefore, is by forethought and timely provision in the interests of all classes to avoid the evil already looming in the distance. It is certain that the Europeans in any constituency will not rest content to be represented in their Legislature by a member returned against their wishes by the Native vote alone, and it is equally certain that throughout South Africa the Europeans will not tolerate in any

Legislature a Ministry dependent upon a majority consisting of members owing their seats to the Native electorate.

437. The Commission has duly regarded another aspect of this question, that is the desirability of extending to the Natives in some parts of South Africa franchise privileges which hitherto they have not enjoyed there.
438. In Rhodesia the law is the same as in the Cape Colony, and has, therefore, been dealt with; but at present there are only 51 Native voters. In Natal, after many years of nominal accessibility of franchise rights, only two Native voters figure on the rolls. In the Transvaal and Orange River Colony, under Republican administration the Natives had no vote. One object of the Commission's recommendations is to secure in due time in these Colonies also a measure of representation to the Natives, which hitherto has not been accorded to them. In favour of this it may be urged that they are rising in the scale of civilisation; they are in many cases increasing in material wealth, including the holding of land; they are becoming good workers in mines and more or less skilled in other industries; they contribute to the revenue in direct and indirect taxation; their labour is a valuable economic factor in South Africa, and for these reasons their interests should be represented in the legislative bodies of the country, otherwise such interests might unduly suffer for lack of expression and publicity.
439. The Commission has the fullest confidence that once the franchise in respect of Natives is placed upon a fair and permanent basis throughout South Africa, more attention will be given to educational and other interests of Natives which hitherto have rather been in the background or have been prejudiced by the more obtrusive question of their political status.
440. The Commission recognises its responsibility in tendering advice on the subject of the political status of the Natives throughout South Africa, which involves a twofold change, *viz.*:—In Cape Colony and Rhodesia the limitation of existing rights; and in the other Colonies the creation of practically new rights. The latter is true of Natal, notwithstanding the present theoretical right of the Natives there to the franchise, since in practice it is withheld from them.
441. The Commission arrived at the conclusion that the possession of the franchise by the Natives under the system existing in the Cape Colony, which permits it being used in a spirit of rivalry with and antagonism to the European electorate, which makes the organised Native vote the arbiter in any acute electoral struggle between political parties, and which as the Native voters increase numerically will enable them to out-vote the Europeans in certain parts of the country, is sure to create an intolerable situation and is an unwise and dangerous thing.
442. On the other hand, the Commission recognised that it was unnecessary and impracticable to take away the franchise from the Natives where they already had it, all that is needed being to change the manner in which it should be exercised. It also felt

that in those parts where the Natives have not in the past had any vote or any form of elected representation in the Legislatures, it is likely to be advantageous to the State and conducive to their contentment to give them the same privileges as elsewhere in South Africa ; provided that this can be done without conferring on them political power in any aggressive sense, or weakening in any way the unchallenged supremacy and authority of the ruling race, which is responsible for the country and bears the burden of its government.

443. Having arrived at these conclusions, the Commission had little difficulty in deciding upon the system which it should recommend for adoption in order to attain the objects in view. The system suggested in the resolution which follows hereon is one which has stood the test of many years' experience in another British Colony, and it embodies an idea which pervades much of the most thoughtful evidence on the subject led before the Commission. The central idea of the scheme, in favour of which there is entire unanimity among the Members of the Commission, is separate voting by Native electors only for a fixed number of Members to represent them in the Legislatures of the country, with the same status as other Members : the number and qualifications of such Members to be settled by each Legislature ; the number not to be more than sufficient to provide an adequate means for the expression of Native views and the ventilation of their grievances, if any, and not to be regulated by the numerical strength of the Native vote ; no Native to vote at the election of any candidate or Member who is to represent Europeans ; all Colonies and Possessions in South Africa to adopt the plan as they become self-governing.

444. Among the results hoped for from the change are :—

The avoidance of racial strife, on the inevitableness of which under the existing system in Cape Colony the Commission has already dwelt.

The freeing of all questions affecting the betterment of the Natives from any considerations of consequent increase in their political power, and from the resulting hostility to measures conducive to their progress and improvement on the part of many Europeans otherwise friendly to the Native cause.

The direct representation of Native views and interests by Members elected by the Natives themselves, and by them alone, which has never hitherto been the case.

The establishment of a uniform and permanent political status for the Natives throughout South Africa, otherwise impossible, giving them a voice in the discussion and settlement of their affairs, and removing all grounds for discontent arising from a comparison of their position in this respect in different Colonies.

The direct and continuous exchange of views on questions affecting the interests of our large Native population, between the Government and other Members of the Legislature, and the Member or Members elected by the Natives to represent them,

445. It is true that there will still be political influences at work among the Natives, and party candidates will still compete with each other for their votes, but the Commission has sufficient confidence in the political sagacity of the Natives to believe that they will not become the mere tool of parties but will speedily realise their responsibility and, appreciating their opportunity when returning a Member for themselves, will choose that Member wisely. The votes of their Members in the respective Legislatures will still count in a division and will be sought for by contending parties, but, whatever party triumphs may result from their votes, these will not arouse such racial hatred as must come in time from the system which makes the Native voter a potential dictator in local elections.

446. The following are the resolutions of the Commission above referred to :

- (1) That in the interests of both races, for the contentment of the Native population and better consideration of their interests, it is desirable to allow them some measure of representation in the Legislatures of the country ; that such representation should be granted on the following lines and recognise the following main principles :
 - (a) That no Native shall vote in the election of any member or candidate for whom a European has the right to vote.
 - (b) That the extent of such representation, that is, the number of members to be granted to Native constituencies, shall be settled by each Legislature, and that at least one such seat should be created in each of the self-governing Colonies in South Africa now, and in each Colony or Possession as it becomes self-governing.
 - (c) That in each Colony now self-governing, or when it becomes self-governing, there should be created an electoral district or districts in which Native electors only shall vote for the election of a member or members to represent them in the Legislature, and that there should be separate voters' lists and separate candidates for Natives only, but that this should in no way affect the franchise, the voters' lists, or the representation of the European community within such districts.
 - (d) That the qualification for the Native voter be the same as for the European.
- (2.) That the qualification of the member or members to represent the Natives should be determined by each Legislature.

447. Mr. Samuelson concurs with the above resolutions of the Commission subject to the following reservations :—

- (1) That the qualification of the voter shall include an educational test.
- (2) That no Native who is uncivilised and who is a polygamist shall be eligible as a voter.

448. The Commission submits with this Report and its Annexures the original Minutes and other Papers relating to its Proceedings.

We have the honour to be,

Your Excellency's most obedient Servants,

GODFREY LAGDEN,

Chairman.

Cape Colony... { W. E. STANFORD.
F. R. THOMPSON.

Natal ... { S. O. SAMUELSON.
MARSHALL CAMPBELL.

Orange River
Colony ... { JNO. QUAYLE DICKSON.
J. B. DE LA HARPE.

Transvaal ... { J. C. KROGH.
J. A. HAMILTON.

Rhodesia ... THOMAS C. SCANLEN.

Basutoland ... H. C. SLOLEY.

H. M. TABERER,

Secretary.

HOUSE OF ASSEMBLY,

CAPE TOWN,

30th January, 1905.

ANNEXURES

TO

REPORT.

SCHEDULE OF ANNEXURES

TO

REPORT OF COMMISSION.

1. Letters issued by His Excellency the High Commissioner appointing the Commission, together with two Government Notices making an alteration in the Commission and appointing the Secretary.
2. Letter from His Excellency the High Commissioner to the Chairman, dated 21st September, 1903, transmitting his Commission.
3. Printed Paper, showing Heads and Order of Evidence.
4. Printed Paper, showing Questions on which particulars were sought.
5. Interim Reports of the Commission, dated respectively 4th December, 1903, and 6th June, 1904.
6. Alphabetical List of Witnesses, arranged according to Countries in which Evidence was taken: together with a List of Persons invited to give Evidence, but who were unable to attend.
7. Population Return of the various South African Colonies and Territories, 1904.
8. Return of Density per Square Mile of Native Population in Reserves. Polygamy and Labour Return. Maps showing Extent of Land occupied by or reserved for Natives, as follows :
 - Sa.* Cape Colony.
 - Sb.* Natal.
 - Sc.* Transvaal.
 - Sd.* Orange River Colony.
 - Se.* Southern Rhodesia.
 - Sf.* Bechuanaland Protectorate.
9. Return of Native Taxation.

Report of Commission.

ANNEXURE No. 1.

HIGH COMMISSIONER'S NOTICE No. 70 of 1903.

NOTICE IS HEREBY GIVEN of the following Commission issued by the High Commissioner.

By Command of His Excellency the High Commissioner.

(Sgd.) C. H. RODWELL,

Acting Imperial Secretary.

Johannesburg,
22nd September, 1903.

COMMISSION.

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

To Sir Godfrey Lagden, K.C.M.G. :
Sir Thomas Scanlen, K.C.M.G. :
Samuel Olaf Samuelson, Esquire :
Hon. Marshall Campbell, Esquire, M.L.C. (Natal) ;
Walter E. Stanford, Esquire, C.M.G. :
Francis Robert Thompson, Esquire, M.L.A. (Cape Colony) ;
James Alexander Hamilton, Esquire :
Johannes Christoffel Krogh, Esquire :
Captain Quayle Dickson ;
Stephanus Jacobz, Esquire ; and
Herbert Cecil Sloley, Esquire.

GREETING :

WHEREAS at the Customs Conference held at Bloemfontein during the Ninth of March, 1903, the following resolution was passed :—

“ That in view of the coming Federation of South African Colonies it is desirable that a South African Commission be constituted to gather accurate information on certain affairs relating to the Natives and Native administration and to offer recommendations to the several Governments concerned with the object of arriving at a common understanding on questions of Native policy.

Such Commission to consist of two representatives from each of the Colonies and one each from Rhodesia and Basutoland with the addition of a Chairman to be nominated by the High Commissioner.”

AND WHEREAS the Governments of Cape Colony, Natal, the Transvaal, the Orange River Colony, Southern Rhodesia, and Basutoland have in pursuance of the aforesaid resolution respectively nominated representatives to the said Conference from the said Colonies and Territories, to wit :

From Cape Colony :—

Walter E. Stanford, Esquire, and
Francis Robert Thompson, Esquire, M.L.A.

From Natal :—

Samuel Olaf Samuelson, Esquire, and
Hon. Marshall Campbell, Esquire, M.L.C.

From the Transvaal :—

James Alexander Hamilton, Esquire, and
Johannes Christoffel Krogh, Esquire.

From the Orange River Colony :—

Captain Quayle Dickson, and
Stephanus Jacobz, Esquire.

From Rhodesia :—

Sir Thomas Scanlen, K.C.M.G.

From Basutoland :

Herbert Cecil Sloley, Esquire.

NOW KNOW YE that I, reposing great confidence in your zeal, knowledge and ability, have authorised and appointed, and do by these presents authorise and appoint you the said Godfrey Lagden, Thomas Scanlen, Samuel Olaf Samuelson, Marshall Campbell, Walter E. Stanford, Francis Robert Thompson, James Alexander Hamilton, Johannes Christoffel Krogh, Quayle Dickson, Stephanus Jacobz, and Herbert Cecil Sloley to be my Commissioners, and you the said Godfrey Lagden to be Chairman, for the purposes mentioned in the aforesaid Resolution, and more especially to enquire into and report on the following matters :—

1. The status and condition of the Natives; the lines on which their natural advancement should proceed; their education, industrial training and labour.
2. The tenure of land by Natives and the obligations to the State which it entails.
3. Native Law and Administration.
4. The prohibition of the sale of liquor to Natives.
5. Native Marriages.
6. The extent and effect of polygamy.

And I do hereby desire and request that you, or any five or more of you, do, as soon as the same can conveniently be done, using all diligence, report to me in writing your proceedings by virtue of this Commission.

And I further will and direct, and by these presents ordain, that this Commission shall continue in force until you shall have finally reported upon the matters aforesaid, or otherwise, until this Commission shall be by me revoked; and that you the said Commissioners or any five or more of you shall sit from time to time at such place or places as you shall find necessary for the purposes aforesaid :

And I do hereby direct and appoint that you have liberty to report to me your several proceedings from time to time, and at such places aforesaid as the same or any part thereof may respectively be completed and perfected.

In Witness whereof I have caused this Commission to be issued this 22nd day of September, 1903.

GOD SAVE THE KING.

Given under my Hand and Seal this Twenty-second day of September, One Thousand Nine hundred and Three.

(Sgd.) ARTHUR LAWLEY,

High Commissioner.

High Commissioner's Notice No. 86 of 1903.

IT IS HEREBY NOTIFIED for general information that Johan Bestendig de la Harpe, Esquire, has been appointed to be one of the Representatives of the Orange River Colony on the Inter-Colonial Native Affairs Commission in the place of Stephanus Jacobz, Esquire, resigned.

By Command of His Excellency the High Commissioner,

(Sgd.) C. H. RODWELL,

Acting Imperial Secretary.

Johannesburg,
21st October, 1903.

High Commissioner's Notice No. 73 of 1903.

IT IS HEREBY NOTIFIED for public information, with reference to the High Commissioner's Notice No. 70 of 22nd September, that Henry Melville Taberer, Esquire, has been appointed Secretary to the Inter-Colonial Native Affairs Commission.

By Command of His Excellency the High Commissioner,

(Sgd.) C. H. RODWELL,

Acting Imperial Secretary.

Johannesburg,
24th September, 1903.

ANNEXURE No. 2.

High Commissioner's Office,

Johannesburg,

21st September, 1903.

I.S. No. 4424 03.

SIR,

I have the honour to forward to you a Commission appointing you to be Chairman of an Inter-Colonial Commission constituted in terms of Resolution 10 passed at the Customs Conference held at Bloemfontein in March last.

That Conference was composed of leading political representatives from the Colonies of British South Africa, and I need hardly say that I attach great weight to the recommendations which after careful deliberation they made.

The Resolution above-mentioned was in the following terms:—

“That in view of the coming Federation of South African Colonies it is desirable that a South African Commission be constituted to gather accurate information on certain affairs relating to the Natives and Native Administration and to offer recommendations to the several Governments concerned with the object of arriving at a common understanding on questions of Native policy. Such Commission to consist of two representatives from each of the Colonies and one each from Rhodesia and Basutoland, with the addition of a Chairman to be nominated by the High Commissioner.”

The consideration of this important question is by no means free from difficulty. The laws, policy, and form of administration adopted by the various Governments together with the habits, customs, and characteristics of the Native people, are known to be in many respects divergent. It is hardly, therefore, to be expected, even with every desire to make concessions in order to arrive at a common understanding, that entire reconciliation can be effected where the territorial circumstances and conditions present so much disparity and where systems, the growth of many years, have been established and maintained during the process of evolution.

In furtherance of its object the Commission will discuss under such headings and in such order as it may consider advisable any question brought forward by yourself as Chairman or by the other members acting on behalf of the Governments which they respectively represent.

There are, however, some subjects in particular which my opinion and my interpretation of the Bloemfontein Conference lead me to think are of paramount importance, and which I therefore submit for definite consideration.

They are :—

1. The status and condition of the Natives. The lines on which natural advancement should proceed. Education. Industrial training. Labour.
2. The tenure of land and the obligations to the State which it entails.
3. Native law and Native administration.
4. Liquor prohibition.
5. Native marriages, succession and inheritance.
6. The extent and effect of polygamy.

These subjects are not necessarily placed in the order which the Commission may desire to consider them.

The advisability of obtaining information on many important points by means of written statements from the Governments concerned, and from individuals, and of inviting the attendance of persons whose evidence is considered likely to be of value, is a question which you will no doubt bring forward for discussion at an early stage of the proceedings. The attendance of any private European individuals who may be required as witnesses may be obtained by your direct invitation as Chairman of the Commission ; that of officials or Natives should be sought through the head of the Government under which they are employed or reside. The expenses of such witnesses will be defrayed by joint contribution of the Colonies concerned.

It is not possible to estimate the time during which the Commission is likely to be occupied and circumstances may preclude the possibility of completing in one or two sessions the important task entrusted to it. In order, therefore, that the various Governments may be kept informed of the progress of the work I request that you will furnish me, in the event of adjournment, with the minutes of proceedings up to date and a report of any conclusions which may have been arrived at. The Commission will finally present a complete report of the whole proceedings accompanied by its observations and its general recommendations upon the whole subject of reference.

I desire in conclusion to express the hope that the proceedings of the Inter-Colonial Native Affairs Commission may be marked by the same spirit of amity and co-operation which formed so gratifying a feature of the Conference recently presided over by Lord Milner at Bloemfontein, and that the result of its labours may be to provide one more stepping-stone towards the federation of British South Africa.

I have the honour to be,

Sir,

Your most obedient Servant,

(Sd.) ARTHUR LAWLEY,

High Commissioner.

ANNEXURE No. 3

SOUTH AFRICAN NATIVE AFFAIRS COMMISSION.

HEADS OF EVIDENCE

FOR

EXAMINATION OF WITNESSES.

- 1.—Land Tenure.
- 2.—Marriage Laws and Customs. Succession and Inheritance.
- 3.—Administration of Local Affairs.
- 4.—Franchise.
- 5.—Native Labour.
- 6.—Education, Religion (its influence on the character and well-being of the Natives), and Industrial Training.
- 7.—Laws affecting Natives and their Administration. Tribal System.
- 8.—Taxation :
 - (a) Direct.
 - (b) Indirect (with regard to the consumption of dutiable goods), and other contributions.
- 9.—Liquor Traffic.
- 10.—The Status and Condition of the Native. His earning power and resources.

ANNEXURE No. 4.

SOUTH AFRICAN NATIVE AFFAIRS COMMISSION.

QUESTIONS.

- (1) With what Natives or Native tribes are you familiar? How long have you resided in South Africa?
- (2) What is your knowledge or experience of the employment or control of Natives or the administration of Native Affairs?
- (3) Describe briefly the conditions of land tenure obtaining among the Natives with whom you are best acquainted. What are your views on the land question as affecting the Natives? Do you favour the communal or individual system of land tenure? State your reasons for the views you hold.
- (4) State the laws and customs in regard to marriages obtaining among the Natives with whom you are acquainted. Should the State recognise such marriages? If so, to what extent, and for what reasons? What are the influences upon the moral character, industry, and progress of the Natives (men and women) of
- (a) Polygamy;
- (b) The customs connected with Native Marriages known as "ilobolo," "ikasi," or "bohadi."
- (5) What are the existing laws of Native succession and inheritance with which you are acquainted? Are they satisfactory? If not, what changes do you suggest?
- (6) Is there in operation any special system, apart from tribal organisation, by which the Native people with whom you are acquainted administer their local affairs? If so, please describe it, and say with what results it operates. Suggest changes if you think any advisable.
- (7) Are the Natives you are dealing with in these answers eligible to qualify as Parliamentary electors? If so, do Native voters exercise their right intelligently and independently? Please state whether you are in favour of Parliamentary and Municipal Franchise for Natives; and if so, subject to what qualifications (property, wages and educational). Give your reasons.
- (8) Is difficulty experienced in procuring a sufficient supply of Native labour? If this difficulty exists, is it diminishing or increasing; and, in your view, from what causes? Is farming or any local industry at present suffering from want of labour or from the cost of the same? What are the rates of wages in the various classes of labour? Can the labour supply be increased by a change in the rate of wage?
- (9) (a) What has been the effect of the education of Natives in respect to
- (i.) Industrial Habits
- (ii.) General usefulness?
- How far is industrial training desirable? What should it comprise? To what extent and for what reasons do you think education should be encouraged or supported by the State? What is your opinion of the State-aided or other systems of education with which you are acquainted?
- (b) What influence has the teaching of the Christian religion exercised upon the Native mind and character? Has it tended to advance their material welfare?
- (10) In what respects do you consider the laws affecting Natives and their administration are faulty, and in what ways can you suggest amendment?
- If you are acquainted with the workings of any tribal systems state their advantages or disadvantages, and the extent to which Government recognition and support should be given?
- (11) (a) Does the Native contribute fairly by direct and indirect taxation towards the State?
- (b) What goods does he consume, and what does he contribute in forms other than taxation?
- (12) Are you in favour of the total prohibition of the sale and supply of alcoholic liquors to Natives? Give your reasons.
- (13) What is your opinion of
- (a) The status and condition of the Native men and women compared to that of 20 years ago;
- (b) Their present resources;
- (c) Their earning power;
- (d) Their cost of living?
- (14) What in your view, will, in future, become of the surplus Native population for which no reserved land may be available?
- (15) Have you suggestions of a definite nature to offer on any other points? [*Vide List of Subjects attached.*]

ANNEXURE No. 5.

Queenstown.

11th December, 1903.

Interim Report of the South African Inter-Colonial Native Affairs Commission, constituted by His Excellency the High Commissioner for South Africa by Notice in an Extraordinary Issue of the "Official Gazette," dated the 22nd September, 1903.

TO HIS EXCELLENCY THE HIGH COMMISSIONER FOR SOUTH AFRICA.

May it please Your Excellency,—

In terms of the Commissions issued by the High Commissioner and by the Governor of each Colony and Dependency represented, the Chairman and Members appointed thereby met on 29th September, 1903, at Capetown and having deliberated, adopted methods of procedure.

In Your Excellency's Letter of the 21st September, 1903, addressed to the Chairman of the Commission, it was directed in order to keep the various Governments informed of the progress of the work that in the event of adjournment a report should be submitted with any conclusion which may have been arrived at, together with the Minutes of proceedings up to date. Copy of the Minutes of Proceedings is appended.

ANNEXURE "A."

In view of the profound importance of the subject your Commissioners realised at an early stage of their labours that in order to attain the object desired it was essential to seek and admit full evidence, oral and written, from those competent to give it, and to visit, not only each of the Colonies and Territories concerned, but those centres in each where different conditions obtain.

ANNEXURE "B."

The lines upon which the examination of witnesses should proceed were then determined, and heads of evidence to be taken were drawn up and published, together with a series of questions to which written replies should be invited. These questions, of which copies are attached, have been widely circulated throughout South Africa, and are eliciting valuable information.

It became manifest that the progress of the work would be hampered and impeded unless and until some comparative digest could be made of all the laws and regulations relating to Natives now of force in the various States and Dependencies of British South Africa. Thereupon arrangements were made to meet this want, and a digest which cannot fail hereafter to be of permanent value, is in course of preparation.

The Commission heard at Cape Town the evidence of witnesses conversant with Cape Colonial Natives' affairs, and visited certain locations established in that neighbourhood for the housing and accommodation of large numbers of domiciled and migratory Natives employed thereabouts.

The Commission then proceeded to the Eastern Province of the Cape Colony with King William's Town as a centre to which, during the period from the 2nd to the 26th November, further witnesses were called and evidence taken particularly upon the subject of the Native land settlements and administrative features peculiar to British Kaffraria.

It was there that, in the year 1853, Governor Sir George Catheart inaugurated the system of individual land tenure, under which a considerable amount of ground is still held. Visits were paid to certain land settlements at Middeldrift and elsewhere, to the Municipal locations, and to the native industrial institutions at Lovedale, in the District of Victoria East.

Proceeding from King William's Town on the 26th November to East London, further evidence was taken and inspection made at that place of the large Native location, containing 11,000 persons, controlled by that Municipality. Thence the Commission journeyed *via* Queenstown to Lady Frere, in the District of Glen Grey, and there investigated the system of Native land tenure and local self-government, established in 1894, under the Glen Grey Act of the Cape Colony, hearing evidence as to the results and working of the Act and inspecting many of the allotments. The Commission then paid a visit to the mission settlement at Mount Arthur, and returned to Queenstown.

It has been decided by the Commission to adjourn on this date, and to re-assemble on the 15th of February, 1904, at Kei Road, in the Cape Colony, for the purpose of proceeding to the Transkeian territories.

The Commission is unanimously of opinion that it would be premature to express views upon the various subjects of reference until full opportunity has been afforded of gaining information of a comparative character in other Colonies, which may form the basis of general conclusions from which recommendations may be offered.

P.O. Box 909, Durban,

June 6th, 1904.

Interim Report of the South African Inter-Colonial Native Affairs Commission, constituted by His Excellency the High Commissioner for South Africa, by Notice in an Extraordinary Issue of the "Official Gazette," dated September 22nd, 1903.

TO HIS EXCELLENCY THE HIGH COMMISSIONER FOR SOUTH AFRICA.

May it please Your Excellency,—

In the first Interim Report, dated Queenstown, December 4th, 1903, your Commissioners stated that in view of the profound importance of the subject under reference, and in order to attain the object desired, it was essential to seek and admit full evidence, oral and written, from those competent to give it, and to visit not only each of the Colonies and Territories concerned, but also those centres in each where different conditions obtained.

In pursuance of this policy, the Commission determined, upon re-assembly, to continue its investigations in the Cape Colony, and for that purpose met on March 11th last, at Kei Road, in the Eastern Province.

Proceeding thence by land transport through the Transkeian Territories, where the mass of the Native population of the Cape Colony reside, the Commission took, *en route*, the evidence of many witnesses, including prominent officials, missionaries, professional men, farmers, traders, Native chiefs, and headmen. This step proved of great value as offering an opportunity to study the features of administration in those territories where individual land tenure and local self-government have been partially established.

After hearing evidence at Butterworth, Umtata, and Kokstad, the Commission proceeded thence on April 1st to Pietermaritzburg in Natal.

At Pietermaritzburg and Durban, which latter place was appointed as a centre for the greater convenience of witnesses from the southern parts of Natal and from the Province of Zululand, sittings were held from the 7th April to this date (the 1st June) during which period evidence was taken from persons representing all classes of the community in Natal, who displayed a great desire to be heard.

Your Commissioners found it necessary to make exhaustive enquiry regarding, *inter alia*, the results in Natal of the system of Native Administration under the existing code of Native Law legalised by Statute, which presents features of a character unique in South Africa.

The Session in Natal included visits to industrial institutions, and a short visit of inspection to Zululand in order to acquire information from personal observation.

In accordance with instructions contained in Your Excellency's letter of 21st September, 1903, a copy of the Minutes of Proceedings is appended. The full notes of evidence are being printed, and will be placed before Your Excellency as completed.

Your Commissioners adhere to the opinion expressed in their first Interim Report that it is undesirable to express views upon the various subjects of reference until their enquiries are complete.

The Commission has resolved to close its second Session to-day, and to re-assemble at Pretoria at a date approximate to the 1st of August next for the purpose of pursuing its investigations in other Colonies and territories.

ANNEXURE No. 6.

List of Witnesses Alphabetically Arranged.

CAPE COLONY.

NAME OF WITNESS.	DESIGNATION.	DATE.	QUESTION.	VOL.	PAGE.
Attaway, Rev. A. H.	Minister, A.M.E. Church	15th October, 1903	3090—3223	II.	252
Brownlee, W.	Resident Magistrate	15th March, 1904	13116—13697	II.	951
Bull, Rev. H. P.	Missionary, Anglican Church	15th October, 1903	2985—3089	II.	215
Collins, H.	Representing Farmers' Congress	4th November, 1904	45316—45489	IV.	941
Coppin, Bishop L. J.	Minister, A.M.E. Church	14th October, 1903	2581—2840	II.	215
Cornish Bowden, A. H.	Assistant Surveyor-General	8th October, 1903	1021—1155	II.	92
Coulter, T.	Mayor of Kokstad	29th March, 1904	16229—16281	II.	1179
Crisp, Rev. Canon	Missionary, Anglican Church	15th October, 1903	3224—3308	II.	261
Crowe, R. J.	Farmer and Hotel-Keeper	16th November, 1903	10258—10353	II.	749
Daley, M. H.	Labour Agent	16th March, 1904	13943—14025	II.	1026
Dalindyebo and others	Native Chiefs and Headmen	22nd March, 1904	...	II.	1091
Davies, Rev. D. B.	Missionary, Wesleyan Church	2nd December, 1903	12493—12747	II.	901
De Bruin, C. G.	Griqua Headman	31st March, 1904	17594—17701	II.	1267
Dick, R. J.	Special Magistrate	2nd and 16th Nov., 1903	5549—6541 10354—10446	II.	424, 755
Dillon, Lin	Accountant to Chief Magistrate	22nd March, 1904	14924—15013	II.	1692
Dower, E. E.	Chief Clerk, Native Affairs Department	1st October, 1903	1—707	II.	1
During, D. N.	Assistant Resident Magistrate	1st December, 1903	11690—11838	II.	810
Dwane, Rev. J. M.	Missionary, Anglican Church	12th November, 1903	9678—9782	II.	708
Edmonds, R. P.	Farmer	17th November, 1903	10447—10673	II.	763
Ely, F. H.	School Inspector	11th November, 1903	8941—9052	II.	654

NAME OF WITNESS.	DESIGNATION.	DATE.	QUESTION.	VOL.	PAGE.
French, Sir Somerset R., K.C.M.G.	Postmaster General	14th October, 1903	2501—2580	II.	207
Garstin, F. C.	Resident Magistrate	1st December, 1903	11839—12200	II.	849
Golding, G. F.	Farmer	2nd December, 1903	12748—12900	II.	916
Hall, E. F.	Government Land Surveyor	15th March, 1904	12984—13108	II.	929
Hargreaves, J. C.	Resident Magistrate	31st March, 1904	17308—17519	II.	1248
Hargreaves, Rev. P.	Missionary	30th March, 1904	16816—17058	II.	1218
Harper, Rev. J.	Missionary	12th November, 1903	9361—9677	II.	687
Heathcote, R.	Law Agent	22nd March, 1904	14594—14769	II.	1066
Henley, Col. S. S.	Law Agent	16th March, 1901	13766—13912	II.	1011
Herbert, W. J.	Coloured Employer	19th October, 1903	3619—3661	II.	290
Heyneinan, J. G. B.	Acting Master, Supreme Court	9th October, 1903	1395—1497	II.	123
Heywood, A. W.	Conservator of Forests	21st March, 1904	14329—14360	II.	1049
Humphrey, J. C.	Farmer	29th March, 1904	15625—15934	II.	1141
Hunter, D. A.	Lay Missioner, Free Church of Scotland	11th November, 1903	9245—9360	II.	674
Jabavu, J. Tengo	Native Newspaper Editor	16th November, 1903	9870—10257	II.	723
Kawa, Rev. P. K.	Native Missionary, Anglican Church	10th November, 1903	8425—8581	II.	610
King, A. D.	Farmer	29th March, 1904	16075—16228	II.	1171
Kling, H.	Missionary, Rhenish Church	20th October, 1903	4253—4397	II.	338
Kriel, T. L.	Farmer	22nd March, 1904	14770—14828	II.	1080
Landrey, J.	Farmer	17th November, 1903	10674—10798	II.	778
Leach, P. W.	Chief of Transkeian Detective Department	29th March, 1904	16398—16428	II.	1192
Leary, W. P.	Resident Magistrate	30th March, 1904	16429—16815	II.	1194
Le Ronx, Rev. P. L.	Dutch Reformed Church Mission	21st October, 1903	4398—4593	II.	346
Liefeldt, M. W.	Resident Magistrate	15th March, 1903	13116—13697	II.	954
Lightfoot, Ven. Archdeacon	Clergyman of the Church of England	18th October, 1903	2299—2361	II.	188
Lloyd, C. A.	Superintendent, Municipal Location	26th November, 1903	11290—11689	II.	821
Lowe, N. A.	Superintendent, Docks Location	8th October, 1903	1156—1394	II.	102
Lowry, H. T.	Trader	21st March, 1904	14539—14593	II.	1063

McClure, Rev. J. J.	...	Minister, Presbyterian Church	...	12th October, 1903	1979—2195	II.	165		
Malleson, P. R.	...	Cape Orchard Company	...	21st October, 1903	4614—4755	II.	361		
Maumba, E.	...	Representing Native Vigilance Association	...	21st March, 1904	14072—14328	II.	1032		
Mdolomba, Rev. E., and others	...	Representing Ndabeni (Matiland) Location	...	16th, 21st, 22nd and 23rd October, 1903	3412—3618 4394—4643 4756—4818 5076—5154 5317—5442	} II. }	} 277, 356, 368, 386, 407		
Merriman, Hon. J. X., M.L.A.	...	Ex-Crown Minister	...	22nd October, 1903	5155—5346			II.	393
Moffat, J. B.	...	Resident Magistrate	...	9th October, 1903	1198—1812			II.	130
Moiketsi Libenyi, and others	...	Native Chiefs and Headmen	...	31st March, 1901	17520—17578			II.	1259
Moshesh, George T.	...	Native Chief	...	30th March, 1901	17059—17205			II.	1230
Msingapansi, and others	...	Native Chiefs and Headmen	...	31st March, 1904	17579—17593 17702—17798	} II. }	} 1264 1273		
Muir, Thos., LL.D.	...	Superintendent-General of Education	...	9th October, 1903	1813—1978			II.	149
Musgrave, Major B. D.	...	Inspector, Native Locations	...	1st December, 1903	12201—12192	II.	879		
Mzimba, Rev. P. J.	...	Native Presbyterian Minister	...	18th November, 1903	10836—10961	II.	790		
Parker, E.	...	Trader	...	2nd December, 1903	12901—12983	II.	921		
Parkhurst, Rev. W. H.	...	Warden of Zonzebloem	...	15th October, 1903	2362—2493	II.	191		
Pamla, Rev. C.	...	Native Missionary	...	29th March, 1904	16281—16397	II.	1185		
Pamla, George	...	Native Labour Agent	...	16th March, 1904	14026—14071	II.	1030		
Peregrino, F. Z.	...	Newspaper Editor	...	19th October, 1903	3919—4309	II.	317		
Pringle, W. W.	...	Farmer	...	29th March, 1901	15935—16071	II.	1163		
Quinan, W. R.	...	De Beers' Explosive Works	...	16th October, 1903	3309—3441	II.	268		
Rabic, P. R.	...	Farmer	...	19th October, 1903	3771—3918	II.	308		
Rein, E.	...	Acting Registrar of Deeds, K. W. Town	...	17th November, 1903	10799—10835	II.	787		
Robb, A. J.	...	Assistant General Manager of Railways	...	12th October, 1903	2196—2298	II.	182		
Roberts, W. A.	...	Coloured Employer	...	19th October, 1903	3619—3664	II.	290		
Roberts, Dr. A. W.	...	Acting Superintendent of Lovedale	...	19th November, 1903	10965—11123	II.	797		
Roberts, S. H.	...	Chief Inspector, Native Locations	...	19th November, 1903	11124—11289	II.	810		
Rose-Innes, R. W.	...	Attorney-at-Law	...	10th November, 1903	8582—8940	II.	619		
Sauer, Hon. J. W., M.L.A.	...	Ex-Crown Minister	...	1th November, 1901	44992—45315	IV.	914		
Scott, J. H.	...	Ex-Chief Magistrate	...	21st March, 1904	14361—14538	II.	1050		
Seti, W. N.	...	Native Clerk, Civil Service	...	5th November, 1903	7459—7851	II.	547		

NAME OF WITNESS.	DESIGNATION.	DATE.	QUESTION.	VCL.	PAGE.
Smith, Bishop, C.S.	Minister, A.M.E. Church	7th November, 1904...	45490—45576	IV.	957
Sprigg, Major Howard	Resident Magistrate	30th March, 1904	17206—17307	II.	1241
Stanford, Col. W. E. M., C.B., C.M.G.	Secretary, Native Affairs Department	7th November, 1904...	45577—45578	IV.	966
Stewart, Dr. J.	Superintendent of Lovedale	3rd November, 1904...	44900—44991	IV.	898
Stormont, Rev. D.D.	Principal of Blythswood	16th March, 1904	13698—13765	II.	1006
Strachan, Donald	Farmer	28th March, 1904	15014—15624	II.	1098
Struben, H. W.	Landowner	19th October, 1903	3665—3770	II.	293
Stuart, Rev. W.	Missionary, Free Church of Scotland	11th November, 1903	9053—9244	II.	661
Sweeney, C. J.	Resident Magistrate	7th October, 1903	708—1020	II.	69
Tainton, L. G. II.	Inspector, Native Locations	6th November, 1903...	7852—8196	II.	567
Tele, J., and another	Native Headmen	13th November, 1903	9783—9869	II.	717
Toise, D., and others	Native Chief and Councillors	5th November, 1903...	7284—7458	II.	538
Thompson, N. O.	Resident Magistrate	15th March, 1904	13116—13697	II.	954
Umballa, N. C.	Native Headman	4th November, 1903...	6542—7283	II.	501
Veldtman, and others	Native Chief and Headmen	15th March, 1904	13114—13115	II.	942
Verity, J. G.	Assistant Resident Magistrate	6th November, 1903	8197—8336	II.	597
Visser, J. D. J.	Superintendent, Government Agricultural Farm	22nd October, 1903	4849—5075	II.	373
Waddell, W.	Trader	22nd March, 1904	14829—14923	II.	1083
Waterston, Dr. Jane	Medical Practitioner	14th October, 1903	2841—2984	II.	230
Weber, Rev. J.	Missionary, Rhenish Church	20th October, 1903	4040—4249	II.	328
Whitaker, George, M.L.A.	Merchant	10th November, 1903	8337—8424	II.	603
Wright, W. G. W.	Assistant Resident Magistrate	23rd October, 1903	5443—5490	II.	415

Persons invited to give Evidence but unable to attend.

Barrable, D. P.	Journalist	...	...	...
Blaine, G.	Farmer	...	...	...
Bryce, J.	Licensed Victuallers' Association	...	...	...
Cameron, W. M.	Secretary, Order of Ethiopians	...	...	...
Cumming, R. F.	Clerk to Special Magistrate	...	...	...

Cumming, W. G. ...	...	...	Secretary, Native Affairs Department ...	...
Du Plessis, J. ...	...	...	Farmer ...	...
Elliott, J. J. ...	...	...	Attorney-at-Law ...	...
Fenix, G. ...	...	...	Mayor of Cala ...	...
Finch, J. R. ...	...	...	Town Clerk, Cape Town ...	...
Fuller, A., M.L.A. ...	...	...	Minister for Agriculture ...	...
Garrett, J. W. ...	...	...	Trader and Mayor of Lady Frere ...	...
Gibson, Right Rev. Bishop ...	...	...	Coadjutor Bishop ...	...
Hofmeyr, Hon. J. H. ...	...	...	Ex-Crown Minister ...	...
Jameson, Dr. J. S. ...	...	...	Prime Minister ...	...
Jurisch, Captain M. ...	...	...	Surveyor-General ...	...
McEwen, T. S. ...	...	...	General Manager of Railways ...	...
McLaren, Rev. J. ...	...	...	Inspector of Schools ...	...
Mantsayi, Robert ...	...	...	Native Vigilance Association ...	...
Nelson, J. C. ...	...	...	Farmer ...	...
Nuttall, Rev. Ezra ...	...	...	Wesleyan Minister... ...	...
Reincke, Rev. J. ...	...	...	Native Missionary ...	...
Rubusana, Rev. ...	...	...	Journalist ...	...
Slater, J. ...	...	...	Ex-Crown Minister ...	...
Schreiner, Hon. W. P. ...	...	...	Native Journalist ...	...
Soga, E. K. ...	...	...	Native Missionary ...	...
Soga, Dr. W. A. ...	...	...	Missionary (Burns Hill) ...	...
Stuart, Rev. W. ...	...	...	Missionary, F. C., St. Matthew's Mission ...	...
Taberer, Rev. C. ...	...	...	Farmer ...	...
Theron, T., M.L.A. ...	...	...		...

NAME OF WITNESS.	DESIGNATION.	DATE.	QUESTION.	VOL.	PAGE.
Warren, Col., M.L.A.	Farmer	20th May, 1904	26691—30029	III	726
Warren, R.	Farmer	19th May, 1904	29363—29592	III	706
Weir J. W.	Merchant	17th May, 1901	28159—28422	III	640
Willem, M.	...	9th May, 1904	25730—25350	III	514
NATAL.					
Addison, Col. F.	Sugar Planter	21st April, 1904	21037—21148	III	234
Addison, Dr. W. H.	District Surgeon, Durban	26th May, 1901	30858—31166	III	792
Alexander, R. C.	Superintendent of Police	26th May, 1904	30579—30857	III	777
Armstrong, W. N.	Clerk to Native Trust	18th April, 1904	18072—18229	III	16, 717
Barnett, P. A.	Superintendent of Education	11th May, 1901	29990—23181	III	589
Bazeley, H.	Sugar Planter	29th April, 1904	27190—27611	III	347
Beachcroft, R. H.	Resident Magistrate	29th April, 1904	23182—23319	III	362
Beaumont, W. H.	Judge, Supreme Court	26th May, 1904	31167—31360	III	805
Bennett, T. R.	Resident Magistrate	17th May, 1904	28123—28632	III	658
Boshoff, H. G.	Judge, Native High Court	12th May, 1904	27661—27336	III	612
Brunner, E. A., M.L.A.	Merchant	2nd May, 1901	23816—24086	III	401
Bryant, Rev. D. A.	Missionary, Roman Catholic Church	27th May, 1901	31952—32014	III	854
Chadwick, J. C. C.	Acting Chief Magistrate, Durban	19th April, 1904	20160—20769	III	190
Clarke, W. J.	Chief Inspector, C. I. Department	10th May, 1904	26880—27076	III	572
Colenso, Miss H. E.	Missionary, English Church	19th May, 1904	28926—29194	III	683
Dives, R.	Mining Engineer	2nd May, 1904	23669—23815	III	392
Elliot, Sir H., K.C.M.G.	Ex-Chief Magistrate, Transkeian Territories	11th April, 1904	18121—18710	III	40
Emmett, J. C.	Farmer	12th May, 1904	27937—28158	III	625
Essery, E.	Land Agent and Farmer	2nd May, 1904	...	...	...
Finnemore, R. J.	Acting Chief Justice	...	...	...	...
Gibson, J. Y.	Resident Magistrate	...	...	...	...
Goodwin, Rev. W. A.	Missionary, English Church	...	...	...	...

Harrison, S.	...	...	...	...	Assistant Under-Secretary for Native Affairs	...	{ 7th April, 1904 11th April, 1904 10th May, 1904 }	17796—18971 18230—18120 27136—27189	III.	{ 29 584
Hulett, G. H.	...	...	...	...	Advocate	...	30th May, 1904	33122—33659	III.	941
Hulett, Sir J. J.	...	...	...	...	Ex-Secretary for Native Affairs	...	18th April, 1904	19993—20459	III.	148
Jameson, Hon. R., M.L.C.	...	...	...	...	Merchant	...	20th May, 1904	30030—30116	III.	744
Kambula and Gumede	...	...	...	...	Native Farmers	...	4th May, 1904	24816—25061	III.	455
King, J.	...	...	...	...	Farmer	...	3rd May, 1904	24533—24815	III.	438
Kirkman, J.	...	...	...	...	Sugar Planter	...	19th May, 1904	29195—29362	III.	697
Koch, H. C.	...	...	...	...	Master of Supreme Court	...	14th April, 1904	19623—19800	III.	123
Kunalo, J., and others	...	...	...	...	Native Chief and Headmen	...	5th May, 1904	25584—25178	III.	485
Kunene, C.	...	...	...	...	Native Journalist	...	1st June, 1904	33976—33978	III.	974
Kunene, M.	...	...	...	...	Native Farmer	...	6th May, 1904	25775—25789	III.	512
Labistour, G. A. De R.	...	...	...	...	Attorney-General	...	13th April, 1904	19258—19516	III.	90
Labuschagne, Hon. C. J., M.L.C.	...	...	...	...	Native Farmer	...	28th April, 1904	22686—22793	III.	333
Lutuli, M.	...	...	...	...	Native Farmer	...	28th May, 1904	32015—32394	III.	859
Mackenzie, J. W.	...	...	...	...	Labour Contractor	...	10th May, 1904	26442—26879	III.	546
Mahashi Ka Somanyala, and others	...	...	...	...	Native Policemen	...	30th May, 1904	32693—32796	III.	893
Maling and Kunene	...	...	...	...	Native Farmers	...	6th May, 1904	25479—25632	III.	492
Masson, J. J.	...	...	...	...	Surveyor-General	...	14th April, 1904	19801—19992	III.	137
Mason, S. J.	...	...	...	...	Merchant	...	3rd May, 1904	24453—24532	III.	434
Matthews, M.	...	...	...	...	Resident Magistrate	...	30th May, 1904	32395—32692	III.	874
Mini, and others	...	...	...	...	Native Chief and Headmen	...	1st June, 1904	33886—33975	III.	963
Moor, Hon. F. R.	...	...	...	...	Ex-Crown Minister	...	20th April, 1904	20770—21036	III.	212
Murray, A. K.	...	...	...	...	Farmer	...	28th April, 1904	22794—22989	III.	358
Ndunge	...	...	...	...	Native Chief	...	31st May, 1904	33660—33713	III.	947
Plant, R.	...	...	...	...	Inspector of Native Education	...	21st April, 1904	21149—21360	III.	245
Radebe, M. S.	...	...	...	...	Native Newspaper Editor and Trader	...	9th May, 1904	25951—26441	III.	521
Rathbone, F.	Trader	...	30th May, 1904	32797—33121	III.	898
Rethman, J. F.	Farmer and Trader	...	3rd May, 1904	24087—24452	III.	420

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Roach, Rev. F., M.L.A. ...	Missionary, English Church ...	27th May, 1904	31641—31951	III.	838
Rudolph, G. M. ...	Ex-Resident Magistrate ...	27th April, 1904	22230—22469	III.	309
Samuelson, R. C. A. ...	Solicitor ...	6th May, 1904	25633—25774	III.	501
Saunders, C. J. R. ...	{ Chief Magistrate and Civil Commissioner, Zululand ...	25th May, 1904	30147—30578	III.	753
Schrumpf, Father B., and Langa, Father T. ...	Trappist Missionaries ...	18th May, 1904	28633—28925	III.	689
Schwikkard, E. A. O. ...	Farmer ...	26th April, 1904	22006—22229	III.	206
Scott, C. W. B. ...	Solicitor and Farmer ...	26th April, 1904	21785—22005	III.	280
Scott, Rev. J. ...	Missionary, United Free Church of Scotland ...	29th April, 1904	23320—23554	III.	369
Shepstone, A. J. ...	Resident Magistrate ...	25th April, 1904	21361—21615	III.	257
Shepstone, H. C. ...	Ex-Secretary for Native Affairs ...	12th April, 1904	18948—19257	III.	75
Shepstone, J. W. ...	Ex-Secretary for Native Affairs ...	12th & 13th April, 1904	{ 18711—18947 } { 19517—19622 }	III.	58, 112
Smith, A. P. ...	Ex-Clerk to Native Trust ...	25th April, 1904	21616—21784	III.	270
Stuart, J. ...	Assistant Resident Magistrate ...	31st May, 1904	33714—33885	III.	351
Suter, Rev. F. ...	S.A. General Mission ...	27th May, 1904	31361—31640	III.	817
Swaamana and others ...	Native Chief and Headmen ...	10th May, 1904	27077—27135	III.	580
Uys, Hon. D.C., M.L.A. ...	Farmer ...	28th April, 1904	22470—22685	III.	322
Viljoen, L. ...	Farmer ...	5th May, 1904	25319—25383	III.	481
Wiltshire, H., M.L.A. ...	Mine Owner and Farmer ...	2nd May, 1904	23555—23668	III.	384
Winter, Hon. H. D., M.L.A. ...	Ex-Crown Minister ...	5th May, 1904	25065—25318	III.	467
Woollatt, S. E. ...	Principal Veterinary Surgeon ...	12th May, 1904	27612—27660	III.	610

Persons invited to give evidence, but unable to attend

Adams, W. ...	Farmer ...	...	...	...
Astrup, Right Rev. N. ...	Church of Norway Mission ...	...	...	...
Baynes, Right Rev. Bishop	Church of England ...	...	...	...
Baynes, Hon. J., M.L.A.	Minister, Lands and Works ...	...	...	...
Bosman, H. J., M.L.A. ...	Agent
Bridgeman, Rev. J. M. ...	Missionary, American Board of Missions

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Grey, Col. Raleigh	Chairman, Salisbury Chamber of Mines	31st August, 1901	34791—34932	IV.	61
Helm, Rev. C. D.	London Missionary Society	9th September, 1904	36266—36397	IV.	170
Hole, H. Marshall	Civil Commissioner, Bulawayo	9th September, 1904	36418—36487	IV.	186
Hull, E. A.	Farmer	12th September, 1904	36930—37011	IV.	224
Jackson, H. M. G.	Native Commissioner, Bulawayo	9th September, 1904	36398—36447	IV.	185
Jenkins, P. L.	Secretary, Rhodesia Chamber of Mines	12th September, 1904	37012—37072	IV.	229
Kerr, J.	Merchant	10th September, 1904	36699—36835	IV.	206
Leary, Rev. J. W.	Missionary, Church of England	12th September, 1904	36836—36929	IV.	217
Makgatho, Rev. M.	Native Minister, A.M.E. Church	10th September, 1904	36590—36687	IV.	199
Napier, Col. W.	Farmer	9th September, 1904	36145—36265	IV.	163
Springer, J. McK.	Missionary, Methodist Episcopal Church	2nd September, 1904	35489—35656	IV.	117
Tabeter, W. S.	Acting Chief Native Commissioner, Mashonaland	30th August, 1904	34183—34514	IV.	29
Taylor, H. J.	Chief Native Commissioner, Matabeleland	8th September, 1904	35720—36013	IV.	142
White, Rev. J.	Wesleyan Missionary	1st September, 1904	35036—35215	IV.	80
Wilder, Rev. G. A., D.D.	Missionary, American Board of Colonial and Foreign Missions	30th August, 1904	33979—34182	IV.	1
Persons invited to give evidence, but unable to attend.					
Haddon, L.	Merchant				
BECHUANALAND PROTECTORATE.					
Ellenberger, J.	Assistant Commissioner	15th September, 1904	37073—37312	IV.	233
Khama	Native Chief	15th September, 1904	37313—37372	IV.	248

BRITISH BECHUANALAND (Cape Colony).

Plaatje, S....	...	...	...	...	...	Native Journalist ...	...	...	15th September, 1904	37621—37757	IV.	264
Montsieu. B.	...	...	...	...	...	Native Chief ...	...	...	15th September, 1904	37420—37620	IV.	256
Rowland, E.	...	...	...	...	...	Trader ...	...	...	15th September, 1904	37373—37419	IV.	253

ORANGE RIVER COLONY.

Dickie, R.	...	...	...	...	...	Farmer and Trader...	...	...	22nd September, 1904	38153—38271	IV.	303
Fraser, Hon. J. G., M.L.C.	...	...	...	...	...	Solicitor ...	...	...	21st September, 1904	37758—37986	IV.	270
Gill, H. F.	...	...	...	...	...	Chairman, Chamber of Commerce	...	...	23rd September, 1904	39291—39327	IV.	379
Gonyane, Rev. J.	...	...	...	...	...	Native Wesleyan Minister ...	...	...	21st September, 1904	37987—38036	IV.	291
Gritzner, Rev. H.	...	...	...	...	...	Lutheran Missionary ...	...	...	23rd September, 1904	39070—39126	IV.	364
Gunn, Hon. H., M.L.C.	...	...	...	...	...	Director of Education ...	...	...	21st September, 1904	38017—38089	IV.	295
Hancock, J. W.	...	...	...	...	...	Inspector, Native Locations, Bloemfontein	...	...	22nd September, 1904	38440—38557	IV.	320
Kunalo, Rev. B., and others	...	...	...	...	...	Native Minister, A.M.E. Church ...	...	...	23rd September, 1904	39127—39290	IV.	368
Motshumi, Rev. J.	...	...	...	...	...	Native Wesleyan Minister ...	...	...	22nd September, 1904	38435—38439	IV.	320
Nyokong, J. J. M.	...	...	...	...	...	Native Landowner ...	...	...	21st September, 1904	37987—38036	IV.	291
Orford, Rev. Canon	...	...	...	...	...	President, Native Teachers' Association ...	...	...	22nd September, 1904	38342—38434	IV.	311
Scott, Rev. J.	...	...	...	...	...	Chairman, Wesleyan Synod	...	...	22nd September, 1904	38558—38737	IV.	327
Turney, J. H.	...	...	...	...	...	Farmers ...	...	...	22nd September, 1904	38738—38920	IV.	338
Van Reenen, J. M.	...	...	...	...	...	Farmers ...	...	...	22nd September, 1904	38738—38920	IV.	338
Wessels, C. H.	...	...	...	...	...	Ex-Chairman of Volksraad...	...	...	23rd September, 1904	38921—39069	IV.	352
Whitworth, Hon. W. S., M.L.C.	...	...	...	...	...	Mine Manager ...	...	...	22nd September, 1904	38990—38152	IV.	299
Wilson, A.	...	...	...	...	...	Farmer ...	...	...	22nd September, 1904	38272—38341	IV.	310

NAME OF WITNESS.	DESIGNATION.	DATE.	QUESTION.	VOL.	PAGE.
Persons invited to give evidence, but unable to attend					
Hanger, H.	Farmer ... ..	...	...	...	...
Oelrich, H.	Farmer ... ..	...	...	...	...
Schimpets, F.	Farmer ... ..	...	...	...	...
BASUTOLAND.					
Dyke, Rev. R. H.	Missionary	27th September, 1904.	39592—39738	IV.	413
Hobson, G. R.	Chairman of the Basutoiland Chamber of Commerce	26th September, 1904.	39474—39521	IV.	398
Lerothodi, and others	Native Chiefs	26th September, 1904.	39328—39473	IV.	382
Weizall, Rev. Canon S.	Missionary, English Church	27th September, 1904.	39522—39591	IV.	403
Persons invited to give evidence, but unable to attend					
Gerard, Rev. Father	Roman Catholic Missionary ... ..	...	...	...	...
TRANSVAAL.					
Bourke, Hon. E. F., M.L.C.	Mayor of Pretoria	7th October, 1904	41886—42054	IV.	629
Brande, Rev. S. J., and Alphela, Rev. J. M.	Native Ministers, Ethiopian Catholic Church in Zion	4th October, 1904	40782—40869	IV.	519
Carter, Right Rev. W. M.	Bishop of Pretoria	14th October, 1904	43339—43479	IV.	761
Clarke, Rev. W. E. C.	Superintendent of Native Education	6th October, 1904	41661—41734	IV.	601
Creux, Rev. E.	Missionary, Swiss Society	6th October, 1904	41735—41786	IV.	609
Everard, Hon. T., M.L.C.	Farmer	11th October, 1904	42641—42813	IV.	703
Farmer, Rev. Canon E.	Missionary, Church of England	10th October, 1904	42130—42305	IV.	652

NAME OF WITNESS.	DESIGNATION.	DATE.	QUESTION.	VOL.	PAGE.
Ware, Fabian	Director of Education	10th October, 1904	42306—42319	IV.	656
Windham, W.	Secretary, Native Affairs Department	3rd October, 1904	39739—40043	IV.	427
Persons invited to give evidence, but unable to attend.					
Botha, General Louis.	Landowner	...	...	...	...
Burger, Schalk	Ex-Vice-President S.A.R.	...	...	...	...
Dahl, Captain.	Ex-Native Commissioner	...	...	...	...
De la Rey, General	Farmer	...	...	...	...
Grant, William.	...	...	...	...	...
Griffith, C.	Native Commissioner	...	...	...	...
Maggs, C.	Assistant Secretary, Native Affairs	...	...	...	...
Marwick, J. S.	Agent for Land Companies	...	...	...	...
Mason, Mr. Justice.	...	...	...	...	...
Rose-Innes, Sir J., K.C.M.G.	Chief Justice	...	...	...	...
Roux, J. P.	Farmer	...	...	...	...
Roy, J. S.	Town Councillor	...	...	...	...
Sievwright, E.	Attorney-at-Law	...	...	...	...
Solomon, Sir R., K.C.M.G.	Attorney General	...	...	...	...
Uys, Piet.	Farmer	...	...	...	...
Wessels, Mr. Justice.	...	...	...	...	...
Wheelwright, C. A.	Native Commissioner	...	...	...	...
Witwatersrand Church Council representatives	...	...	...	...	...

ANNEXURE No. 7.
POPULATION OF THE VARIOUS SOUTH AFRICAN COLONIES AND POSSESSIONS AND THE DISTRIBUTION
OF THE NATIVE POPULATION ON THE LAND.

(Previous years shown in *italics* for comparison purposes.)

Name of Colony or Possession.	European.	Aboriginal.	Coloured.	Asiatic.	Natives on Private Farms.	Conditions of Occupation.	Natives in Town Locations.	Con- ditions of Occup'tn.	Natives on Crown Lands.	Con- ditions of Occupation.	Natives on Reserves.	Con- ditions of Occup'tn.	Natives on Private Locations.	Con- ditions of Occup'tn.
CAPE COLONY ... (1891) 382,398	579,741	1,424,787 (1,066,228)	395,369	9,907	213,843	Arrangement between Landowner and Native.	113,828	Bye-laws.	Nil.		1,057,610	Open Grey and other Land Acts Location Reserves.	39,506	Private agreement under Act 30 of 1899.
NATAL (including Zululand) (1891) 45,436 (1880) 25,271 (a)	97,109	904,041 (628,478) (362,477 (a))	6,686	100,918	426,674 (d)	"	Nil.	"	13,985	Rent of £2 per hut p. a.	463,382 (c)	Reserve Locations.	None recognised.	Private agreement under Act 30 of 1899.
TRANSVAAL (including Swaziland) (1899) 288,730	300,225	1,030,020 (b) (754,321)	23,946	Included under Coloured.	479,753	"	28,261	"	180,427	Yearly tenancy at £1 p. a.	207,840	Reserve Locations at will.	"	"
ORANGE R. COLONY (1890) 77,716 (1880) 61,022	143,419	235,406 (129,787) (79,496)	6,160	"	195,494	"	22,972	"	Nil.	Free of Rent.	17,000	"	"	"
SOUTHERN RHODESIA ... (1893) 12,623	12,623	591,197 (c)	1,944	"	82,023	"	9,959	"	151,503	"	264,618	"	62,727	Private agreement under High Commission's Procl. of 11.10.06.
BASTOTLAND ... (1891) 578 (1875) 469	895	347,731 (218,002) (127,705)	163	59	Nil.	"	Nil.	"	Nil.	"	347,731	"	None recognised.	"
BECHUANALAND PROTECTORATE ... (1895) 1,135,916	1,004	119,411	361	Included under Coloured.	1,000	"	Nil.	"	18,311	"	109,100	"	"	"
Totals ..	1,135,916	4,652,662	434,629	119,884	1,398,787	"	175,023	"	364,226	"	2,458,281	"	102,233	"

(a) Excludes Zululand.
(b) Includes 133,715 labourers temporarily resident.
(c) " " " " " "
(d) " " " " " "
(e) Includes Zululand, 5,534.
(f) Includes Zululand, 197,779.

(These figures are not shown in the distribution of the Native population on the land.

ANNEXURE No. 8.

NAME OF COLONY OR POSSESSION.	Area. Sq. Miles.	Native Population.	Area of Reserves in Square Miles. (See Maps attached).	Native Population on Reserves.	Density per Square Mile of Native Population on Reserves.	Polygamy and Labour Return.		
						Percentage of Married Natives who are Polygamists.	Estimated Number of able-bodied Natives between the ages of 15 and 40.	Estimated Number of Natives who sought labour in 1903.
CAPE COLONY	276,565	1,424,787	(a) 21,000	1,057,610	50.36	{ Cape Col. 25 } { Tr. Terr. 22 } { Br. Bech. 9 }	277,089	152,539
NATAL	36,173	904,041	(b) 13,892	463,382	(c) 33.35	(f) 20	164,988	121,810
TRANSVAAL, including Swaziland (labourers temporarily resident) ...	117,732	896,284	(d) 8,656	207,840	(e) 24.00	(g) 18	126,500	74,767
ORANGE RIVER COLONY ...	55,180	235,466	128	17,000	132.81	5	50,000	10,000
SOUTHERN RHODESIA... ..	143,830	570,830	38,871	264,618	6.80	{ Mashd.: 40 } { Matabdl.: 20 }	126,000	67,500
BASUTOLAND	10,293	20,367 (h) 317,731	10,293	347,731	33.78	17	55,301	50,000
BECHUANALAND PROTECTORATE ...	275,000	119,411	127,630	100,100	.78	—	22,206	15,000
Total	914,773	4,652,662	220,470	2,458,281			822,084	(i) 491,616

(a) Excludes 2,681 square miles approximate area of Mission Reserves and Lands granted to Chiefs under title.

(b) Includes Zululand (10,100 square Miles).

(c) Density per square mile on Reserves in Natal 66.48, and in Zululand 19.58.

(d) Includes Swaziland (6.536 square miles).

(e) Density per square mile on Reserves in Transvaal 59.4, and in Swaziland 12.9.

(f) Excludes Zululand.

(g) Percentage in Transvaal is 11.65, and in Swaziland 29.83.

(h) Excludes 20,000 males estimated absent from Territory at Census Taking.

(i) Not more than one-half of this total can be regarded as representing labourers at work at one time, and it should be noted that the figures in this column do not include resident farm labourers.

ANNEXURE No. 9.—Return of Native Taxation.

Name of Colony or Possession.	Form of Direct Taxation.	Amount Collected.		Indirect Taxation (a) Amount.	Estimated (a) Amount.	Other Taxation.	Amount.		Total.	
		Year.	£ s. d.				£ s. d.	£ s. d.	£ s. d.	£ s. d.
CAPE COLONY ...	Hut Tax 10s. per ann., also Quit Rents and Occupation Rents	1903-4	(b) 105,241 7 0	Customs.	142,478 11 0	Special Hut Tax for Divisional Council purposes and Rates for Local Government purposes	(c) 19,245 5 2		266,925 6 2	
NATAL ...	Hut Tax 11s. per ann.	1904	162,193 0 0	"	90,404 2 0	Dog-tax	15,585 5 0		268,182 7 0	
TRANSVAAL (including Swaziland)	Poll Tax £2 per male adult per ann.	1903-4	309,957 0 0	"	103,002 18 0	Travelling passes and dog-certificates, and dog-tax	(d) 32,817 1 9		445,776 19 9	
ORANGE RIVER COLONY ..	Poll Tax £1 per male adult per ann.	"	42,803 0 0	"	23,546 12 0	Passes and dog-tax	12,816 0 0		79,195 12 0	
SOUTHERN RHODESIA ...	Hut Tax 10s. per ann. (c)	"	100,806 10 0	"	59,119 14 0	—	—		159,926 4 0	
BASUTOLAND ...	Hut Tax £1 per ann.	"	60,528 0 0	"	34,773 2 0	—	—		95,301 2 0	
BECHUANALAND PROTECTORATE	Hut Tax 10s. per ann.	"	10,566 0 0	"	11,941 2 0	—	—		22,507 2 0	
		Total, £	792,091 17 0		465,266 4 0		80,453 11 11		1,337,814 12 11	

(a) Estimated contribution 2s. per head per annum. See par. 399 of Report.

(b) Excludes licence fees on Private Locations paid by Landowners (£1,801), but includes Hut Tax on Private Locations (£2,748), and Quit Rent and Occupation Rent on Crown Lands (£10,984 17s. 6d.).

(c) Figures in regard to Dog Tax are not readily obtainable.

(d) Excludes revenue derived from Passports in labour districts paid by employer.

(e) Subsequently raised to £1 Poll Tax.

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