UNION OF SOUTH AFRICA.

NATIVES LAND COMMISSION.

MINUTE
addressed to the Honourable the
MINISTER OF NATIVE AFFAIRS
by the Honourable
SIR W. H. BEAUMONT
(Chairman of the Natives Land Commission).

Presented to both Houses of Parliament by Command of His Excellency the Governor-General.

Price 1s.

CAPE TOWN:
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1916.

[U.G. 25—'16]
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Juni 1913.

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**G. J. FAWCETT**
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### Acts of Parliament, Cape Province

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Cape Town, Cape of Good Hope, June 1913.
MINUTE

addressed to the Honourable the

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SIR W. H. BEAUMONT

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Presented to both Houses of Parliament by Command of His Excellency the Governor-General.
UNION OF SOUTH AFRICA

NATIVES LAND COMMISSION.

Presented to both Houses of Parliament by Command of His Excellency the Governor-General.

TO THE HONOURABLE THE MINISTER FOR NATIVE AFFAIRS.

1. The functions of the Natives Land Commission are so strictly limited, under section two of Act 27 of 1913, to the delimitation of areas to be set aside for European and Native occupation, that the Commission did not consider itself entitled to do more than define these areas and to make a few general remarks in connection therewith.

2. It is true that the Commission was directed by its terms of reference to report on any matters incidental to the setting aside of areas which might be referred to it by yourself; but the Commission considered the matters actually placed before it as being for the most part of a departmental and administrative nature and outside the terms of the Act, and to these it has given separate replies. As regards those matters which were referred to the Commission by the Minister in charge of Native Affairs (Hon. F. S. Malan), in his minute of 11th August, 1915, and which concern the principle or policy of the Act, the Commission considered it best to leave these subjects alone, as they were not strictly within the scope of the work assigned to the Commission, and are controversial.

3. The Commission has, however, taken a great deal of evidence; it has collected statistics, it has visited many localities, and it has come into personal touch with the Natives in all parts of the Union. The opportunities it has thus had for obtaining first-hand knowledge of matters having a direct bearing on the Natives Land Act have been exceptional, and the experience it has gained should, in my opinion, be made available for consideration by Members of Parliament and those who will be called upon to consider the recommendations of the Commission in view of the further legislation which will be necessary to carry out the principles embodied in the Act.

4. I make no apology, therefore, for troubling you with this minute. My object is to bring to your notice those matters which appear to me of importance, and which require to be borne in mind when determining on the practical application of the Act, and to suggest how far and in what manner the objects aimed at by the Act may best be attained.

5. The work of the Commission may be regarded as supplemental to the Report of the South African Native Affairs Commission of 1903-5, to whose recommendations the Natives Land Act may be said to owe its origin.

6. A reference to that report is important. Section 193 contains the following resolution:—

"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."

Section 195 reads:—

"The intention of the first resolution is two-fold. 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 landowners, and of the extension of this privilege by the creation of such areas in all Colonies and Possessions where this can be conveniently done."

[U.G. 26—'16.]
Segregation.

And by section 197 the Commission further resolved:—

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

7. The segregation of lands for occupation by Natives is no new principle. It is, in fact, a principle which, consciously or unconsciously, appears to have been aimed at in all the Provinces from their earliest times, though only partially achieved or deliberately departed from.

8. In the Cape Colony the Natives, except those required for service, were kept at arm's length, and, as troubles arose and the land was taken up, they were driven further and further back until they finally became consolidated in the region of the Kei River and the territory now called the Transkei.

9. Although lands were reserved, by treaties or otherwise, for the exclusive use of Native tribes, these lands were regarded as Crown Lands subject to forfeiture by rebellion and liable to alteration at the will of the Legislature. Native wars and rebellions have led to many alterations in the Native areas as originally defined. Tribes who inhabited such areas have in some instances been dispossessed of them; European settlers have been introduced; land grants have been made to loyal Natives; individual grants, as in Old Tambookie (Glen Grey), Xalanga, Tsolo and King William's Town; townships have been established and land has been appropriated for public purposes such as forests, outspans, etc. On the other hand, Natives have been granted lands or allowed to buy within what were intended to be purely European areas (as in Elliot).

10. In Natal, into which great numbers of Natives had flocked from all sides after the British had established themselves there, a Commission was appointed in 1853 to advise the Government how to deal with them. This Commission, consisting of English and Dutch Colonists of standing and experience, recommended that no Natives should be allowed to settle on lands in Natal, and that those not required as servants or labourers should be passed on to a Native area to be defined in the Umzimkulu District. This advice was not followed, and a number of areas, termed locations and mission reserves, were set aside in different parts of the Colony and secured under Royal Letters Patent, 27th April, 1864, for exclusive occupation by Natives. Unauthorised squatting outside these areas was prohibited (Law 2, 1855), but the law was never enforced. Natives were allowed to purchase land when and where they pleased.

11. In the Orange Free State Natives have always been prohibited by law from purchasing or hiring land, and unauthorised squatting was strictly prohibited. In other words, the whole State was regarded as an exclusively European area, though grants of land were made to individual coloured persons or Natives as rewards for assistance to the State. The Native areas of Thaba 'Nchu and Witkieshoek were not originally parts of the Orange Free State. Thaba 'Nchu or the Mareka Ward was annexed, as a Native territory, for the preservation of peace and good order on the borders of the State (O.F.S. Proclamation 12th July, 1884). Witkieshoek was annexed during the war between the Orange Free State and the Basutos, 1865-7, and given to Chief Paulus Moneli and his followers.

12. In the Transvaal the Natives were driven back from the localities in which the Boers settled, and were allowed to continue in the occupation of lands on the confines of the Republic which the Boers could not, or would not, occupy. There was no distinct definition or reserve of these lands, and by degrees much of it was surveyed into farms, and came into the occupation or possession of private owners. After the Pretoria Convention of 1881, steps were taken to define specific Native areas, and Natives were permitted to acquire and hold land privately, though it had to be registered in the name of an official in trust for them. Further reserves were defined in 1906; and, under the Transvaal Constitution Letters Patent, Clause 53 (3), these reserves cannot be alienated except by Act of Parliament. Squatting on lands outside these areas was strictly regulated by the "Plakkerswet," No. 21 of 1896, but, as whole tribes were excluded from the defined areas and left on privately owned lands, it has not been found possible to strictly enforce the law.

13. Griqualand West and Bechuanaland were annexed by the Imperial Government under Proclamations dated, respectively, the 27th October, 1871, and 30th September, 1885, these territories being subsequently annexed to the Cape Colony. In 1877 some fifty farms (159,821 morgen) were set aside as Native Locations in Griqualand West; and in Bechuanaland, soon after its annexation by the Imperial Government, some thirty Native Reserves (totaling 1,939,696 morgen) were surveyed and set aside for Native occupation.

14. On the annexation of Griqualand West to the Colony of the Cape of Good Hope (1887-1890) its Native Locations, not being specially protected by any title,
or character, became simply Crown lands, and on several occasions the Natives, for various reasons (e.g., rebellion, centralisation or irrigation schemes), were deprived of their locations or removed to other localities. The land now set aside for communal occupation is very much less than that originally defined.

15. In Bechuanaland, however, prior to its annexation to the Colony of the Cape of Good Hope, the Native Reserves had been specially protected from being diverted to other uses, and cannot now, in terms of the Annexation Act No. 41 of 1895, and the South Africa Act, be interfered with except under the authority of an Act of Parliament.

16. Zululand was dealt with in a way similar to Bechuanaland.

17. A very general impression prevails that the Act contemplates a segregation—complete or partial—of the Native races throughout the Union. The impracticability of such an idea makes it difficult to understand how it has come to be entertained. It probably owes its origin to the free use of the term segregation without any definite idea as to what is meant by that term.

18. The error, unfortunately, has led to considerable misconception in the minds of the public, and more especially amongst the Natives, as to the nature and scope of the work of the Commission.

19. The Preamble of the Act defines it to be an Act "to make further provision as to the purchase and leasing of land by Natives and other persons in the several parts of the Union, and for other purposes in connection with the ownership and occupation of land by Natives and other persons." The word "segregation" is not so much as used in the Act, though its fundamental principle may be said to be the segregation of the ownership and occupation of land by Natives and other persons, respectively, so that, as far as possible, each should only "acquire or hire land or interests in land" in separate areas. The other principal object of the Act is to suppress the evil of what is called "squatting," or the unauthorised occupation by Natives of Crown and private lands.

20. The views taken of the Act by Europeans vary very considerably. Some altogether disapprove of the principle of the Act, and consider that Natives should be free to purchase land where they like, allowing economic forces to take their way. Others think the existing Native Reserves are quite sufficient, and are averse to Natives being allowed to acquire more land. Between these extreme views there are many modifications. Farmers are chiefly interested in the supply of labour, which has been gradually drifting from the farms to industrial centres and the towns. They view with apprehension the establishment of large Native areas where Natives could easily obtain land and so free themselves from the obligations which attach to residence on private farms. Some are in favour of reserves, provided they are under Government supervision, with some sort of compulsory obligation to work; others fear that unless the Native requirements are reasonably met the Natives will migrate from the locality or Province, and their labour will be lost; others think that provision should only be made for those Natives who had raised themselves to a position of independence; most, though by no means all, consider the Orange Free State, view the Act as a necessity, and regard it as designed to do away with the share-system which has been so largely adopted in many parts of the Union.

21. It is not necessary to enter into a discussion of these divergent views. It is sufficient to draw attention to them, and to point out that they have a very important bearing on the consideration of the means best suited to give effect to the Act.

22. It is equally important and interesting to note the views taken of the Act by the Natives.

23. It is equally important and interesting to note the views taken of the Act by the Natives.

24. The Commission has at every centre met large deputations of the Chiefs, Headmen and Natives of the surrounding districts, and given them the opportunity of expressing their views. Some have been under the fear that the areas already reserved to them would be taken away, or at least curtailed; others, that the Government intends to extend the reserved areas; others, that there is to be a general segregation of whites and blacks so as to entirely separate the two races, involving, as it would, a general movement of the peoples; others, again, regard the Act as violating promises made to the Natives by the Imperial Government, and as depriving them of rights which they have hitherto exercised and enjoyed, and of the right of residence on Crown land anywhere. The light in which the Natives of the Orange Free State regard the Act requires special mention, because in that Province there is a considerable body of Natives who have for years—some of them all their lives—lived as independent tenants under the share-system on private land. [U.G. 26-16.]}
lands, and who are now threatened with sudden and summary ejectment. These Natives complain bitterly of the enforcement of the Act before they have had time or opportunity to consider how it is likely to affect them or to make representations respecting it to the Government. They consider it unfair to subject them to ejectment before provision has been made for Native areas to which they might remove, or to find places to which they might go, and no time has been allowed them to try and re-adjust themselves to the new conditions which the law imposes.

But the great mass of the Native population in all parts of the Union are looking to the Act to relieve them in two particulars—the first is to give them more land for their stock, and the second is to secure to them fixity of tenure.

25. It is not too much to say that the Act has been both misinterpreted and misrepresented by Europeans and Natives alike; and that, so far as the Natives are concerned, this has had the effect of creating suspicion, distrust and anxiety in every part of the Union.

26. The Commission has been at no small pains to try, whenever the opportunity offered, to explain the Act, and to allay, as far as possible, the misapprehensions aroused in the Native mind. Unfortunately a considerable number of landowners have, since the Act came into force, ejected Natives from their lands. Some have done so under the impression that the Act necessitated it; others because the Act offered a good opportunity to get rid of Native tenants who were not rendering sufficient labour. A large number of Natives have been so removed both from Crown lands taken up by Europeans and from private lands, and many more are under notice to quit, especially in centres where farming is more intensive. Many of the Natives so ejected have been led to believe that it is the duty of the Commission to set apart lands to which they might remove, and they have been asking "where is the place to which we are to go?"

27. In determining the areas which are to be set aside for exclusive occupation by Natives—and this, after all, was the task set the Commission—it has to be borne in mind that finality is aimed at, i.e., that the lands set apart for the Natives shall be reasonably sufficient not only for their present requirements but for all time, so that further readjustments of land areas may not be necessary; and the lands so assigned should be secured against European competition and interference.

28. If we are to meet present and future requirements the Native areas should be such that provision can be made for:

(a) The extension of existing locations, where necessary;
(b) tribes now living on lands which they have occupied for generations, but which have been sold or granted to private individuals or companies, or which are still Crown lands;
(c) those who may under the Act be ejected from private or Crown lands;
(d) those who wish to purchase land, individually, now or in the future;
(e) those who may, by arrangement and exchange, be removed from defined non-Native areas into Native areas.

To make such provision necessarily means large areas; but to obtain suitable land and sufficient of it for such areas is a task beset with many difficulties, as will be seen later on.

29. The Commission would have liked to frame its recommendations on broad lines. The advantages of large compact Native areas, like the Transkei, over small scattered areas, as in Natal, are so apparent that they need not be enlarged on. They afford greater facilities for supervision and administration, they lessen the points of contact between European and Native landowners, and so lessen friction between the two races, and they give to the Native an opportunity of acquiring some measure of local self-government.

30. But it was found impossible to follow consistently this principle on account of the objections which were raised to the inclusion of European-occupied farms within proposed Native areas. The nature and extent, therefore, of the proposed Native areas have been largely determined by this objection.

31. It is, in fact, too late in the day to define large compact Native areas or to draw bold lines of demarcation; for reserves, mission lands, Native farms and other lands solely occupied by Natives are, with the exception of the Transkei, scattered in all directions and hopelessly intermixed with the lands owned and occupied by Europeans, whose vested interests have to be considered; and any attempt to deal with this matter in a drastic fashion, involving wholesale removals, would not only entail an enormous expenditure but would create widespread dissatisfaction.

32. Appended to the Report of the Commission are returns showing the present distribution of the Natives throughout the Union: the returns also show the
extent and occupation of the various classes of land, while the coloured maps show where these lands are situated. But what is of great importance is a consideration of the nature of these lands and the manner in which they are occupied. I propose, therefore, to deal shortly with each class of land, and in doing so to point out the difficulties which present themselves.

**Native Reserves.**

33. The *Native Reserves* have been demarcated from time to time in the several Provinces as the necessity arose. The position and extent of these reserves were in most instances defined by Commissions, appointed for the purpose, who were guided largely by the then existing settlement of tribes in the various areas and the exigencies of the moment.

34. In some cases, as in the Transvaal, in Natal and in Zululand, no provision was made for some tribes or portions of tribes. Those not provided for were left on the lands they occupied, and such lands were surveyed into farms and sold or granted to Europeans, or were retained as Crown lands. With these exceptions the reservation of Native areas was on a liberal scale, and adequate for the then wants of the Natives, but their numbers have increased to such an extent both by ingress and by natural increase that they have long overflowed these reserved areas and located themselves on Crown and private lands.

35. The reserves in the different parts of the Union vary immensely in climatic conditions, in the fertility of the soil and its agricultural capabilities and in the supply of water. Some areas, such as the whole of the Transkeian Territories, many of the locations in Natal and Zululand, the Thaba 'Nchu and Witzieshoek areas in the Orange Free State, and portions of the Transvaal, Griqualand West and Bechuanaland most of the Native lands are of poor, sandy or rocky soil, with great scarcity of water and uncertain rainfall; their agricultural capabilities are extremely limited, and large tracts are malarial.

36. The Magistrate of Zoutpansberg, in his report, says:

"My estimated area of uninhabitable ground in this district is 7,400 square miles, or two-thirds of the whole area. By uninhabitable I mean a large tract of country which is unsuitable for Native occupation to the north of the Blauwberg and Zoutpansberg ranges, owing to the fact that it is a barren waste only capable of carrying a few head of stock, and incapable of cultivation on account of the small rainfall and paucity of the soil."

37. Where such conditions prevail it is not to be wondered at that the population is extremely sparse and the people poverty-stricken.

38. The one reiterated cry of the Natives in the reserves is that the land is overcrowded, and that more land is required; but it will be seen from the returns that the average amount of land per unit is 5-73 morgen throughout the Union, and, after making every allowance for paucity of cultivable soil and want of water, it is evident that, according to European ideas, the acreage per unit is excessive.

39. With the exception of a portion of the reserves in the Cape Colony, all the reserves are communally occupied under the old tribal system. Communal occupation has tended to preserve the tribal system and the powers of the Chiefs. These powers are considerable, and the Chiefs are prone to exercise their authority with self-interest and partiality. It is the Chief who, practically, allows or refuses permission to Natives to enter his location; and it is he who allots the garden lands and the building sites, notwithstanding the theoretical control exercised by the Superintendent or the Magistrate. In some localities—e.g., Bechuuanaland—the jurisdiction of the Chief gives further scope for the exercise of arbitrary authority over those residing within his location; and it is easy to understand how the arbitrary exercise of these powers may and does have the undesirable effect of keeping Natives out of the reserves, a matter of the greatest importance.

40. In the reserves in Natal and elsewhere the kraals and huts are scattered indiscriminately in every direction, and patches of land are hoed up for gardens as fancy dictates, fresh patches being made when the old ones give out. In this way there is continual encroachment on the areas available for pasturage, and the capability of the land to support the people is greatly restricted, with the result that the condition of the Natives in the reserves, excepting some of the Cape Reserves, is very much the same now as it was in the beginning.
41. Another reason, and perhaps the chief reason, for this cry of overcrowded locations is the overstocking of the lands. No limit is put on the number of stock any Native within a reserve may possess. The man who owns 500 head of stock pays no more than the man who only owns five, and the extent of the land available for pasturage is not taken into consideration. The result of this overstocking is to impoverish the land and to make it less and less capable of supporting stock, and when dry seasons come the stock die off in thousands. The Natives regard their stock as we do our money, and, rather than sell, they prefer to run the risk of its dying from starvation. When stock increases beyond the capabilities of the location lands the Natives hire grazing land from Europeans wherever they can get it, willingly paying as much as 1s. 6d. per head per month.

42. While, therefore, it is quite true that most of the reserves are overcrowded, this is only so because of the uneconomic manner in which the land is occupied and cultivated, and the overstocking which goes on without let or hindrance, save for losses through drought and disease.

43. The Natives, being essentially a pastoral people, are accustomed to depend largely on their flocks and herds and, consequently, need large grazing areas. The necessity for adopting every means possible, even at considerable expense, for their conversion to arable lands or to industrial pursuits, cannot be too strongly emphasised. This is really the crux of the Native land question; for whatever lands may be set aside for Native use their natural increase must surely bring about, sooner or later, a recurrence of the condition of overcrowding, which they complain of today, unless their mode of living is changed.

44. I think I may say all the members of the Commission were greatly impressed with the urgent need for increased supervision of the reserves, with a view to their more economic use, so that they may be able to support a far larger population than they do at present. A very laudable effort to this end has been made and is being made in the Cape and Transkeian Territories, and the example of the Cape should be followed by the other Provinces. No systematic effort appears to have been made in the Transvaal or Natal to regulate the use of arable lands, or the selection of building sites. There are Superintendents of Locations, but their duties appear to be limited to collecting rents or taxes, and settling disputes as to gardens, etc. They complain that too much authority is left in the hands of Chiefs, and that any interference by them as to the allocation of garden lands or building sites would be resented by the Chiefs. Considering, however, the great importance of this matter, and the great benefits which the Natives would derive from the aggregation of garden plots and building sites, it seems imperative that steps would be taken to legislate in this direction.

45. But even with intelligent supervision and persistent efforts, it must take generations to effect any radical change in Native ideas and modes of living, and to bring about a closer and more economic use of the land. Closer aggregation of the huts and gardens, improved methods of cultivation, the limitation of stock, individual interest in the soil and a greater desire for industrial work will, no doubt, come in time; and it is to these improvements that the Natives must look to meet the needs of their ever-increasing numbers as the years go on. But in considering the present and future requirements of the Natives as regards land we must take into consideration the conditions which obtain to-day rather than the possibilities of the future.

46. Attention has already been drawn to section 193 (2) of the Report of the South African Native Affairs Commission, which reads:—

"That the purchase of land which may lead to tribal, communal or collective possession or occupation by Natives should not be permitted."

The following section 194 reads:—

"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 hands of 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."

47. While endorsing this resolution as a sound general principle to be followed, I am of opinion that it need not be inflexibly adhered to, as there are instances where tribal or communal tenure is necessary and should be permitted, whereas, in some instances, an extension of a tribally occupied reserve is necessary on account of present overcrowding, and the Natives concerned are not fitted for it.

[U.G. 26—16.]
individual tenure; and, similarly, where whole tribes occupying privately owned farms fall within a defined Native area. In such cases an opportunity should be afforded of acquiring such areas by purchase for tribal purposes.

48. The introduction of individual tenure into portions of the reserves in the Cape Province has been a voluntary process accepted by those who are fast growing out of the tribal system. It has regulated their rights to and occupation of the soil; it has created a personal interest and individual responsibility which before did not exist; it has been the means of affording the Natives a measure of self-government which they have used for their own development in a manner highly creditable to them, and it has undoubtedly led to a general advance all along the line. The extension of this system, as the people become fitted for it and as opportunity offers, is extremely desirable. I endorse what has been said on the subject by the South African Native Affairs Commission (sections 149 and 162); but experience has shown that it is not desirable to force individual tenure on Natives who are not sufficiently advanced to appreciate it, and who are not willing to accept it.

MISSION RESERVES AND MISSION LANDS.

49. In Natal the Mission Reserves are generally large blocks of land of from 5,000 to 15,000 acres, which have been granted to Missionary Societies or Churches for religious and educational work amongst the Natives. Sometimes they lie within defined Native Reserves and sometimes they are entirely separated from such areas; but in every case they are practically Native Reserves intended solely for the use and benefit of the Natives.

50. In Natal alone there are nineteen such Mission Reserves comprising 144,192 acres.

51. Glebe lands are held under separate title and are, as a rule, situated within Mission Reserves.

52. Apart from and in addition to such Mission Reserves, a very considerable amount of land is privately owned by Missionary Societies or Churches throughout the Union; and these lands too may be said to be entirely devoted to the use and benefit of the Natives. The Trappists own in a single block 25,000 acres in the Lower Umzimkulu District; but in many instances the missions only have small holdings, sufficient for Church, school and residential purposes.

53. Taken as a whole, Missionary Societies have been occupied principally with the education and religious training of the Natives and have done little in the way of industrial training or in improving agricultural methods or the development of the land. With some exceptions the occupation of the mission lands is exactly the same as that of the ordinary Native Reserves—that is communal—and the remarks which have been made as to the communal occupation of the reserves apply equally to such Mission Reserves and Mission lands.

54. The Mission Reserves appear to offer special facilities for a beginning to be made of the individual tenure system; but, excepting in the Cape Province, no real effort appears to have been made in this direction.

55. In the Cape Province the Act 29 of 1909, providing for the better management and occupation of mission lands, has been taken advantage of at Shiloh, Goshen, Enon, Mamre, Pniel (Paarl), and Zoar.

56. In Natal, Act No. 49 of 1903 gives ample powers for effecting improvements in the occupation of Mission Reserves, but little or nothing has been done. Natives living within the Mission Reserves have to pay an annual rental of 30s. per hut over and above the 14s. ordinary hut tax, and they complain that they derive no distinct or adequate advantage over those living outside the Mission Reserve.

CROWN LANDS.

57. Notwithstanding the inferior quality of much of the Crown lands a large proportion of the Natives is settled on them. Some have been resident on these lands, as tribes, for many generations and regard them as their own. Others have been allowed to squat or settle on Crown lands, paying a rent to the Government.

58. The Returns show 942,000 morgen of Crown lands as occupied by Natives, but much of this land is, owing to its nature and position, very sparsely occupied; for example, on 50,000 acres in the Lower Umzimkulu District, Natal, there are only 540 Natives (souls).

[U.G. 26—'16.]
59. There are eight and a half million morgen of "reserved" Crown lands; these include lands reserved for future settlement, Game Reserves, Forests, Commonages, etc. The balance, not reserved for any special purpose, is about nine million morgen, and it might be thought that on these lands there would be ample scope for the creation of Native areas. This, however, is not the case. Large portions are practically waterless deserts or situated along the broken ridges of the Drakensberg, and are quite unfit for human habitation.

60. The fact is, all the best lands have already been taken up or reserved. It is true that there are considerable areas which might be made fit for occupation if water could be supplied either by irrigation or boring, but unless this could be done for the Natives they would be unable to do it for themselves and would not care to buy except where they are already in occupation.

61. Very considerable areas of land have from time to time been set aside by the Government as Forest Reserves. Many of these are situated within existing Native Reserves.

62. Some of them are indigenous forests which have been beaconed or fenced off for protection and preservation, some are under cultivation, and others await development at some future date, but there are areas which are never likely to be made any use of.

63. Prior to the activities of the Forestry Department the Natives regarded the natural forests within the reserves as belonging to themselves, and they cut and used the timber as they liked. Now they can only do so under licence and regulation. But it is not so much this that the Natives complain of as the deprivation of their grazing lands. The wire fences which enclose the natural forests in certain areas run from point to point or from kloof to kloof, and include land that was formerly used for grazing, and new forest reserves have been cut out of location grazing lands without any compensation. The Natives complain bitterly about this.

64. Enormous tracts of land have been reserved for the protection and preservation of the wild fauna of the country.

65. There are twelve Game Reserves within the Union, with a total of 28,257 square miles. Almost the whole of these tracts are unoccupied Crown lands; some have been cut out of recognised Native areas (as in Zululand), and some include private property (as in the Sabi).

66. As a rule these areas are unfit for occupation, being unhealthy, poor in soil and waterless; yet, in parts, they are sparsely occupied by Natives and, if water could be obtained, would be good for ranching purposes.

67. When Crown lands having Natives thereon are sold the purchaser has the right of turning off the Natives, and these have to seek a home elsewhere. Some remain on the land and work for the new landlord. Many Natives have been in this way ejected from Crown lands since the Natives Land Act came into force, and this has constituted a grievance in their eyes.

68. In all the Provinces Natives are possessed of land in freehold. Even in the Orange Free State, where no Native can buy land, grants have been made to individual Natives for services rendered, and a considerable number of farms are owned by Natives in the Thaba 'Nchu District. In the Cape Province and Natal, Natives have always had the right to buy land, and they have done so pretty extensively. In the Transvaal, though Natives were not allowed to privately own land until the Convention of 1881, individual grants had been made before that time to Natives, as in the Orange Free State. Most of the land purchased by Natives in the Transvaal has been acquired tribally and for communal occupation, but there are many individually-owned farms.

69. The Returns show that over a million morgen of land, not including individual allotments under the Glen Grey system, are held by Natives under title, some being held individually and some tribally; the difference is shown by colouring on the maps.

70. As regards lands individually owned by Natives, it is important to note that as a rule—and there are notable exceptions—the desire of the Native to possess land has led him to buy more than he could either pay for or make a profitable use of, and when both capital and knowledge are wanting, the ownership of land does not tend either to the elevation of the owner or to the general progress and prosperity of the country. It is for this reason that one constantly hears the remark that it is a waste of good land to allow it to come into the possession of a Native.
71. Inability to pay for the land leads to the borrowing of money by mortgage, with a promise to pay by instalments. The result is that most of the Native farms are heavily mortgaged to Europeans; many of them hopelessly irredeemable, and it often happens that after considerable sums have been paid by way of instalments the land becomes forfeited to the mortgagee.

72. By way of meeting the purchase price it is a common practice to form syndicates, the members of which all contribute a share or shares and become owners in undivided shares of the land purchased. This system has been largely carried out in Natal and other places, and has led to the utmost confusion owing to the difficulty of ascertaining the rights of individual members or their lawful successors and the difficulties in effecting transfers. This system has proved altogether unsatisfactory and defeats the objects aimed at by individual tenure.

73. There is still another way by which the difficulty of paying for the land is overcome. The purchaser brings on to the land a number of Natives as tenants or squatters. In this way the farms become small Kafir locations with no proper supervision; and herein lies one of the greatest objections held by European farmers to the ownership of land by Natives in their vicinity, because, as they say, these Native squatters are many of them undesirable characters who find a haven or refuge on such lands, and are enabled to lead an idle life by helping themselves to the stock on the adjoining European farms.

74. An abnormal demand for land is sure to arise when the labour conditions of the Act are put into force.

75. In the Free State, the Act has already affected thousands of Natives who have for years lived on private lands as quasi tenants. A very large number of these will be either unable or unwilling to accept the labour conditions imposed by the Act, and will want to secure land for themselves wherever they may be permitted to do so. The same applies to a very large number of squatters on Crown lands and private lands in the other Provinces.

76. It is, of course, impossible to form anything like an accurate estimate of the number of Natives likely to be displaced by the enforcement of the Act. A great deal depends on the extent to which the Act is enforced—what exemptions will be allowed, what land will be provided for them and the terms upon which they will be allowed to acquire such land.

77. Apart from the demand for land which is likely to arise by reason of the ejectment of Natives from Crown lands and private lands, a very considerable number of Natives in the Union are now wanting to buy land and are waiting for the opportunity to do so.

78. The majority of these desire to buy land for tribal occupation, with the right of paying off the purchase price by instalments. This is a form of ownership which it is not desirable to encourage; but, as has been already pointed out, it would be right and reasonable in certain circumstances.

79. That this demand to buy land will steadily increase year by year there is no doubt, and provision must therefore be made for the future as well as the present. But whether the demand for land is tribal or individual, in every case the prospective purchaser wants to buy in the locality where he has lived and to which he is accustomed, and there is little likelihood of his being induced to buy land in localities of which he knows nothing.

**European-owned Lands.**

80. Lands owned by Europeans may be roughly divided into three classes, viz:—

1. Those occupied by Europeans with or without Native labourers or labour tenants;
2. those solely occupied by Natives either as tenants or rent-payers, or as labour-tenants—mostly squatters;
3. those which are altogether unoccupied.

81. The ordinary way in which farmers, occupying their farms, secure labour is to allow a certain number of Native families to live on their farms with the use of a limited amount of garden and grazing lands on condition that they supply the labour required. Conditions vary as to the payment, or non-payment, of wages, the times at which the labour is to be supplied, the right of leaving the farm to labour elsewhere after that which had been stipulated for has been supplied, the limitations of stock, etc. The number of families allowed to reside on any one farm is limited by legislative enactments in all the Provinces, but these
laws have not been enforced, or they are only partially enforced. A very large number of Natives are living on occupied private farms in excess of what the law allows and these are "squatters". It has been strongly urged in many quarters that the laws in this respect are far from satisfactory and require amendment.

82. Class (2) comprises a very large number of farms—in some cases large blocks of farms—which have been acquired either with the idea of mineral development or for obtaining a revenue out of the rents paid, or for the purpose of securing a supply of labour for farming or industrial needs.

83. As has been already pointed out, there are in several localities whole tribes living on private lands which they have occupied for generations. They regard these as their ancestral lands, though they have become the property of private owners, to whom they pay, annually, large sums by way of rent. These Natives have no fixity of tenure, they are always in fear of the enforcement of the Squatter’s Law, and they never know when their rents may be raised or the land sold and fresh conditions of occupation imposed. But so strongly are they attached to such lands and the graves of their ancestors that they would rather submit to any terms than be forced to leave. They know that the rents they have paid cover many times the market value of the land itself, and they would welcome any arrangement by which they could purchase the land for themselves or become the tenants of the Government with a prospective right of ownership. There are, however, a very large number of farms where tribal conditions of occupation do not exist, Natives having been encouraged to reside on the lands as rent-paying tenants merely with the object of obtaining a good profit out of them. This is what is called "Kaffir-farming", and a distinction should be drawn between these two classes of rent-paying tenants.

84. There are, however, a very large number of farms where tribal conditions of occupation do not exist, Natives having been encouraged to reside on the lands as rent-paying tenants merely with the object of obtaining a good profit out of them. This is what is called "Kaffir-farming", and a distinction should be drawn between these two classes of rent-paying tenants.

85. Then, again, it is a very general practice for farmers to own farms in the low, or thorn, veld which they do not occupy, but only use for winter grazing, the locality being too hot or otherwise unsuitable for European occupation. Such lands, however, are well suited for Natives who are accustomed to the low veld, and the owners allow them to live on these lands on the condition of their giving labour. Thus the farmer and the Native are mutually accommodated; and there is a strong objection on the part of both to any interference with these conditions.

86. In a similar manner Natives are allowed to squat on private farms to obtain a supply of labour for industrial purposes, as on the Vereeniging Estates.

87. The evil of squatting or Kaffir-farming has been considerably mitigated and regulated in the Cape Province by the Private Locations Act No. 32 of 1909, and the provisions of this Act, with some modifications, might well be extended to the other Provinces.

88. One form of Native squatting is what is known as the share-system or "ploughing on shares", which obtains very largely in the Orange Free State and in certain districts of the Transvaal, and which is not altogether unknown in the other Provinces.

89. Some of the provisions of the Natives Land Act are intended to deal directly with this problem and aim at securing a more even distribution of Native labour by breaking up these segregations of squatters on Crown and private lands, especially where the latter are the property of absentee landlords, who are content to receive the rents regardless of the fact that they are shutting out beneficial occupation by Europeans.

90. If the provisions of the Act are judiciously enforced many of the Natives, no doubt, will accommodate themselves to the new conditions imposed by the Act, not from choice but of necessity, since most of them would be unable to acquire land for themselves even if they were given the opportunity of doing so. Some may, and do, prefer to live on the farms because they have good masters and appreciate such advantages as freedom from the authority of Chiefs, living with their families while at work, provision in times of drought, good pasturage for stock, etc. In this connection it may be mentioned that witnesses are almost unanimously of the opinion that the condition of Natives living on farms as labourers or labour tenants is, generally speaking, better, both in the moral and physical sense, than that of those in the reserves. They live healthier and cleaner lives and become more individualistic; they are also better off materially. But it is clear that the great majority of farm Natives prefer, if they can, to rent land even at a very high figure, so as to be free to hire their services in the best markets and whenever it best suits them.

91. In some districts it has never been the custom to pay wages to Native labourers who live on the farms. They give their labour in lieu of rent. In other districts the labour is paid for but a rent is charged.
92. But, while it is not possible for farmers to compete against the wages paid at the mines, at industries and in the towns, and any attempt to force labour on to the farms would be doomed to failure, the farmer has advantages to offer which the industrial centres and towns have not; and it is to these advantages that the farmer must look.

93. A point upon which considerable stress has been laid by witnesses is the position of the Native who has grown old in the service of his master, or who through no fault of his own has become incapacitated from performing the ordinary duties required of a farm labourer. As the farmer is not permitted under the Act to keep Natives on his land unless they perform at least 90 days' service per annum, provision will have to be made to meet such cases. Where the master is willing and able to provide for Natives so situated he should be permitted to do so; but in cases where such provision cannot be made and relatives or friends are unable or unwilling to assist, the State should assist such persons to find a suitable home within a Native area.

94. It should also be borne in mind that Headmen, Indunas and Natives over a certain age have never been in the habit of working, and to expect them to do so under the provision for 90 days' service in the year (see definition of "farm-labourer," section ten of the Act) would be impracticable. Some exemption should be made in favour of Natives of rank and some limitation as to age in the case of other Natives.

95. A full consideration of the present position of Native labourers and squatters on farms or Crown lands and of the provisions of the Act as affecting these classes of Natives leaves little doubt that if the Act is enforced a very large number will be made liable to ejectment from the lands they now occupy. Some, as I have said, may avail themselves of the opportunity to acquire land within defined Native areas and many will accent labour conditions on private lands, but a large number will do neither. What is to become of these is a very serious question. It may be said that if they are not willing to accept service on the farms they are free to go into the Native areas. But if the defined Native areas are examined it will be found that most of them are already largely occupied by Natives and that there is not much room for more, while in some areas the lands are so poor or so malarial or so distant that the Natives would not go to them.

96. In defining the proposed Native areas the Commission took the scheduled reserves as the basis of each area, then, so as to link together separated reserves and to secure the total area required, it added the lands adjacent thereto, such lands being selected in the following order of preference:

(1) Mission lands;
(2) native-owned lands;
(3) Crown lands;
(4) unoccupied European-owned lands;
(5) European-owned lands solely occupied by Natives, and,
(6) lastly, where this could not be avoided, lands in actual occupation by Europeans.

97. Where reserves or scheduled areas could not be included in a Native area they had to be left as Native areas within European areas.

98. It may be noticed and remarked upon that almost half of the whole extent of the Cape Province, being the western and north-western portions of that Province, is left as a non-Native area, without any provision for Natives. The explanation of this is that this area, originally occupied by Bushmen and Hottentots, and still partially occupied by the remnants of these races, was never occupied by any of the Bantu races and, in the opinion of qualified persons, is never likely to be occupied by them under any circumstances. It may also be pointed out that thirty to fifty per cent. of the present inhabitants of the area in question are Europeans.

99. In whatever way the segregation of European-owned and Native-owned lands may be attempted, it is impossible to avoid the inclusion of much European-owned and occupied lands within proposed Native areas. The difficulties which result from this necessity should be clearly comprehended and demand careful consideration.

100. Most European owners express the strongest objections to inclusion within a defined Native area. They point out that in such an event the right of sale would be restricted to Natives, who would be unable to pay the proper value of the land with the improvements which had been effected thereon. It can hardly be expected that Natives would be able to pay for expensive buildings,
etc., which would be of little use to them, nor would they be justified in so doing. They further point out that the restrictions to sell only to Natives would seriously hinder, if it did not altogether prevent, the raising of money on mortgage. And there is the common objection which European owners have to Natives occupying adjoining lands.

101. It may therefore be safely concluded that the majority of Europeans owning lands included within a defined Native area would demand immediate expropriation. The value set on such lands would no doubt become greatly enhanced by the prospect of expropriation and the cost entailed would be enormous.

102. It has been said that the cost of expropriation has been anticipated and met by section four of the Act, which reads as follows:

"For the purposes of establishing any such areas described in section two, the Governor-General may, out of moneys which Parliament may vote for the purpose, acquire land or any interest in land";

and sub-section (2) of section four provides for the expropriation of such land. But when one comes to consider the amount of land which would probably have to be expropriated it is realised that the cost would be far beyond what Parliament would be prepared to vote for the purpose.

103. On the other hand, there are many European and Native owners who would not be content to be deprived of their lands by a mere money payment, however ample it might be. A man may have a very strong attachment to his land by reason of his having been born and bred there, or he may have owned it for a number of years and spent much toil and trouble in improving it, or he may strongly object to having to leave a district with which he has become familiar, and in which he has gained his experience, and to be forced to start anew elsewhere. In such cases there will be the strongest objection to expropriation in any form.

104. There are thus two classes of land owners whose ideas as to expropriation are at complete variance: those whose lands are held merely for speculative purposes and without personal ties who would want immediate expropriation, and those who are attached to their lands and would resent it. Moreover, the immediate expropriation of all European-owned lands within defined Native areas is neither necessary nor advisable.

105. No great difficulty would arise in expropriating lands which could be disposed of at once, by sale or lease, to the Natives, and the cost recovered by annual instalments or rent. Money so employed might be regarded as a well invested loan. But to expropriate land which could not be sold or utilised at the time would be a useless and unjustifiable proceeding.

106. Another very serious consideration is the difficulty of removing any considerable number of Natives from land occupied by them, especially if these are ancestral lands. For no matter how poor the soil or how bad the climate, Natives cling to the localities occupied by them with the greatest tenacity. The failure to enforce the Plakkerswet in the Transvaal, the troubles arising out of the concentration of Natives in the Barkly West District, and the altogether unsuccessful attempt to move a small tribe (the Umnini Tribe) from their location in Natal are all experiences in proof of this fact, and many others might be added. Everyone is agreed that any attempt to forcibly remove Natives is inadvisable, and sure to lead to trouble.

107. It has also to be remembered that Natives who have been accustomed to the "High Veld" would never consent to go to the "Low Veld," and vice versa. The high veld lands are almost all under European occupation, and are highly prized, and the Commission had the greatest difficulty in suggesting the inclusion of any such lands within the proposed Native areas.

108. I have tried to give, as shortly as possible, some idea of the purposes for which Native areas were required, the difficulty of making these areas sufficiently large to meet all requirements, the difficulties attending expropriation, especially where the owners are in actual occupation and have spent considerable sums in improvements, and the danger attending the removal of Natives from lands they have long resided on.

109. It is by no means easy to suggest how these several difficulties may be overcome so that practical effect may be given to the objects aimed at in the Act, nor was this duty assigned by the Commission. The Act does not state, and the Commission could not know, the terms on which lands shall be acquired and held in Native areas; nor could the Commission know what attitude Parliament might
take as regards European-owned lands in Native areas and Native Reserves and Native-owned lands in European areas. The want of this knowledge seriously handicapped the work of the Commission; but, having been faced with these difficulties, it has given expression to certain recommendations which appeared to it to be absolutely necessary if separate areas for white and black are to be demarcated; and I trust I may be excused if I restate these recommendations and offer certain suggestions as to the general policy to be followed in dealing with the various classes of lands included in defined areas.

110. In endeavouring to arrive at a workable scheme for the territorial separation of the Native and non-Native races several alternatives may present themselves, and it is probable that the following suggestions may be improved upon; but whatever scheme may be adopted it is clear, having regard to the difficulties referred to, that it is absolutely essential:—

1. That the exclusive occupation of defined areas by Natives and non-Natives, respectively, must be accomplished by some gradual process, extending, it may be, over many years;
2. that there should be as little interference as possible with vested rights and existing conditions;
3. that the right of expropriation, as provided for by the Act, should be resorted to only when the necessity arises; and,
4. that the ejectment or removal of Natives from the lands they now occupy should be carried out slowly and considerately.

My suggestions are as follows:—

Native Areas.

111. The Crown lands within a Native area present no real difficulty, as they can be disposed of or retained for future requirements as the Government may think fit.

Where they are, and have been for some time, tribally occupied they should either be converted into reserves and made subject to the laws and regulations affecting reserves, or they should be surveyed and disposed of under the allotment system; those not required for tribal occupation should be thrown open for purchase by Natives, individually, under such restrictions as the Government may from time to time direct; in either event the Natives being made to pay for the land acquired.

112. Where lands within a defined Native area are owned by Europeans, the European-owned Government should have the right of expropriation at any time, the exercise of this right being governed by circumstances.

113. Where mineral rights have not been reserved by the Government and belong to the owner, the sale to a Native or the expropriation of any land required for Native occupation might be effected exclusive of the mineral rights, which would be retained by the owner subject to the laws regulating the same.

114. The possibility of minerals being discovered on lands in Native occupation is a disturbing element, but one which already exists in many localities and cannot well be avoided.

115. If the land is occupied by Europeans, either as owners or tenants, it should be made clear that existing rights will not be interfered with; but that in the event of the owner desiring to sell and not being able to get a Native purchaser he should have the right to call upon the Government to expropriate his land at a fair valuation or to grant permission for sale to an European. It is believed that if this provision is made the objection to being included within a Native area would be largely overcome.

116. If solely occupied by Natives the land might be at once expropriated and disposed of for Native occupation, under suitable conditions, in such manner as the Government may think fit, either communally or by surveyed allotments to individual purchasers; in every case the money expended in expropriation being recovered by instalments with interest or by a quitrent. Land once sold to a Native or acquired by Government for Native occupation to remain Native for all time.

117. If land is only leased to Natives for grazing purposes and is not required for occupation, it is recommended that such leases should not be interfered with but be made subject to the right of the Government to terminate any such lease on six months' notice, expropriation taking place at the expiration of the six months, or sooner if the parties are agreed.

[U.G. 26—16.]
1. Wherever areas scheduled under the Act do not fall within defined Native areas they should be protected in the same manner as they are at present, and not interfered with or exchanged except under the authority of Parliament.

119. Native lands privately owned should come under the same conditions as European-owned lands in Native areas. Such lands would of course come under the provisions of any Act limiting the number of tenants.

120. Where European-owned lands within a non-Native area are solely occupied by Natives who are not bona fide required by the owner for farm or industrial purposes, but are merely rent-payers, the provisions of the Squatters Law should be strictly applied and the excess of Natives compelled to remove. Exception should, however, be made in the case of lands which have long been occupied by whole tribes or portions of tribes, and which have not come under European occupation. Such Natives should be left undisturbed, except for the imposition of a tax or licence, until such time as the land is taken up for European occupation, when the Squatters Act would apply.

121. Where Natives only are occupying such lands as farm labourers or their services are bona fide required by the owner for agricultural or industrial purposes, the provisions of the Cape Private Locations Act should be made to apply.

122. Where Natives have grazing leases on European-owned lands provision should be made for such leases to be gradually checked and finally altogether prohibited. As those in force expire, fresh leases might be disallowed except under exceptional circumstances, and time should be given for the disposal or removal of the cattle.

123. The evidence shows that a very large number of Natives are in the habit of leasing grazing for their stock on private farms in all parts of the Union, and it would not be wise to stop this summarily.

124. Mission lands, within a non-Native area, whether in freehold or under deed of grant, should retain all the rights now attaching to them including the right of having Native tenants subject to the provisions of any laws or regulations which are now applicable to them or may, from time to time, be passed by the Legislature. As opportunity offers, these Mission lands might be exchanged for other lands within Native areas.

125. If, then, general principles such as I have sketched, can be embodied in an Act of Parliament, there is no reason why the segregation of Native lands and the eradication of the evils of squatting should not be accomplished within a reasonable time, without undue interference with the vested rights of individuals or any sudden disturbance of the Natives and without committing Parliament to an unreasonable expenditure.

126. To ensure success we should deal in a generous spirit in providing for the present and future requirements of the Native, and the Act should be carried out with discretion and tact.

127. It has to be constantly borne in mind that due allowance has to be made for the great differences which exist not only in the nature of the land in different parts of the Union but also in the language, the national spirit, the traditions and customs, the social status and the environment of the various Native races which occupy different parts of the Union. In some parts, by long contact with Europeans and by education, the Natives have advanced almost beyond the restraints of their old tribal life and are readily amenable to civilised methods; in other parts they have lived remote from the white man and have hardly come in contact with him except at the mines; some are by national tradition and nature docile and easily ruled; others are warlike and independent and not easily compelled against their wills. These differences are very real, and a consideration of them must bring home the conviction that all cannot be treated alike, and that it is absolutely necessary, while laying down a general policy or general principles to be consistently adhered to, that the law should give the Government discretionary powers as to the manner in which these principles are to be given effect. Much should be left to local administration and local initiative and the cooperation of the Natives themselves should as far as possible be secured.

128. The system of Government by Proclamation which has been so successfully followed in the Cape in dealing with the Transkeian Territories might well be followed in other areas. Ordinary and general legislation is slow in its process and fails, by reason of the diverse conditions of the Natives and the lands occupied by them, to be effective. Since it is impossible or impracticable to enforce...
in one area what is perfectly feasible in another. Proclamations, on the other hand, can be limited to definite areas and make it comparatively easy to introduce reform from time to time as the conditions are favourable.

129. The evils attendant on individual Natives being allowed to purchase more land than they can pay for or profitably occupy have been specially referred to (see page 9). When it is realised that the land available for Native occupation in the future will be strictly limited and cannot be increased, it is clearly essential that its purchase and occupation should be made subject to regulations which will prevent speculative, wasteful and undesirable occupation, and which will encourage tenure by those individuals who are really fitted for it.

130. There is a danger that European owners within Native areas may, having regard to the fact that Natives can only purchase within such areas, try to extort exorbitant prices for the land, altogether beyond its true value. Such action would have the effect of preventing Natives from acquiring land and would defeat one of the objects of the Act.

131. To meet these difficulties and others I would suggest the establishment of Local Boards on lines somewhat similar to those applying to Boards under the Land Settlement Act—No. 12 of 1912—(see Sections 3, 11, 12); each Board to consist of a Magistrate and two non-official members; Boards to be appointed at the following centres: Pietersburg, Lydenburg and Rustenburg (Transvaal), King William's Town and Kimberley (Cape), Bloemfontein (O.F.S.), and Pietermaritzburg ( Natal): the duties of such Boards being:

1. The obtaining and supplying all information required by the Government in respect of any land or area under consideration;
2. To advise the Government as to the expropriation, sale and purchase of lands within Native areas;
3. To receive and report upon all applications by Natives to purchase or lease lands, and to give their assistance to intending Native purchasers;
4. To suggest and advise as to exchanges from European areas to Native areas; and
5. To make recommendations as to the better occupation of Reserves and Mission lands, and, generally, to assist the Government in all matters arising under the Natives Land Act.

132. The "Native question," so called, is neither more nor less than the constant adjusting and re-adjusting of the relations between the white and black races of South Africa and must continue indefinitely. The establishment of Native areas on a basis acceptable alike to white and black, the systematic but gradual reform of the present wasteful and uneconomic use and occupation of Native Reserves, the gradual introduction of individual tenure and local self-government and the eradication of squatting will, so far as one can judge, carry us a long way in harmonising these relations and providing a means whereby the Natives can hopefully develop along their own lines.

133. Before concluding this Minute I should like to say a few words on the term "Native" as used in the Act, and to deal shortly with some matters incidental to the Act to which the attention of the Commission was drawn by the Hon. F. S. Malan in his letter of the 11th August last, namely, Civilized Natives, Mineral and Water Rights, and the Cape Franchise Act.

"Native."

134. Under section ten of the Natives Land Act a "Native" is defined as "any person, male or female, who is a member of an aboriginal race or tribe of Africa; and shall further include any company or other body or persons, corporate or incorporate, if the persons who have a controlling interest therein are 'Natives.'"

135. It may be inferred from this definition that it was not intended to class Griquas and half-castes with Natives, and the late Mr. Sauer in introducing the Bill is reported to have said that it was not intended to include coloured or mixed peoples under the term "Native" as used in the Act.

136. The Act, however, does not define or specially refer to this class of people, who are the children or descendants of Native mothers by European fathers and who form a very considerable portion of the population, and unless the position is made perfectly clear confusion is likely to arise.

[U.G. 26—16.]
The Census Returns for 1911 show the "mixed" population for the several Provinces as:

- Cape: 454,959
- Transvaal: 34,733
- Orange Free State: 27,053
- Natal: 9,092

Total: 525,837

The South African Native Affairs Commission, after a very full consideration of the question, included in the word "Native," "half-castes and their descendants by Natives" (section 74).

In the Orange Free State the word "Kleurling" has always included all Natives and bastards or half-castes, "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."

In the other Provinces the word "Native" is defined differently in different Acts, sometimes including and sometimes excluding Griquas and half-castes.

In several of the Cape Districts the mixed or half-caste population predominates, many of them being owners of land and having the right of franchise. The Magistrate of Namaqualand (Springbok), in his report of 13th July, 1914, says:

"The Native reserves in this district are occupied by bastards, and the difference between the bastard and the Natives is often so slight that it would be almost impossible to say which were regarded by the Census Enumerators as bastards and which as Natives."

At Kokstad the Commission was met by a large deputation of Griquas, men of all shades of colour, whose origin relates back to an European father and a Native mother. These people urged very strongly that they should not be classed as Natives for the purposes of the Act.

This is a matter upon which the Commission was not called upon to express any opinion; but, considering the representations which were made to it and the information gathered, it would seem advisable not to include half-castes and Griquas as "Natives" for the purposes of the Act in connection with the ownership of land.

One of the subjects mentioned by the Hon. F. S. Malan in his letter of 11th August last, is "the position of civilized Natives and their claims to exemption from restrictive legislation of this kind (i.e. Natives Land Act)."

The Commission has expressed no opinion on this subject. It seems clear that, so far as the Natives Land Act is concerned, Parliament having decided that territorial separation of European and Native interests in land is for the benefit of both, the restrictions necessarily attending such a separation must be imposed on both alike. The term "civilized Native" may be used in a wide or restricted sense, and conveys nothing definite; but I take it to mean the educated Native who has raised himself by education and industry to the habits of life and level of the ordinary European, and who is, personally, no longer in touch with Native customs and tribal traditions. In my opinion it would be wise to establish some machinery whereby approved persons of this class, more especially those who have adopted one of the "learned professions" and live within towns, might be granted the full rights of European citizenship. Assuming the full emancipation of such a "civ-
lized Native," it would necessarily follow that he would be classed as an European. No such machinery, however, exists, and the "civilized Native" must in the meantime be classed as a Native for the purposes of the Natives Land Act.

147. If, however, the effect of the Natives Land Act will be, as I hope, not only to facilitate and regularise the acquisition of land by Natives within defined Native areas, but also to encourage individual ownership and civilized progress, the development of the "civilized Native" may be looked for within such areas and not solely in the learned professions. And where this is the case it would be a better policy to allow this leaven of progress to work its influence within such areas rather than to withdraw it by classing the advanced Native as an European. The place of such a "civilized Native" is surely amongst his own people, using his knowledge and his influence in raising their status, improving their environment and prospects, and assisting the development of local self-government on lines adapted to their traditions and customs.

Mineral and Water Rights.

148. Another subject which the Hon. F. S. Malan referred to the Commission is:—

The question whether lands specially reserved for Natives should be subject to the laws now in force relative to (1) the acquisition of rights to mineral, precious or base metals or precious stones, and (2) the acquisition of the servitudes under Chapter VII. of the Irrigation Act, 1912.

149. It will be observed that these two matters are specially exempted from the operation of the Natives Land Act, 1913, by clauses (e) and (f) of sub-section (1) of Section eight.

(a) Mineral Rights.

150. On referring to the mining laws in the various Provinces the following salient points deserve careful consideration:

Natal.

(a) Prospecting claim licences and mining licences can only be obtained by Europeans in respect of Crown Lands.

(b) An owner not of European birth or descent, may, however, in respect of the land owned by him exercise all the rights conferred by the Mining Laws.

(c) The lands vested in the Natal Native Trust may be prospected with the permission of the Trust (now the Government); but Natives are (it would seem) prohibited from prospecting thereon—not being the owners—and the Trust obtains the benefits of an ordinary owner.

Transvaal.

(1) Prospecting in a Native location can only be carried on with the permission of the Minister of Native Affairs.

(2) If a location be proclaimed a public digging:

(a) Tribe retains grazing rights in so far as such right does not interfere with prospecting or mining.

(b) Kraals and lands under cultivation for two years prior to proclamation shall be reserved for tribe unless they consent to such reservation not being made.

(c) Water for stock and domestic purposes to be reserved for tribe.

(d) If location is Crown land an equal area shall be granted for use of tribe as compensation for land lost by location being proclaimed.

(e) If location is owned by tribe mijnpacht to be fixed in consultation with Minister of Native Affairs: money paid for acquisition of mining rights, and half proceeds from mining titles or other rights to be paid to Minister of Native Affairs in trust for tribe and expended—-with Governor-General's approval—as the tribe may desire.

[U.G. 26—'16.]
(3) No right, save those in the paragraph 2, may be acquired under the mining laws by a coloured person.

**Orange Free State.**

(a) Prospecting licences are only issued to white persons.

(b) But any landowner may prospect on his own land without a licence provided he gives notice beforehand to the Magistrate. (*Seems*, a coloured owner can prospect on his own farm).

(c) Coloured persons within the boundaries of a public digging must obtain a monthly shilling pass; and residence is subject to control.

(d) Prospecting on Crown lands (*e.g.*, Locations), is subject to Governor-General's approval.

**Cape of Good Hope.**

(a) Any person—on satisfying the Civil Commissioner that he is of good character—may obtain a prospecting licence, i.e., there is no colour distinction.

(b) Native locations communally occupied are Crown land, and if prospecting is not specially prohibited by Proclamation any person holding a prospecting licence may prospect for precious minerals or precious stones and, with Government's permission, for base minerals.

(c) The inhabitants of the location receive no compensation for the loss of the use of the ground which they may sustain by the proclamation of a public digging—except in the case of the Bechuanaland Reserves (*Vide* Acts 50/6/07; 124/11/99).

151. From the foregoing it will be seen that the rights of Natives are particularly circumscribed by the existing mineral laws in the Transvaal and the Orange Free State, and where communally occupied Crown or Trust land is concerned in the Cape and Natal the possibility of individual hardship by the curtailment of grazing and other rights is by no means negligible.

152. From an economic point the locking up of highly mineralised land appears unwise.

153. Up to the present the development of mineral propositions has been entirely in the hands of the white man, and in all probability this will be the case for some time to come.

154. To prohibit, in the meantime, the acquisition of mineral rights by Europeans in Native areas would be equivalent to closing an avenue of economic progress.

155. A striking difference between the Cape and the other three Provinces is that in the former a person—whether white or black—can obtain a prospecting licence on satisfying the Government's representative that he is "of good character," while in the latter the test is colour purely and simply.

(b) Water Rights.

156. The Provincial laws relating to water have been consolidated in Act No. 8 of 1912, which has evolved extensive machinery for regulating, obtaining and recording water rights.

157. This machinery, however suitable for advanced European civilization, is hardly adapted for the general mass of the Native population at the present moment, and this fact was recognised by excluding the operation of certain Chapters of the Act in regard to lands set aside for the occupation by Natives unless and until those Chapters were made to apply by Proclamation.

158. Chapter VII., however, which deals with the expropriation of land for irrigation purposes and the acquisition of servitudes, does apply to all Native Reserves and locations throughout the Union.

159. Irrigation is of such supreme importance in the Union that every assistance should be given by the State for its development. Unless, therefore, there is uniformity of treatment where European and Native areas adjoin there is a possibility of the general interest suffering damage.
160. The exemption contained in the Natives Land Act should continue, and the rights contemplated in Chapter VII. of the Irrigation Act, 1912, should be made capable of being exercised by Europeans in respect of Native areas and by Natives in respect of European areas.

Franchise.

161. In introducing the second reading of the Natives Land Bill, the late Hon. Mr. Sauer intimated that the question of the Franchise from the point of view of that Bill would be a proper subject for the Natives Land Commission to report on, and the Hon. F. S. Malan intimated that the Government would be glad to have the benefit of the views of the Commission on:

"The position of the Cape Province in relation to the exemption provided "by Section eight (2) of Act No. 27 of 1913, and the probable effect if "such exemption is either continued or discontinued in legislation "following on your Report."

The Commission, however, did not feel called upon to deal with this matter or to express any opinion thereon. The view taken by the Commission was that Parliament, having decided on the territorial separation of the races, had assigned to the Commission the work of delimiting European and Native areas throughout the Union, and that any question as to the effect of the Cape Franchise Act on the delimitation of areas within that Province is a matter for consideration by Parliament and not by the Commission.

162. The question, however, of the Franchise has a most important bearing on the principle of territorial separation which has been embodied in the Act: for, if such principle is to be actually and practically brought into operation in the Cape Province, it seems essential that legislation be passed modifying the Franchise qualifications of both whites and blacks in that Province.

163. Prior to the inception of Union each of the four Provinces had its own Franchise qualifications, and the following sections on the point were embodied in the South Africa Act, 1909:

Section 35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the elections of members of the House of Assembly, but no such law shall disqualify any person in the Province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the Province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any Province shall be removed from the register by reason of any disqualification based on race or colour.

Section 36. Subject to the provisions of the last preceding section, the qualifications of Parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding Provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

164. No Bill such as that contemplated in section 35 has, as yet, been passed by Parliament, and, therefore, the Franchise qualifications in the various Provinces still remain as they were before Union was established.

165. If the principle of the Natives Land Act is applied to the Cape Province, and Europeans and Natives alike can only acquire land or interests therein in certain defined areas, it does not follow that a potential voter, white or black, is necessarily prevented from acquiring or holding property or an interest in property as a qualification for registration as a voter; but it is evident that a restriction is imposed upon the opportunity which at present exists for potential voters to qualify themselves to acquire the right of Franchise.

[U.G. 26—316.]
For this reason, it may be presumed, section eight (2) was embodied in the Natives Land Act. It reads:

“Nothing in this Act contained which imposes restrictions upon the acquisition by any person of land or rights thereto, interests therein, or servitudes thereon, shall be in force in the Province of the Cape of Good Hope, if and for so long as such person would, by such restrictions, be prevented from acquiring or holding a qualification whereunder he is or may become entitled to be registered as a voter at Parliamentary Elections in any Electoral Division in the said Province.”

As a result the Natives Land Act has no practical application in the Cape Province, for it does not prohibit a European or a Native from purchasing or leasing land wherever situated in that Province. As a matter of fact, however, restrictions already exist limiting this right and the opportunity of obtaining registration as a voter by virtue of a property qualification. The Native Reserves are Crown lands and no European can acquire land within a recognised Native Reserve without the special permission of the Governor-General-in-Council—a permission not likely to be given; the occupation of Crown land by a Native under the communal system does not, per se, count as a qualification for the Franchise; nor does the ownership or occupation of land granted under the Glen Grey system of individual tenure count as a Franchise qualification (Vide Act 25/1894, Act 14/1887, conditions of titles granted under Act 40/1879).

From this it will be seen that even in the Cape Province a differentiation in land qualification has been the policy of the Government and the Legislature in areas regarded as essentially Native.

There does not seem, therefore, to be any valid objection to this principle being extended to areas which may now be set aside as Native areas.

The position of those Natives who are now on the registered voters' list is safe-guarded by section 35 of the South Africa Act, and their names will remain on such list until death.

It is interesting to note how far the Native in the Cape Province has availed himself of the right to become a registered voter.

According to the figures given in the Statistical Year Book, 1913, the total Bantu, Asiatic, and Coloured males in the Cape Province in 1911 was 1,982,588, and of these there were 23,092, or a little over 1 per cent., registered voters; but most of these voters are the coloured or mixed people. The bulk of the Native population is to be found in the Transkeian Territories and, omitting the Divisions of Elliot and Maclear, which are “white” areas, the Transkeian male Bantu population is 398,508, of whom only 1,194, or 3 per cent, (three in every 1,000), are registered as voters. How many of these exercise their right by virtue of the property qualification and how many by the receipt of wages to the amount of £50 per annum, cannot be determined; but it is more than probable that the large majority rely on wages and not on property. In the rest of the Cape Province there are 322,933 male Natives of whom only 5,690, or 1.75 per cent, are registered as voters.

The facts lead to the conclusion that, so far as the Natives are concerned, the application of the Act to the Province of the Cape now would affect not more than nine individuals in every 1,000 Natives in respect of their right to qualify for the Franchise. The effect on the European population would be far greater.

No one can doubt that by reason of the right to become a registered voter the Native in the Cape Province has been enabled to secure attention to his wants and his interests and to make his voice heard in Parliament. It is not suggested that he should be deprived of this right; but it is suggested that by the application of the principle of territorial separation as embodied in the Natives Land Act the restriction imposed on the opportunity of the Native to qualify himself for the Franchise is an extremely limited one, and that it would be a matter for serious regret if for this reason the principle of the Lands Act cannot be applied to an area comprising more than half the Union.

The crux of the whole question lies in the fact that in the Cape Province there is no difference between white, coloured, and black, as to qualifications necessary for the Franchise: one of these qualifications is the property qualification, and it is this qualification which the Natives Land Act touches. Can it be said that this is an insuperable difficulty?

Attached is a Return of the number of coloured voters in the Cape Province.
<table>
<thead>
<tr>
<th>RACE</th>
<th>Total No. of Males (1911)</th>
<th>Total No. registered Voters (1914)</th>
<th>Percentage of registered Voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>European</td>
<td>293,834</td>
<td>127,987</td>
<td>43.56</td>
</tr>
<tr>
<td>Kaffir</td>
<td>322,933</td>
<td>3,971</td>
<td>1.75*</td>
</tr>
<tr>
<td>Fingo</td>
<td>1,719</td>
<td>88</td>
<td>29*</td>
</tr>
<tr>
<td>Other</td>
<td>14,123</td>
<td>221</td>
<td>6.93</td>
</tr>
<tr>
<td>Hottentots</td>
<td>222,029</td>
<td>80</td>
<td>6.48</td>
</tr>
<tr>
<td>Indian</td>
<td>1,669</td>
<td>4</td>
<td>221</td>
</tr>
<tr>
<td>Malay</td>
<td>6,557</td>
<td>1,080</td>
<td>42.01</td>
</tr>
<tr>
<td>Chinese</td>
<td>16</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>845,353</strong></td>
<td><strong>150,745</strong></td>
<td>—</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Total No. of Males (1911)</th>
<th>Total No. registered Voters (1914)</th>
<th>Percentage of registered Voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cape (Proper)</td>
<td>3,453</td>
<td>46.44</td>
<td></td>
</tr>
<tr>
<td>Transkeian Territories</td>
<td>398,509</td>
<td>88</td>
<td>29*</td>
</tr>
<tr>
<td>Province of the Cape of Good Hope</td>
<td>721,441</td>
<td>1,807</td>
<td>95*</td>
</tr>
</tbody>
</table>

*Note.—The percentage would probably be lower if the population of 1914 were obtainable.*
177. Attached to this Minute are a few notes mostly of an historical nature referring to Zululand, Thaba 'Nchu, and Griqualand West, which I think may be of interest in considering the delimitations in those districts. I particularly wish to record the circumstances connected with each of these districts—Zululand, because I have strongly advised that it should be left alone; Thaba 'Nchu, because the conditions there present great difficulties and they should be fully understood; and Griqualand West, because of the claims of the Natives who were expelled from the Likatlon Location.

W. H. BEAUMONT
(Chairman, Natives Land Commission).

Cape Town, 4th March, 1916.
To understand the land question in Zululand it is necessary to consider briefly its recent history.

Zululand was conquered by the British in 1879, but it was not then annexed as part of the British Possessions, and European settlers were strictly forbidden the country. Thirteen Chiefs were appointed as independent rulers of as many districts, and they were left to govern themselves, subject to the influence of a British Resident.

It was not long before inter-tribal disputes threw a portion of the country into a state of war; and, in 1884, the Usutu faction called in the aid of a party of Boers, to whom they ceded a large portion of the country in consideration of services rendered. The land so ceded became known as the "New Republic," with its Capital at Vryheid.

In 1886, after considerable negotiations, the boundary line between the "New Republic" and Zululand was defined by mutual agreement between the English and the Dutch. By this agreement a portion of the New Republic, which had already been surveyed into farms and taken possession of, was included within the area of Zululand, but with this proviso—that "sovereignty over, but not individual ownership of, the land should be relinquished." The portion so included in Zululand has ever since been called Proviso B, and now forms part (about half) of the Magisterial District of Emtongjaneni.

By Proclamation, dated 14th May, 1887, the whole of Zululand (including Proviso B), was annexed to the British Possessions and came under the British Government. Though the intention still was to exclude white settlers and merely to administer the country for the benefit of the Zulus, the Secretary of State's Despatch of 4th August, 1887, clearly indicates that the idea of admitting white settlers "after the requirements of the Natives had been thoroughly ascertained" was entertained.

Ten years later, by Act 37, 1897, Zululand was annexed to Natal. The conditions, inter alia, attaching to the annexation are stated as follows:—

"The existing system of land tenure to be maintained for five years and during that period no grants of land to be made. In the meantime "a joint Imperial and Colonial Commission to be appointed to mark "out sufficient land Reserves for Native Locations, which it is under-
"stood will be inalienable without the Secretary of State's consent, "and the Natal Government, at the end of the period of five years, "will be at liberty to deal with the unreserved land. The Natal "Government, during the period of five years, to be at liberty to "proclaim townships, with the consent of the Secretary of State, if "necessary, in consequence of progress of mining enterprise."

(See p. 12, Blue Book, C8782).

The Joint Delimitation Commission was appointed in 1902 and made its final report in October, 1904. The award of the Commission was given effect to, and twenty-one Reserves, comprising something more than one-half of the total area of Zululand, were set aside for the sole use of the Natives. The Zulus no doubt did not like the award or the object of the Delimitation Commission, but, situated as they were, they felt they had no alternative but to acquiesce in the award.

The northern portion of Zululand—now forming the Magisterial Division of Ingwavuma, and a portion of the Magisterial Division of Ubombo—was not obtained by conquest but by treaty with the Natives. This area embraces what is known as Tongaland [a part of the land of the Amantonga, the other part being within Portuguese territory (McMahon's award)], and the districts of several independent or semi-independent Native tribes which lay east and south of Tongaland and east of the Lebombo Mountains. The Chiefs of these tribes were: Nsamana, Sibonda, Fokoti, Umqinti, Manaba, Sambana, Mhikiza, and Sibamu. The position of these tribes differed from that of the Zulus, inasmuch as they voluntarily came under British rule and cannot be said to have parted with their rights in the land.

* See Despatch of Governor of Natal to Secretary of State, 28th May, 1908.

[U.G. 26—'16.]
The facts are shortly as follows:—The portion of Tongaland included in Zululand lies between the Indian Ocean and the Pongola River and reaches from the Portuguese territory on the north to Lake Sibai on the south. It has an area of about 1,000 square miles (695,000 acres), with a population of about 15,444.

The Amantonga, though a distinct people, are of Bantu origin and closely allied to the Zulus. They paid tribute to the Zulu Kings. Their country is said to be well wooded but all very malarial, sandy, and badly watered.

Soon after the annexation of Zululand (1887), the Amantonga requested to be made British subjects and to be governed with the Zulus. This was not done, but a friendly agreement was entered into between the British Government and the Amantonga Queen Regent (Zambile), dated 6th July, 1887*. Subsequently, on the 30th May, 1895, a Protectorate was declared over Tongaland (see Gazette Extraordinary (Natal), 12th June, 1895); and on the 22nd May, 1897, it was definitely annexed by the British Government (see 3rd Proclamation No. 10/1897). That same year, 1897, Zululand was annexed to Natal and Tongaland was included as a part of Zululand. The Joint Delimitation Commission of 1902 dealt with it as part of Zululand, and by its award the coastal half of Tongaland now forms a portion of the Native Reserve No. 14, the remainder, up to the Pongola River, being Crown Lands; and on these Crown Lands there are now living some 3,000 Amatonga.

Of the lands belonging to the semi-independent Chiefs north of Zululand, the districts of the Chiefs Ncamana and Sibonda were incorporated with Zululand in 1888 (see 3rd G.N. 32, 1888), and the northern boundary of Zululand, including the lands of these two Chiefs, defined by Mr. (now Sir Charles) Saunders in September, 1889 (see P.P. C-5089, p. 208). In the following year (see ib., p. 250), the districts of the Chiefs Fokoti, Umqinti, and Masooba were incorporated with Zululand. These are not large tribes and the area within which they live is in all respects similar to that of Tongaland. By the award of the Joint Delimitation Commission about a half of their lands fell within the Reserves Nos. 13, 14, and 15, the remainder is Crown lands, and on these Crown lands considerable portions of these tribes reside. The Chiefs of all these tribes had paid tribute to the Zulus.

The districts belonging to the Chiefs Sambana, Mbiliza, and Sibamu lie along the eastern slopes of the Lebombo Mountains from the Swaziland boundary on the west to the Pongola River on the east and south and up to the Portuguese boundary on the north. It has an area of about 500 square miles and a population of about 15,844. As all these tribes had paid tribute to the Zulus it was claimed by the British Government that their territory fell exclusively within the sphere of influence of Great Britain when Zululand was annexed. The Chiefs, however, professed allegiance at one and the same time to the British Government, the Government of the South African Republic, and to the Swazi King, probably because they were in fear of each and none had established its supremacy. But in February, 1899, a formal deputation from the Chiefs waited upon the Governor of Natal and requested to be taken over as British subjects and incorporated with Zululand (see P.P. C-5089, p. 255). No definite action was taken and much correspondence followed between the several Governments. Five years after, on the 23rd April, 1895, the British Government definitely annexed the territories of these Chiefs and incorporated them with Zululand.

These territories, like those of the other Chiefs referred to, came to be dealt with by the Joint Delimitation Commission, who demarcated the western half, or that along the mountains, as Reserve No. 16, and the eastern half as Crown lands.

There is no evidence to show that any stipulation was made respecting the lands of any of the aforementioned tribes when they were annexed by the British Government, nor is there any evidence that they ever raised any objection to the work or award of the Joint Delimitation Commission.

In the Report of the Joint Delimitation Commission (of which Sir Charles Saunders, then Commissioner for Native Affairs in Zululand, was a member), the following passage occurs:—

"At the same time there can be no doubt that the frequent changes of policy so noticeable in connection with Zululand since the Zulu War have tended to shake their faith in the pledges of the British Government, and we can but sincerely trust, not only in the interests of the Native, but in those of all concerned, that the present will be

* See Mr., now Sir, O. R. Saunders' Report PP. C—5089, p. 42.
as final a settlement as it is possible to effect, that no further changes will be initiated in the near future, and that the Reserves set apart for the use of the Natives will be controlled in such a manner as to secure them for their use and benefit and against alienation."

These words, coming as they do from so high an authority, cannot be disregarded; and it may be said here that the Commission assured the Zulus that there is no intention on the part of the Government to deprive them of any of the land which has been set apart for their exclusive use and included in the schedule to the Act.

Zululand embraces an area of 10,376 square miles, or 6,551,105 acres. There are twenty-one Native Reserves, with a total area of 3,881,991 acres, which is considerably more than half Zululand.

The Crown Lands total 1,959,676 acres. Of these 519,272 acres are in Native occupation, 291,083 are reserved for special purposes, such as Forest and Game Reserves, and 1,149,321 are still open. The whole of the Crown lands along the coast belt and north of the Umhlatuza River are highly malarial, and much of it uninhabitable. There are four Game Reserves, totaling 236,300 acres; and four Forest Reserves, totalling about 30,900 acres.

The Native-owned lands comprise only two farms of 7,767 acres and 7,413 acres respectively, the first of these being the property of the Zululand Native Trust. Only 9,477 acres are owned or leased by Mission Societies. There are two holdings, viz.: those of Eshowe and Ntunameni, which were acquired before the annexation of Zululand, since when Mission Stations, varying from one to two hundred acres have been granted on lease, and are subject to a certificate of occupation. (See 2nd and 5th Reports of Select Committee on Native Affairs, June, 1913).

The areas scheduled under the Act amount to 3,887,100 acres, while the extent actually under Native occupation is 4,525,747 acres, or about two-thirds of the whole area of Zululand.

The European-owned lands amount to 755,092 acres. Of this area nearly one-half (70 freehold farms in Proviso B) were acquired by the Boers before annexation. These farms are not subject to the condition of occupation which attaches to European-owned lands acquired from the Government, and a large number are solely occupied by Natives. The balance, 329,265 acres, are lands disposed of by the Government since the award of the Joint Delimitation Commission. Along the coast belt are 228 holdings, with a total of 162,285 acres. Of these 91 are held on a 99 years' lease, convertible into freehold. These lands, although malarial, are well suited for the cultivation of sugar cane, and are in good demand, fetching £1 to £3 per acre. More inland there are 314 holdings (226,920 acres), which are excellent for grazing and mixed farming, and are valued at about £1 per acre.

Within the Reserves is a population of 214,010 Natives, which gives a density of 35-3 souls per square mile, or 18 acres per unit. The Reserves, though in parts poor, malarial, and badly watered, are on the whole well suited to the Natives. The deep river valleys are specially hot and malarial. No doubt the Reserves are capable of maintaining a much larger population; but Native occupation being what it is, the population fast increasing, and future requirements having to be considered, there is little room in them for more than are already there. Any attempt to introduce Natives of other tribes into the Reserves would be strenuously opposed, and lead to trouble.

Outside the Reserves there are 24,328 Natives living on Crown lands, 5,435 on unoccupied private lands (Proviso B), 9,581 on occupied private lands, and 2,786 on Mission and Native-owned lands. The total rural population is 257,607.

The 24,328 Natives on Crown lands include tribes or portions of tribes who have occupied these lands for generations, and for whom no provision was made by the Joint Delimitation Commission, viz.: Biyela Tribe (portion), in the neighbourhood of Reserves 5 and 11, the Mkwanazi living east and west of Reserve 3; the Hlabisa in the south-west of the Hlabisa Magistracy; the Mdhlalela along the western shore of St. Lucia Bay to as far north as the Munywana stream, and the Amatonga to the west of Reserve 14. There are also portions of tribes on Crown lands in the Eshowe, Nkandhla and Mtunzini Divisions.

As Crown lands are disposed of to Europeans the Natives thereon become liable to ejectment. Up to the present time some hundreds of Natives have been so [U.G. 26—'16.]
ejected, and these have settled in the Reserves amongst those of their own tribes. Natives allowed to remain on land purchased from the Government cannot be charged rent, and if they work for the owner they get paid for their services. This is one of the conditions of sale, and it is a privilege which does not obtain in any other part of South Africa, due no doubt to the special circumstances under which the country was annexed. The condition is not really objected to by the owners, as it helps them to retain the labour they require.

Natives living on Crown lands pay no more than those living within the Reserves.

Trading Stations.

There are some sixty trading stations in Native Reserves in Zululand. About thirty-six of these existed before the date of annexation (30/12/1897), and these have been granted a 99 years' lease of lots from twenty to 100 acres each, and they pay an annual rental of £5.

The other stores sites are limited to lots of from five to ten acres, with a certificate of personal occupation. They pay an annual rental of from £5 to £25, "until Parliament shall have made other provision," and subject to three months' notice "if the land be required for public purposes."

Townships.

Townships have been created and land reserved for them at all the Magisterial centres. No Natives are allowed to acquire land within a township or on its townlands.

Taking Zululand as a whole, the following are the chief points for consideration:

1. The country has not long been annexed and brought under civilized government; the Natives are very much the same as they were 50 years ago;
2. The work of the Joint Delimitation Commission of 1902 defined the areas to be reserved for exclusive Native occupation and those open to Europeans;
3. The greater part of the Crown lands are malarial and of little value for European settlement;
4. There are still 24,328 Natives living on Crown lands which have been occupied by them for generations;
5. There are large Forest areas and Game Reserves;
6. The European-owned lands consist of a block of 70 farms in Proviso B, half of which are solely occupied by Natives, and the sugar and grazing lands along the coast belt;
7. The areas suitable for European occupation have for the most part been taken up.

All these facts point to the conclusion that the best course to follow in Zululand is to leave things pretty well as they are. A few additions might be made to the existing Native Reserves, and some of the farms in Proviso B might be defined as Native areas—these not being likely to be taken up by Europeans.
The original name of this portion of the Orange Free State was "The Moroka Ward," and a brief statement of its history is necessary to a clear understanding of the conditions existing there at the present time.

The original inhabitants of the Moroka Ward were Barolongs, who had lived in Bechuanaland as a sub-tribe under the Paramount Chief Montsioa. Their local Chief was Sebuclare. About 1829 Sebuclare and his people were attacked and routed by some of Mosilikatzi's forces, Sebuclare was killed, and Moroka with the survivors of the tribe fled to the Thaba 'Nchu District, then Basuto territory. Moroka took with him Sebuclare's wife and infant child, Sepinare, who was Sebuclare's heir. They claimed the protection of the Basutos, and were given the Thaba 'Nchu area to live in. In 1832 the Wesleyan Mission purchased the land from the Basutos in trust for Moroka's people for nine head of cattle and seventeen sheep and goats, as per deed of sale which is still extant. Troubles with the Basutos followed, and in 1863 the Governor of the Cape Colony caused a boundary line to be demarcated between the Basutos and the Barolongs.

On the advent of the Dutch Voortrekkers Moroka entered into friendly relations with them. He subsequently assisted them in their war with the Basutos, and was recognised by the Orange Free State as a friend and ally, and was dealt with as an independent Chief.

After Moroka's death he was succeeded by Sepinare, who had virtually ruled the tribe for some years before this event; but within a year or two of Sepinare's accession a portion of the tribe under Samuel, the eldest son of Moroka, revolted and killed Sepinare, Samuel claiming the Chiefship. This was on the 10th July, 1884. Owing to the disturbances which thus arose the President of the Orange Free State, then Sir J. Brand, intervened, and in the interests of order and good government annexed Moroka's territory by Proclamation dated 12th July, 1884. Samuel and his followers left the country and took refuge in Basutoland. In the Volksraad Sir John Brand declared that the "Barolong Territory was annexed for the promotion of peace and not as conquered country." (Notulen p. 818-819 11/9/1884).

Moroka had parcelled out a considerable portion of his territory in farms to his sub-Chiefs, or Captains, and their immediate followers; he had also made grants to Europeans. Land certificates or deeds of grant were made out with the intention of issuing them, but they were never actually issued except to some Europeans. These deeds are said to have been burnt in Sepinare's house when he was murdered. Only one was preserved. It is in the possession of Mr. Daniel, the son of the Missionary's wife to whom it was given.

After the annexation of the territory the Free State Government caused full enquiry to be made by a Commission concerning these grants. By Resolution of the Raad, 23rd June, 1885, and by Government Notice of 30th June, 1885, it recognised all bona fide grants made by Moroka and issued title deeds to both European and Native grantees on certain conditions. Twenty were issued to Europeans and ninety-five to Natives. The only special condition attaching to the title deeds of Europeans was that of personal occupation. Coloured owners were prohibited from mortgaging, alienating or selling for a period of fifteen years, and then only to white persons, the Government having the right of pre-emption. Neither could they lease their land for more than six consecutive months, and then only by permission of the Executive Council. It was further provided that coloured grantees and succeeding owners were to permit Native locations as existing on the 29th July, 1884, or established thereafter, "to remain free and unhindered" unless the Government should otherwise decide. The intention of this provision was to secure the rights of Natives living on lands granted to the sub-Chiefs, but it was regarded as a personal right, and was not extended to those who had assisted Samuel in his revolt against Sepinare (see title deeds).

After these grants had been made there still remained a considerable number of Natives who were scattered over the rest of the "Ward," and, after full consideration and enquiry, the Government set aside seven farms, constituting what is now known as the Seliba Location (17,668 morgen), and the Thaba 'Nchu Location (6,632 morgen), for occupation by these Natives. For the establishment of a station or township an area of 1,333 morgen was marked off adjoining the Thaba 'Nchu Location (a portion of this land was handed over to the Thaba 'Nchu Municipality on the 5th December, 1895). Two farms were granted to the Wesleyan Mission Society and one to the Church of England. A balance of twenty-nine farms was reserved by the Government, and subsequently leased (see Ashburnham's Report, p. 7).

By Resolution of the Raad, 10th May, 1887, Richard Moroka was allowed to sell his four farms, totalling 27,697 morgen, to the Government, on condition that
"after such sale the Natives resident on the land shall not be permitted to live on
Government ground or location." It was then supposed that Richard Moroka and
his followers were leaving the country, but it appears that they did not actually do
so. At all events they returned, and their number was added to those already
living on the farms granted to the sub-Chiefs. In June, 1887, Michael Moroka
petitioned to be allowed to sell his lands, and the Volksraad granted permission on
the same terms as to Richard Moroka. At the same time the Raad, by Resolution,
modified the condition as to prohibition of sale for fifteen years, and directed that
sales might be effected at any time with the permission of the State President
(Ashburnham's Report, p. 4).

On the 14th June, 1890, the State appointed a Commission to enquire into the
influx of Natives into the Reserves, and it was ascertained that 573 families had
come in since the date of annexation. Steps were taken to expel these unauthorised
persons, but, we are informed, this was not effectively accomplished, as those
expelled gradually returned. A Census return taken by Mr. Cameron, in 1884,
gives the Native population of the "Moroka Ward" at the time of annexation as:
Barolongs 6,726, Basutos 554, making a total of 7,280. The Census for 1911 shows
the population of the district as Europeans 3,247 and Natives 24,716; the latter
having increased by 3,824 between the years 1904 and 1911.

These figures give some idea of the enormous increase of the Native population
of the Thaba 'Nchu District since the date of its annexation. But while this
great increase has gone on the lands owned by the Natives have steadily de­
creased. Of the ninety-five farms granted to Natives in 1884 there remain to-day
only fifty-four farms in Native ownership with a total area of 82,677 morgen.
Several of these farms are leased to Europeans, and forty-three of them are bonded
in a total amount of £36,525, with little or no hope of redemption. A return of
mortgaged farms is attached.

The twenty-nine farms which were originally reserved by the Government at
the time of annexation with the intention, it is said, of providing for the future
requirements of these Barolongs, have all been parted with to Europeans. Most
of them were sold for European settlement by the Crown Colony Government in
1902-3. The rest of the lands in the district, in extent 285,290 morgen, is in the
occupation of European farmers, and is valued at from £6 to £10 per morgen.

A half of one of the seven farms forming the Seliba Location was granted in
1899 to certain Bastards, the descendants of one Carolus Baatjie, for assistance
rendered to the Orange Free State, and the Natives are excluded from this land,
now known as "Bofulo."

The two reserves of Seliba and Thaba 'Nchu really form one reserve, as they
almost adjoin, and are jointly occupied. The total area of these, excluding the
townlands, the mission grants, and the farm Bofulo, is 24,290 morgen, with a
Native population of 12,500, giving nearly two morgen per unit of population.
This is the lowest unit per head of population in any reserve within the Union, and
these reserves may fairly be said to be overcrowded. Yet the soil is good, and in
parts capable of irrigation, so that the land could more than support the Natives
on it if they would only cultivate it better and reduce their stock, of which they
own some 9,795 head of cattle and 27,385 sheep and goats. We were informed
that the stock die off in hundreds whenever there is a drought. The present dis­
tribution of the Native population in this district is as follows:—

On Reserves .................................................. 12,500
On Native-owned farms .................................... 4,150
On European-owned farms ................................ 9,350

Total .......................................................... 26,000

The one cry of this people is to have the right to buy land within the Thaba
'Nchu District, which they have occupied since 1829; but past experience has
shown that when they had the land they were not able to keep it and, with two
or three exceptions, none of them is in a position to buy anywhere, much less in a
district where the value of the land is exceptionally high. The expropriation of
land now held by Europeans would not only be too costly but would meet with
the most strenuous objection.

These Natives are Barolongs, and it may be that if suitable areas can be re­
erved in Bechuanaland, whence they came, some of them may return thither.
Taking all these circumstances into consideration the Commission has recom­
ended that the existing reserves of Seliba and Thaba 'Nchu, together with all
Native-owned farms should be declared Native areas.

If the recommendation of the Commission is approved by Parliament the
Orange Free State law will have to be amended so as to permit sales of these
Native-owned lands to Natives, and not to Europeans, under such conditions as the
Government may impose.
## List of Mortgaged Native-Owned Farms in the Thaba 'Nchu District

<table>
<thead>
<tr>
<th>Name and Number of Farm</th>
<th>Area in Morgen</th>
<th>Total Amount for which Farm is Mortgaged</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ramahutshe No. 47</td>
<td>2,117</td>
<td>£1,200</td>
</tr>
<tr>
<td>Liboda No. 59</td>
<td>1,315</td>
<td>£1,480</td>
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<tr>
<td>Rooifontein No. 60</td>
<td>836</td>
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<td>Diphereng No. 62</td>
<td>2,090</td>
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</tr>
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<td>Andriesfontein No. 63</td>
<td>239</td>
<td>£500</td>
</tr>
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<td>Maseru No. 64</td>
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<td>Moroto No. 68</td>
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<td>Groenheuvel No. 69</td>
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<td>Potsana No. 75</td>
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<td>Biterley No. 115</td>
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<tr>
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<td>Mookplaats No. 118</td>
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<td>Erf No. 223</td>
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<td>Mafekeng No. 314</td>
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<td>Vlakplaats No. 420</td>
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<td>Zaaiplaats No. 438</td>
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<td>Motzakane No. 449</td>
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<td>Matlapaneng No. 455</td>
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<td>Mafekeng No. 490</td>
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<td>Lethoko No. 493</td>
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<tr>
<td>Boikhue No. 507</td>
<td>856</td>
<td>£200</td>
</tr>
<tr>
<td>Segoposcho No. 508</td>
<td>669</td>
<td>£550</td>
</tr>
<tr>
<td>Breteron No. 180</td>
<td>299</td>
<td>£500</td>
</tr>
</tbody>
</table>

Total: 56,602 £56,525
ANNEXURE 3.

GRIQUALAND WEST.

The portion of the Cape Province known as Griqualand West has a total area of 15,077 square miles, and comprises the Magisterial Divisions of Kimberley, Herbert, Hay and Barkly West.

By Proclamation of 27th October, 1871, this territory was declared to be British territory, and its inhabitants British subjects. At that time the country was occupied by the Griquas under the Chief Waterboer, the Batlapins under Chief Jantje Mothibi, and the Koranas under . These people were scattered in villages or "Stadts" all over the country wherever water and grazing could be found.

In 1872 the British Government appointed a Land Commission, which was to report, inter alia, as to what lands should be set aside for Native occupation.

In 1873 the whole territory was surveyed and marked off into farms, including areas under Native occupation, and most of these farms were given out to Europeans under quit-rent tenure, but many of those were subsequently abandoned.

In 1877 a Commission, consisting of Messrs. Orpen, Edwards and Carlisle, was appointed to establish Native locations out of the abandoned farms, and some fifty farms, comprising a total area of about 159,821 morgen, were set aside in blocks separated from each other.

In 1877 an Act was passed (Act No. 33 of 1877) by the Cape Parliament, making provision for the annexation of Griqualand West to the Cape Colony, and effect was given to this Act by Proclamation No. 124 of 15th October, 1880.

Meanwhile, in 1878 the Natives broke into rebellion, and most of them deserted their locations and fled to Kuruman and elsewhere, and by so doing forfeited the lands reserved to them. Some, however, remained loyal, notably some seventy-four families on the Likaton Location, under Chief Gobari and Chief Thays Linchwe and his followers (60) on Macorogian. After the rebellion was over a large number were allowed to return and to re-occupy their lands under the direction and supervision of Mr. Thompson, who was appointed by the Government for this purpose. Nine of the fifty farms originally set aside as Native locations were appropriated by the Government for special purposes.

In 1898 a Commission (consisting of Messrs. Bell, Harrison and Thompson) was appointed to consider the question of concentrating the Natives, who were then very much scattered and occupied far more land than they needed. On the recommendation of this Commission the Native area was reduced to 87,355 morgen (originally 159,821), being the farms N.W. 20-21 and 55, and farms N.W. 24 to 32 (inclusive), and the farms N.W. 42, 43, 45. Natives were moved off twelve farms.

The Natives who lived in the Likaton Location were the last to be dealt with. Mr. Dreyer, the Magistrate, states in his report (27th August, 1909), that in December, 1908, there still remained in this location 135 families with 4,000 small stock and 500 cattle. These men had been loyal during the rebellion of 1878, and had been distinctly promised that as a reward for their loyalty they would not be disturbed in the possession of their lands. Notwithstanding this promise, however, they were first concentrated within four of the eight farms forming the original Likaton Location (26,000 morgen), and in 1909 they were forcibly ejected as they refused to move.

Some of the Likaton Natives (about sixteen families) were settled on the block of farms N.W. 42, 43, and 45, and they were given temporary use of the farms H.V. 32 and 59, which are two of the farms reserved for the Hart River Irrigation Scheme.

Three of the Likaton farms, N.W. 58 and 59, and H.V. 51, were disposed of by the Government, and five remain to-day as Crown lands. The Government has thus recovered or appropriated twenty-fourth of the original 50 farms reserved for Native occupation, and two others (H.V. 32 and 59), are only granted temporarily. The total area of the land so recovered cannot be less than 80,000 morgen, and the least it is worth is £40,000.

The case of the Likaton Location Natives is one that calls for special consideration. As Mr. Hall says, they were promised that they would never be removed so long as they remained loyal, and in the end they were burnt out. There is a very strong feeling amongst these Natives that there has been a want of faith towards them.

The subject has received the consideration of the Government, and was specially reported on by Mr. P. Dreyer, the Civil Commissioner and Resident Magistrate of Kimberley, on the 27th August, 1909. He made specific recommendations which appear to be quite sound, but do not appear to have been adopted.