S3.

A SURVEY OF

RACE RELATIONS IN SOUTH AFRICA

1956—1957

COMPILED BY
MURIEL HORRELL
TECHNICAL OFFICER
SOUTH AFRICAN INSTITUTE OF RACE RELATIONS

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LEGISLATION OF 1957

POLICIES AND ATTITUDES

POLITICAL PARTIES

The National Party

The fundamental aspiration of the National Party continues to be the preservation of White 'racial purity' and cultural identity by means of the apartheid policy. Everything else is subordinated to this aim. This was made clear in a speech by the Prime Minister(1) to the Federated Chamber of Industries. As a result of policies followed overseas, he said, British settlers had been forced to leave India and Ceylon, the Dutch to withdraw from Indonesia, and the French to leave Indo-China. But these colonists had not regarded the countries concerned as their permanent homes. "With us", he continued, "the position is completely different. South Africa is our only home and fatherland, and here we must remain either to survive and preserve what is ours, or to go under and be destroyed as a result of being swamped or absorbed and assimilated by the Non-White population".

If Africans were allowed to settle permanently in the White man's area and to acquire the White man's knowledge and culture, the Prime Minister said, temporary material advantage might result, but the White man's destruction was inevitable in the long run. Nothing should be done that would jeopardize the White man's survival, safety and supremacy. Although the Bantu would continue to be employed as labourers in the White areas, their opportunities of economic and other advancement should be confined to their own areas.

The Prime Minister acknowledged that no government had the right to demand of any citizen, or group of citizens, submission to any particular party-political policy or ideology, but said, "When, however, we arc dealing with an issue that forms the very basis or cornerstone of our people's life, our national safety demands of all good citizens adherence and submission to our traditional way of life. Any aberration from this clearly demarcated path must be regarded as dangerous because it must inevitably strike at the very roots of our national existence and imperil our safety".

The National Democratic Party

During February, 1957, Dr. Theo Wassenaar resigned as leader of the Nationalist group in the Transvaal Provincial Council following a dispute over the composition of the West Rand school board. Although there were a number of English schools in that area, no English-speaking candidate had secured election to the school board, as the electorate (the parents) voted according to the 'ticket' system. The Prime Minister, Dr. Wassenaar alleged, had

(1) As reported in the *Star,* 8 November 1956.

initially supported his view that two of the four additional members to be appointed by the Provincial Executive Committee should be English-speaking persons; but had later allowed himself to be persuaded by a group of party extremists to agree that all the nominees should be Afrikaner Nationalists. On paper, Dr. Wassenaar said, the National Party constitution guaranteed equal rights to both sections of the White population; but, under its present leadership, the party was not pursuing this policy.

Dr. Wassenaar was, shortly afterwards, expelled from the National Party, but declined to resign from the Provincial Council or its Executive Committee. Although he originally said he had no desire to form or lead a new party, he changed his mind following a tour of the country.

During April he formed the National Democratic Party, which intends contesting a number of marginal seats at the general election in 1958. Its main aim is to achieve greater unity between the two white sections of the population by guaranteeing equal political and language rights. It would like to see South Africa become a republic within the Commonwealth, but would bring about such a change only if two-thirds of the electorate voted for it. A vigorous, selective immigration policy is recommended. So far as Non-White affairs are concerned, the party would steer a course 'between the extremism of the Nationalists and the unrestricted liberalism of other parties'. It would adopt a policy of conciliation towards the Coloured community, would expatriate as many Indians as possible, and, while maintaining the 'traditional social separation' between White and Black, would endeavour to secure the friendship and collaboration of Africans.

The United Party

Like the Nationalists, the United Party is determined to protect and maintain Western civilization and the Western way of life in South Africa; but the methods it proposes are different.

Sir de Villiers Graaff was elected leader of the party in November 1956. During March 1957, he re-formulated the party's industrial policy(*). It believed, he said, that the Union should be developed as one economic whole, with the least possible interference with the most economic pattern for industry, with the siting of factories and the availability of labour. The stream of Non-White labour into the Union's industries was unavoidable; but it must be controlled and guided, and separate amenities and working conditions must be provided. While White workers must be protected from unequal competition from Non-Whites, this could best be achieved by the continued acceptance of the principle of the rate for the job. The types of work that should be available to

(*) Assembly, 27 March 1957. Hansard 10. col. 3606.

Non-Whites should be decided upon by agreement between the organized employers and the organized European trade unions:

An expansion of the local market for South African goods could best be achieved, Sir dc Villiers continued, by making better use of Non-Whites as producers; by creating an industrial climate in which better training facilities would be provided for them, and by raising their standards of living and thus increasing their buying capacity.

A scheme for constitutional change was adopted by the United Party at its congress in August. Firstly, so far as the Assembly is concerned, it was agreed that, if returned to power, the party would restore to the common roll the names of the Coloured voters (there were some 50,000 of them) who were placed on a separate roll in terms of the Separate Representation of Voters Act of 1951. Higher property and/or educational qualifications would, however, be introduced for new Coloured voters in the Cape and Natal, and the franchise would not be extended to Coloured people in the Orange Free State or the Transvaal.

Secondly, it was agreed that the very much enlarged Senate, created in 1955, should be replaced by a more compact body of much the same size as that existing previously. (Prior to the introduction of the Senate Act of 1955, the Senate consisted of 48 members, ten of these nominated by the Govcrnor-General-in-Council, and half of the nominated members being selected on the ground mainly of their 'thorough acquaintance with the reasonable wants and wishes of the Coloured races').

Specified'educational and/or property qualifications would again be required of all candidates for election to the Senate. (The present government abolished qualifications in 1955). The nomination of senators for their special knowledge of Non-White affairs would be done away with. Instead, four or five representatives, who would have to be While persons, would be elected directly by suitably qualified Coloured voters in all provinces. The Representation of Natives Act of 1936 provided that, after a period of seven years, two additional electoral areas might be established for Africans, giving them a total of six elected senators. The United Party would make use of this provision, and would give 'the more responsible class' of Africans a direct vote, the remainder continuing to vote through electoral colleges.

Proposals moved from the iloor of the congress that Indians, too, should be represented in the Senate, and that the Coloured and African people should be enabled to elect members of their own racial groups, were rejected.

A minimum of three-quarters of the senators should be representatives of the Europeans, the United Party decided. It did not specify the exact size of the Senate; but, assuming that this consisted of 50 members, and that there were five Coloured and six

African representatives, European voters would then elect about 34 members, the government continuing to nominate, say, five. The 34 senators would be elected according to a system of proportional representation, with an equal number from each province. If, for example, eight seats were allocated to the Cape, each party would prepare lists or 'tickets' of eight prospective members from that province, and voters would indicate which party list they supported. Should party A obtain 600,000 votes, and party B 200,000, then the first six persons on A's list, and the first two on B's, would be declared elected. It would, thus, be impossible for a party representing a minority of voters to obtain a majority of seats, as has happened in the Assembly.

The Senate would have no power of veto over money bills, thus any government which could pass a budget through the Assembly could govern, even with a hostile Upper House. *In* all other matters except those affecting the constitution, franchise rights and other specially prescribed matters, disagreement between the Houses would be resolved by majority vote at a joint sitting. A government with an ordinary working majority in the Assembly could thus pass its ordinary Bills even if the Senate opposed them: it would, normally, have the support of the five nominated senators.

No joint sitting would be held, however, in the event of disagreement over measures amending the constitution, altering franchise rights or dealing with other specially prescribed matters. Unless such measures were approved at their third reading in the Senate, not only by a majority of all senators, but also by a majority of the senators representing Europeans, they would lapse. A government representing a minority of voters could, therefore, not secure the passage of measures dealing with these matters unless it could obtain some support from the Opposition.

Approximately a two-thirds majority of senators representing Europeans would be required before any Bill diminishing Non-White franchise rights could be passed. The eleven senators representing Non-Whites would, of course, vote against it. This would mean (in a Senate of 50 members), that the over-all majority of 26 necessary would have to be found among the 39 senators representing Whites. Legislation dealing with franchise rights to which the Non-White people were unitedly opposed could, thus, not be enacted on a party-political basis unless the party in power had the support of the bulk of the White population. It could not achieve its ends by again re-constituting the Senate because the legislation necessary for this would also require the support of about two-thirds of the senators representing Europeans.

The Liberal Party

The Liberal Party continues to have two members in the Assembly and two in the Senate (all Natives' Representatives). It has put up candidates at a few provincial council by-elections, but these have been defeated by large majorities.

During the year under review the party published its constitutional policy. It believes that "if a social, ethnic, religious or economic group—whether in a majority or otherwise—possesses both the strength and determination to impose a tyranny upon the rest of society, constitutional checks will provide no safeguard. ... If, however, the basic desire among all groups to maintain political unity and social peace is present in sufficient strength, constitutional checks and balances will be of assistance in maintaining and fostering that desire".

The first essential then, according to the Liberals, is the coming to power of a government which is determined to maintain political unity, inter-racial co-operation and social peace. Legislation should then be introduced summoning a new national convention, this time representative of all racial groups, and conferring upon the convention the power to recast the constitution, subject to general agreement being reached on the nature of the constitutional reforms desired.

Reforms suggested are, firstly, that a Bill of Rights should be entrenched in the constitution, guaranteeing to members of all racial groups fundamental human rights and liberties. Secondly, the Liberals believe that one of the most effective checks on the undue domination of any interest or class is the division of sovereign power. It, therefore, suggests that the Courts should be free of political influence, and that the powers of provincial authorities should be extended to include such mailers as education, public health, housing and police. Provincial self-government jn such fields, it considers, would allow of variations in the methods of dealing with problems arising out of the physical environment and human relationships. Thirdly, it is suggested that power of constitutional amendment should be removed from Parliament, except with the sanction of a further inter-racial convention.

The Conservative Party

At the beginning of 1957 the Conservative Parly was dissolved, its five members in the Assembly joining the Nationalists or becoming Independents.

The Labour Party

The Labour Party is the only other political party now represented in Parliament. It, too, has been campaigning for an inter-racial national convention.

In the Assembly during February 1957, its leader moved(³):

"That this House is of the opinion that the time has arrived for the Government to convene a national convention,

(³) 8> February 1957. Hansard 3. col. 811.

representative of all sections of the community, White and Non-White, to consider:

(a) ways and means of fulfilling the common desire of all South Africans for inter-racial harmony and co-operation;

(b) proposals for the establishment and maintenance of a democratic society in South Africa, in which fundamental human rights for all persons will be entrenched;

(c) plans for the proper utilization of the human and material resources of South Africa, including the implementation of the report of the Tomlinson Commission."

The motion was defeated. The Minister of Native Affairs said(4) that such a convention would have only one objective — the creation of a set of circumstances as the result of which apartheid, segregation between White and Non-White, would be destroyed for ever. The United Parly moved an amendment, as followsO:

"to omit all the words after 'That' and to substitute 'whilst adhering to its conviction that the multi-racial problem of Soutli Africa cannot be solved without close co-operation and consultation between all sections of the White people in the first.instance and later with the Non-European, this House is of the opinion that in view of the steadily increasing rigidity of the ideological policies of the present Government the ideal of a national convention is now impracticable; and that in .respect of the major problem of relations between the European and Bantu peoples, the proper approach is that laid down in the stated Native policy of the United Party'.

"Under the 'nature of the policy' it says —

The party recognizes the danger of undue rigidity in Native policy and therefore states that its legislation with regard to the administration of Native Affairs will be wide and elastic, leaving room for experimenting and the trying out and developing of new methods, and allowing consideration to be given, within the framework, to different stages of development of the Native and to circumstances that vary from place to place and from time to time'."

THE BLACK SASH

As has been described in previous issues of this Survey, the Black Sash women's movement was originally formed in 1955 to protest against the Senate Act. It has continued to protest against all legislation deemed by members to invade human liberties.

(4) col. 854.
(5) col. 840.

Every day that the Cabinet was in session during the Parliamentary recess in 1956, four members of the Black Sash, symbolizing the four provinces, maintained vigils at the Union Buildings. Nation-wide demonstrations were held to mark the occasion of the opening of Parliament, the posters displayed reading: "We, the people, want just laws justly applied", "Let the courts, not the Cabinet, be the judges", and "Govern wisely, govern justly". Two women were constantly in the public galleries during the Session, 'holding a watching brief for the people of South Africa'. Members have continued to form silent guards outside public buildings in towns and villages all over the country whenever a Cabinet Minister appeared there in the course of his official duties.

Although the Black Sash does not support any political party, it has continued its educational campaign to encourage general political awareness, and its publication of news letters and special *ad hoc* pamphlets directed to this end. Members in each region are keeping a watching brief on the introduction or implementation locally of measures which invade persona] liberties and freedoms. The Black Sash, too, has been pressing for the convening of a multi-racial conference at which the establishment of human rights in South Africa may be discussed.

Action taken in specific situations is described in the course of this Survey.

NON-WHITE POLITICAL ORGANIZATIONS

There has been a steadily growing cohesion, during the past year, among the component members of the Congress group — the African National Congress, the South African Indian Congress, the S.A. Coloured People's Union, the S. A. Congress of Trade Unions, and the allied White organisation, the S.A. Congress of Democrats. A notable development has been the growth of interest amongst women, and also in the rural areas. The organizations are gaining an increasing sense of collective power, in spite of the fact that many of their leaders who were among those arrested in December, 1956, and charged with sedition or treason, have since been out on bail on condition, *inter alia*, that they do not attend any gathering other than of a social, .religious, educational or recreational nature, and that they address no gatherings whatsoever. Others of the leaders arc still banned, under the Riotous Assemblies and/or Suppression of Communism Acts, from attending meetings and from moving freely from one district to another.

The police have continued to be present in force at meetings called by these bodies.

The Congress Group called for a one-day 'work-boycott' on 26 June, 1957, the fifth anniversary of the launching of the

defiance campaign, as a protest against the apartheid policy, the pass laws, and low wages — a minimum wage of one pound a day was demanded. Commerce and industry made strenuous efforts to persuade their employees not to heed the call, and police protection was promised for those coming to work. The Day of Protest was probably between 40 and 50 per cent, effective in Johannesburg (which meant that many thousands of Africans did stay away from work), and there was a lesser response in Port Elizabeth, Vereeniging and certain other centres.

During the same month the Congress Group issued a statement calling on the public to boycott certain firms which they considered to be under political Nationalist control and direction, "in view of the increasingly racialistic and dictatorial policies of the Government, and, particularly its callous disregard of the economic distress of the ordinary people". Seven brands of cigarettes and seven brands of tobacco were listed for a start, and it was announced that many other products appeared on the Congress lists.

The manufacturers of the brands of cigarettes and tobacco mentioned applied for and obtained a *rule nisi* and interim interdict restraining the organizations forming the Congress Group from distributing their statement.

The respondents then filed an application for the setting aside of the petition on the ground that they had been improperly cited as associations, and that every member should have been cited. The court finally found that only the African National Congress was a legal entity. The order against this organization was extended to 28 November, 1957, and was then further extended, but the rule against the other bodies was discharged.

At a meeting held at the end of September, 1957, a further stoppage of work was planned, to take place at about the time of the general election early in 1958.

Again, action by these organizations on specific issues will be dealt with in appropriate sections of this Survey.

THE CHURCHES

A statement in condemnation of the apartheid policy was issued by the Plenary Session of the Southern African Catholic Bishop's Conference held in July, 1957.

The basic principle of apartheid, it was said, was the preservation of what was wrongly termed White civilization. This was identified with White supremacy. White supremacy became an absolute, an end justifying any means, over-riding justice and even transcending the teaching of Christ. For these reasons, apartheid was something intrinsically evil. From it flowed the innumerable offences against charity and justice that were its inevitable consequences, for men must be hurt and injustice must be done when the practice of discrimination was enthroned as the supreme principle of the welfare of the Slate.

Perfect equality could not be established in South Africa by a stroke of the pen, the Bishops continued. People could not share fully in the same political and economic institutions until culturally they had a great deal in common. All social change must be gradual if it was not to be disastrous. But a change must come. A sensible and just policy was called for, enabling any person, irrespective of race, to qualify for the enjoyment of full civil rights. The burden of responsibility lay squarely on the shoulders of the White citizens, whose Christian duty it was to seek to unite rather than separate, to dissolve differences rather than to perpetuate them.

The attitudes of other churches to the apartheid policy have been described in previous issues of this Survey. Their attitudes to specific issues that arose during the year under review, especially the 'Church clause' of the Native Laws Amendment Act, will be indicated in the chapters that follow. Before proceeding to this, it is noted that the Natal section of the Religious Society of Friends (Quakers), too, has rejected the concept of apartheid. They issued a statement([6]) during August, in which it was said, "We believe that South Africa is not for one people alone, or for any one more particularly, but that every section of the population has come to this land under the hand of God . . . We must, with respect for those who truly believe in it and whose right to their beliefs we shall firmly uphold, reject the concept of apartheid. We believe that as Christians it is laid upon us to do all in our power to draw together the separated peoples of South Africa to the end that we may become one nation, united in work and worship for the good of our country and the glory of God. And we believe passionately in freedom . . ."

LECTURE BY PROFESSOR KEET

Professor B. B. Kect, Professor of Theology at the Dutch Reformed Church Seminary, Slcllcnbosch, gave the 1.1th annual Hoernlc Memorial Lecture of the S.A. Institute of Race Relations during July 1957([7]). Colour prejudice was so strongly felt in South Africa, he said, that it had assumed the character of a natural phenomenon. By a process of rationalization it had even become a virtue, in that it protected the White man's civilization.

Apartheid claimed to envisage the necessity of the development of the Non-White races to the limit of their capabilities along their own lines. "But how are we to determine the point of time when a whole society comes to maturity?" Professor Keet

(•) Published in *The Smith African Outlook*. Vol. 87. No. 1036. 1 AURUSI 1957.
(') His lecture was published by the Institute under the title *The Ethics of Apartheid*.

asked. "Who will be the arbiter in the matter? The fact is that it cannot be clone". What characterized Christian ethics was the emphasis laid on the worth of the individual; and it was here that apartheid proved to be fundamentally wrong, because it sacrificed the individual to the generalizations of group thinking. Reduced to its simplest ethical terms, apartheid boiled down to the perilous doctrine that the end justified the means.

By seeking (lie solution of Ihc problem of colour prejudice, not in subjective repentance for an arrogant and irrational feeling of superiority, but in the objective manipulation of those who were the victims of the prejudice, White South Africans revealed the attitude of the guilty conscience which did not seek the cause of its guilt in itself, but in the proximity of those who occasioned the feeling of guilt. Advocates of apartheid claimed that the only alternative to their policy was integration at all levels, Professor Keet said. In his view, the choice was between racial domination and racial co-operation. A way must be found to enable Non-Whites to share in the great task of building the nation — a right which apartheid denied them.

Professor Keet was by no means expressing the view of his Church, and his statement was very severely criticised by the Afrikaans press.

The S.A. Bureau of Racial Affairs issued a Press statement in reply to Professor Keel's address(''). It agreed with him that suppression of the Non-Whites based on the acceptance of the inherent superiority of the Whites was immoral and could not endure. The basic problem in a multi-racial community was to preserve the birthright of one section without denying similar rights to other groups. Its policy of separate development, SABRA stated, on the ethical morality of which there could be no argument, provided the only avenue whereby these principles could be put into practice.

WORK FOR BETTER INTER-RACIAL UNDERSTANDING

It will be recalled(°) that the conference of Africans convened in October 1956 by the Interdenominational African Ministers' Federation held out a hand of friendship to the White man, maintaining that a proper reading of the South African situation called for co-operation and inter-dependence between the various races. It urged the need for a positive alternative to the policy of separate development.

The Interdenominational African Ministers' Federation, assisted by a number of private individuals as sponsors, is to call a further conference in December 1957, this time an inter-racial one, to give further consideration to the question of bringing about friendly and effective co-operation among the different racial groups in South Africa. The theme of the conference will be 'Human Relations in a Multi-Racial Society'.

(°) e.g. *Sim* 27 July 1957.
(°) Sec *Surrey of Knee Relations lor* 1955/56, pages 55 and 152.

The eighth inter-racial work camp was held during July at the Wilgespruit Christian Fellowship Centre near Roodcpoort. Sixty-three young people representing all the racial groups of the Union, and including visitors from overseas, spent from one to three weeks working, playing, studying and praying together.

Other interesting events during llic year were that two African priests and one Indian were appointed canons of the Natal Diocese of the Church of the Province of South Africa; an African minister of the Presbyterian Church 'delivered the charge[1] at the ordination of a European, that is, set before him his obligations and responsibilities as a minister of religion; and an African minister was invited to preach to a White congregation of the Nederduitse Gereformeerde Kcrk at Pinelands, Cape Town.

The contingent of 380 South African Boy Scouts that attended the world jamboree held in England during July, 1957, included lads from the Indian, African, Coloured and White communities.

THE S.A. INSTITUTE OF RACE RELATIONS

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

WARNING ISSUED TO THE PEOPLE OF SOUTH AFRICA

On 23 April, 1957, members of the Institute's Executive Committee issued the following statement, which received wide publicity in the press throughout the country:

> "We members of the National Executive Committee of the South African Institute of Race Relations are so greatly concerned about developments in our country that, with the full sense of our responsibility, we address ourselves to nil South African citizens.
>
> "Throughout the years, we of the Institute, together with many welfare, inter-racial and other organizations, have worked to secure the orderly and evolutionary advance of our multi-racial society. We have sought to promote inter-racial co-operation and the use of democratic procedures, to develop common loyalties to our country, and to discourage the emergence of any exclusive sectional or racial nationalism.
>
> "We are convinced that the policies at present being pursued by the Government of South Africa arc destroying any advance made towards these goals and are doing untold

damage to our common future. We believe that these policies will fail, because they are a negation of right principle. We believe they will defeat themselves because they conflict with our economic structure and jeopardize future economic development. They will fail, too, because they are inducing amongst Europeans a widespread unease and distrust in the future of South Africa, and are giving rise amongst Non-Europeans to a mounting tide of resentment of authority and of the While man who exercises that authority.

"No people can be kept in the strait-jacket of control which the legislation of the past nine years, added to an already repressive legislative structure, has imposed, and which the Bills at present before Parliament — the Native Laws Amendment Bill and the Separate University Education Bill — make even more intolerable.

"These Bills, taken together with the directives being issued to welfare organizations, aim at undermining all voluntary European association with Africans and canalising all contact through public servants alone. Should this happen and should the tide of resentment, now running, continue, then we believe most sincerely that the outcome will be tragic for all in our country. With means of voluntary communication increasingly restricted, the racial groups may become sealed off into entirely separate and hostile camps.

"Jt is with a heavy sense of responsibility and a heart-felt concern for the future of our country that we issue this grave statement. We call on our fellow South Africans, particularly on the Europeans, who exercise sole political power, to take heed before it is too late."

ATTITUDE TO THE POSSIBLE THREAT TO INTER-RACIAL MEETINGS

The power assumed by the Minister of Native Affairs to prohibit any meeting, assembly or gathering in the 'White' part of a town if it is to be attended by an African, is described later.

In July, 1957, the following statement was issued to the press:

"The National Executive of the South African Institute of Race Relations, whose members are drawn from every part of the country, has decided unanimously that the Institute should continue exactly as before to do the work it has always done for belter race relations in South Africa. It considered the possibilities that its work for multi-racial co-operation might be interfered with, and decided that it would not be frightened by vague threats or be deterred by undefined dangers."

This decision will be placed before the Institute's Council at its annual meeting in January, 1958.

PRESIDENTIAL ADDRESS, 1957

In January 1957 the Institute's President, Mr. Leo Marquard, delivered an address entitled " South Africa's Colonial Policy".(1) In this address he elaborated on the idea he had put forward some years previously: that South Africa was in reality a colonial power, but that this fact was disguised by the circumstance that her colonial subjects lived within the physical boundaries of the mother country.

DIRECTOR'S REVIEW OF 1956 LEGISLATION

At ihe Council meeting in January J957, the institute's Director, Mr. Quintin Whyte, gave his annual review of recent legislation(2).

One of the great dangers facing the country, the Director said, was the progressive loss of freedom. The President had pointed out that the chief defence of liberty against arbitrary power lay in the balance between corporate institutions (Churches, Universities, trade associations and local authorities) and the State. In democratic countries there were other bastions of liberty — the protection granted to individuals by courts of law, the recognition of the right to free expression of conscience and opinion, to free assembly and association, Ihe freedom to participate in government. Added to (his was Ihe much vaguer but none the less equally real idea of a natural justice as immanent in our Western society.

Was it not possible, the Direclor asked, that Europeans in South Africa were sacrificing Ihesc essential bulwarks of our civilization on the altar of race prejudice and fear, and were worshipping before the false idol of White superiority and race domination? Was the legislation of the past few years not evidence which supported such a conclusion?

It would, he thought, be true to say that over the past year we had seen a considerable diminution of the freedom of the person and of the protection which the courts of law may afford a citizen from arbitrary action. The two most glaring examples of this were the Natives (Prohibition of Interdicts) Act and the Natives (Urban Areas) Amendment Act. The Native Administration Amendment Act and the Bantu Education Amendment Act had similar effect. In South Africa we were witnessing a vast increase in the arrogation of powers to ministers and officials for the exercise of arbitrary power and a diminution in the control which either courts or parliament can exercise. One appreciated that the executive branch of a government must have powers, but one was also impressed by the necessity for a system of checks on such powers and the preservation of balances in any society. This was particularly necessary in South Africa, where

(1) This has been published by the Institute in pamphlet form.
(2) This was published by the Institute as RR 1/57 and in *Race Relations Journal* Vol. XXIV Nos. 1 and 2.

letter was entitled "What may we do under all these laws?" His intention, he concluded, was not to whitewash a vicious piece of legislation; but to indicate where normal activities might be continued without fear of legal action.

EXECUTIVE MEETING, JULY 1957

This note was taken up again in a letter that the President and Director sent to all members of the Institute after the mid-year Executive Committee meeting. "The thorough and practical discussions on legislation in which your regional representatives played an invaluable part," they wrote, "provided a pooling of information and experience from different parts of the country on new and old laws and on how they are affecting our lives. The picture that gradually emerged from this discussion was dark, but not unrelievcdly dark. The Nursing Act, the Native Laws Amendment Act with its direct threat to freedom, the Group Areas (Amendment) Act, and other Acts or administrative actions, all revealed a progressive determined invasion of private and public liberty and the progressively harsh manner in which local authorities, willingly or unwillingly, were carrying out the instructions of the central government. We heard pitiful tales of expulsions from their homes, .of banishments, of arrests, and of the ruthless destruction of family life and of personal freedom of Non-White men and women. Such inhuman action can flow only from a policy that insanely persists in regarding people as groups rather than as individual human beings ...

"Surveying the whole scene, we found that there were a few heartening signs. It seems clear that, within the ranks of those who support the present Government, there is a growing uneasiness that the policy of apartheid is being pushed to extremes and even that it may not, after all, be the real answer to racial problems. In other words, the policy is being challenged from within. These signs were quite evident in connection with the Separate Universities Bill, the Native Laws Amendment Act, and the Nursing Act.

"Secondly, we believe there are hopeful signs that more and more people are becoming aware of the inherent dangers of the policies of apartheid. This takes two forms: more people are realizing that our economic health demands more reasonable accommodation between Europeans and Non-Europeans; and — even more significant — more people are seeing the situation, not as a matter of just dealing between White and Non-White, but in its proper perspective as a matter of individual liberty".

THE ASSISTANT DIRECTOR'S VISIT TO THE UNITED STATES

At the mid-year Executive Committee meeting, the Institute's Assistant Director, Mr. F. J. van Wyk, presented a reportC) on his visit to the United States of America, and on the International

O[1])RR 101/57.

Conference on Human Relations which was held in the Netherlands during September 1956 and was attended by Miss Hansi Pollak (the Institute's Regional Chairman in Natal) and himself. He described methods adopted by American sociologists in their attempts to overcome racial prejudice, and drew preliminary conclusions as to how these might be related to the South African situation.

THE OPENING OF AUDEN HOUSE

The Institute's new building, Auden House, was officially opened by the President during the Executive meetings. In the course of his address he said:

> "The ideas for which the South African Institute of Race Relations has stood, and will continue to stand, have peen under heavy attack. Our reply is quite simple and practical: we open Auden House as a place where people can meet — not as guardian and ward, not as master and servant, not as Black and White, but quite simply as free men and women who love freedom and will never surrender it":

DETERRENTS TO INTER-RACIAL CONTACT

POSITION PRIOR TO 1957

An amendment made in 1937 to the Natives (Urban Areas) Act (Section *nine* (7) (a)) provided that any institution established after the beginning of 1938, which was situated in the so-called White part of a town (i.e. outside a Native residential area), and which catered *mainly for Africans,* required the approval of the Minister of Native Affairs and of the local authority concerned. The word 'institution' included churches, schools, places of entertainment, hospitals, clubs, and so on.

Marriages and extra-marital intercourse between White and Black are illegal; meetings of over ten Africans in certain areas have since 1953 required the permission of a magistrate or a Native Commissioner; and in certain towns traffic by-laws provide that the Town Clerk's permission must be obtained before gatherings or processions are held in public places. Otherwise there was no control of inter-racial institutions or activities prior to 1957.

THE "CHURCH CLAUSE"

First draft of the clause

Then, in February 1957, the Minister of Native Affairs introduced the Native Laws Amendment Bill. Part of Clause 29(c) of this Bill provided that no church established in the "White" part of a town after the beginning of 1938, and which admitted *an African,* could be conducted unless with the permission of the

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Minister of Native Affairs, given with the concurrence of the local authority concerned. Similar permission was necessary before any meeting, assembly or gathering attended by an African could be held on these church premises. The Minister's approval might be given subject to such conditions as he deemed fit, and might be withdrawn if he was satisfied that the conditions were not being observed.

It will be noted that control was previously exercised over institutions *mainly for Africans* conducted outside Native residential areas. The Minister now sought control over institutions which admitted *an African.*

Reactions to the original draft

This clause evoked nation-wide protest. The Cape Peninsula Church Council, representing English-speaking Protestant Churches in that area, was the first organized body to react, although individual church leaders had roundly condemned the clause. It issued a statement to the effect that the Church of Christ must by its very nature and tradition make provision for peoples of different languages, colours and backgrounds to meet together in the presence of God if they so desired. If Clause 29(c) became law, the churches might well be called upon to disobey the law in. loyalty to conscience.

Meanwhile, a special meeting had been called of the Action Committee of the Christian Council of South Africa (representative of all the major churches except the Roman Catholics and the Dutch Reformed Churches). This meeting came to a similar conclusion, and decided to ask the Prime Minister to receive a deputation. He referred them to the Minister of Native Affairs.

A few hours before his death on March 6th, the Archbishop of the Church of the Province of South Africa signed a letter to the Prime Minister on behalf of the Anglican Bishops. "We are commanded", he wrote, "to render unto Caesar the things which be Caesar's, and to God the things that are God's . . . We believe that the matters dealt with in Clause 29(c) are among the matters that are God's . . . We recognize the great gravity of disobedience to the law of the land . . . but feel bound to state that if the Bill were to become law in its present form we should ourselves be unable to obey it, or to counsel our clergy and people to do so".

A special conference of the Christian Council associated itself with the terms of the letter; and statements along similar lines were made by the President of the Methodist Church of South Africa, the Moderator of the General Assembly of the Presbyterian Church of South Africa, the President of the Baptist Union of South Africa, the President of the Seventh Day Adventist Church Conference, and Toe H.

As soon as the terms of the original clause were made public, the Roman Catholic Archbishops of Durban, Pretoria and Cape Town issued statements to the effect that their churches would remain open to members of all racial groups, regardless of the consequences.

In a Press statement(1), the Minister of Native Affairs accused the churches of using the appeal to freedom of worship as a "smoke-screen for their anti-Government propaganda". In reply to the Anglican Archbishop's letter to the Prime Minister, the Secretary to the Minister of Native Affairs wrote to the Acting Metropolitan of the Church of the Province of South Africa, advising the Bishops to desist from further participation in "this most unnecessary agitation", and to wait a full exposition of the Government's intentions. Naturally, he continued, after the sustained propaganda that had been made through the Press, an interview could no longer serve any good purpose in preventing disturbance of peace of mind.

Vehement protest against the "Church clause" and other clauses of the Bill was made by numerous lay bodies, for example the S.A. Institute of Race Relations, the Black Sash, the National Council of Women of S.A., the National Union of S.A. Students, the Civil Rights League, the Civil Rights Committee of Johannesburg, a meeting of about a thousand citizens in Pietermaritzburg, large numbers of welfare bodies, and others. Protest meetings were held in several major centres. These are described in a later section of this Survey.

A delegation from the Dutch Reformed Churches met the Minister of Native Affairs to discuss the Bill.

The first redraft of the clause

Before the Bill had been debated in Parliament, the Minister of Native Affairs tabled an amendment to Clause 29(c). This was to form a new Section *nine* (7) (b) to the Natives (Urban Areas) Act, and provided that if:

(i) the local authority concerned concurs; and

(ii) the church concerned has been allowed a stated, reasonable, time to make representations; and

(iii) the Minister has considered the availability or otherwise of alternative facilities;

the Minister may, by notice in the Gazette, direct that no African shall attend any church or religious service or church function on premises situated in an urban area outside an African residential area. The Minister may do so only if in his opinion:

(a) the Africans are causing a nuisance to European residents of the area in which the premises concerned arc situated, or of areas the Africans transverse to get there; or

(1) «•«. *Star.* 5 March 1957.

(b) it is undesirable that Africans should be present on the premises in the numbers in which they ordinarily attend.

If. a notice issued by the Minister under these provisions is disobeyed, the African concerned, and not the church, will be guilty of an offence.

Penalties are as laid down in Section *forty-four* of the principal Act. On first conviction, these are a fine not exceeding £10, and/or imprisonment with or without hard labour for a period not exceeding two months. Penalties for a second or subsequent conviction are a fine not exceeding £25 and/or imprisonment with or without hard labour for a period not exceeding three months.

European church leaders will, however, be guilty of an offence carrying these same penalties if they contravene the amendment to the Act made in 1937, that is, if they conduct a church which was built after 1938 in the "White" part of the town, and which caters mainly for Africans, without obtaining the permission of the Minister and the local authority.

Should church leaders be found guilty of contravening the law, by way of protest against any law, they would presumably become liable to the penalties laid down in Section *one* of the Criminal Law Amendment Act of 1953, which may include a fine not exceeding £300, or imprisonment for up to three years, or ten lashes, or a combination of any two of these. Similarly, should they be found guilty of advising or inciting others to contravene the law by way of protest, the penalties laid down in Section *two* would presumably apply: these are a fine not exceeding £500, or imprisonment for up to five years, or ten lashes, or a combination of any two of these. The sentence imposed for a second or subsequent conviction *must* include whipping or imprisonment.

Provided that the procedure laid down has been followed before a notice is issued by the Minister, and unless it can be proved that the Minister did not apply his mind to the matter or acted in bad faith, no review proceedings of any kind, to set aside or to over-ride the Minister's decision, will be available. The test as to whether Africans are causing a nuisance, or whether their presence is undesirable, is purely subjective. It is the Minister's opinion which is decisive, and no court has any right to substitute its opinion for that of the Minister. Before issuing a prohibition order he is required to consider the availability or otherwise of alternative facilities: no mention is made of the *accessibility* of such alternative facilities.

Attitude of the Nederduitse Gcreformeerde Kerk

Some time previously, the Federal Council of the Nederduitse Gereformeerde Kerk (by far the largest of the three Dutch Reformed Churches) had appointed a commission, consisting of the moderators of the Church in the four provinces assisted by a

group of learned theologians, to draw up a statement of the attitude of the church towards membership of its congregations. At a meeting held towards the end of March, 1957, the Federal Council adopted the policy statement drawn up by this commission (it had still to be submitted to the provincial synods).

Briefly summarized, the report stated that in each congregation both the mother and the indigenous (African) daughter churches reserved the right to regulate their membership according to the realistic demand of circumstances and in accordance with the spirit of Christ. But, at the same time, an attitude of superiority dared not arise which sought to get rid of the less privileged fellow-believer on the grounds of race and colour by establishing and furthering independent indigenous churches. While there was no indication that either the European or the Non-European members desired to abolish the separate churches, it was the Christian duty of the churches to educate their members for and in the practice of a healthy Christian communion of believers. The Church desired and undertook to promote this closer communion. Neither race nor colour should exclude anyone from corporate worship.

After discussing the Native Laws Amendment Bill in the light of this policy statement, the Federal Council drew up a further statement of eight points setting out its views. These points were as follows (the reason for the italicizing of certain words will emerge later):

1. "The Gospel of Jesus Christ emanates from God to all mankind and is subject to no human limitations .
2. "The task is laid on the Church of Christ, in obedience to the Head of the Church, to proclaim the Gospel throughout the world and to all peoples.
3. "The right to determine how, when, *where* and to whom the Gospel shall be proclaimed is exclusively in the competence of the Church.
4. "It is the duty of the State, as the servant of God, to allow *full* freedom to the Church in the execution of its divine calling and to respect the sovereignty of the Church in its own sphere.
5. "When the State lays down provisions which limit the attendance of services or *hona fide* religious gatherings arranged by the Church, it affects the freedom of religion and the sovereignty of the Church.
6. "Therefore it is to the benefit of the Church and the State that each should confine itself strictly to the task which through the Word of God is entrusted to it, and the Church is called upon to warn the State of possible obstruction of the execution of the task of the Church.

1. "For that reason we regret that we and, as far as we know, other Christian churches originally did not devote the necessary attention to all the implications of the original Act which already in principle imposed limitations on specific church gatherings.

8. "The Church acknowledges the fact that the State is called upon to act against the propagation of sedition and incitement under the cloak of religion; but nevertheless the Federal Council feels that as far as this legislation is concerned it cannot agree with the width of impact of the proposed provisions of the Bill."

A delegation was appointed by the Federal Council in consultation with the Federal Mission Council to discuss these eight points with the Minister of Native Affairs, and to seek assurance that he contemplated no limitation of the sovereignty of the Church in its own sphere.

After this discussion had taken place, a statement was issued by the delegation to the Press(2). The Minister, it was said, had declared that the Bill was not intended to interfere with the freedom of the individual to worship in a church or any other *bona fide* religious gathering so long as such freedom was not misused to the disturbance of good order in the community. In order to remove all possible misunderstanding he would re-word the clause under discussion, framing it in a positive rather than a negative form. Members of the delegation were convinced, they said, that in its new form the clause would do no violence to the principles laid down by the Churches.

In this statement, the delegation published the points discussed with the Minister, but, without the Federal Council's authority, omitted points 5 to 8 quoted above, and also omitted the words italicized in points 3 and 4.

The .second re-draft of the clause

The Minister of Native Affairs then tabled a further amendment to the 'Church clause'.

In the first re-draft it was stated that, subject to certain conditions, the Minister might direct that *no African* shall attend a church service in a 'White' area. This was now amended to read that, subject to the same conditions, he may direct that the *attendance of Africans shall cease as from a date specified.*

This was the form in which the clause was eventually cnactcdO. As promised, it was put in a positive rather than a negative form; but its meaning was unaltered.

(2) c.g. *Traiavaler, Rand Daily Mail* nnd *Star* of 9 April 1957.
(>) Act 36 of 1957.

Reactions to the revised draft

The Christian Council of South Africa published a statement on the revised draft of the clause in which it was said:

> "The amendment, while it amends the procedure, does not alter in any way the principle of State interference in Christian worship and association. It still gives arbitrary powers of control to the Minister to close doors which we solemnly and sincerely believe God has made open. Tn fact, it becomes more objectionable in that it penalizes the African worshipper rather than the Church as a whole ... If this clause . . . becomes law, we shall be forced to disregard the law and to stand whole-heartedly by the members of our churches who are affected by it, and, if necessary, to suffer with them as our brethren in Christ."

The Methodist Church of South Africa sent a telegram of similar purport to the Prime Minister; and the Joint Committee of Christian laymen of the Cape Peninsula, representing the Anglican, Roman Catholic, Methodist, Presbyterian and Congregationalist Churches, urged the Minister to withdraw the clause altogether, as also did numbers of church leaders.

Many lay bodies, too. voiced their protest. The Institute of Race Relations, for example, sent a statement(4) to Members of Parliament and to the Press in which it was pointed out that the very existence of the powers assumed by the Minister constituted an invasion of the religious liberty of the subject and a curtailment of the rights of the churches. The fact that the new clause subjected only Africans to penalties for its contravention heightened injustice by putting the onus on the more defenceless section of the population.

The Opposition launched a determined and prolonged attack on the clause when it was debated after the Easter recess; but the Minister of Native Affairs refused to withdraw it.

Action by the Churches after the Clause became law

On 14 July, after the measure had become law, pastoral letters written by the Bishops were read in all Anglican churches in South Africa, calling upon the clergy and members to ignore the 'Church clause', and to disobey any notice that might be issued, by the Minister of Native Affairs in terms of it.

The Acting Metropolitan of the Church of the Province wrote:(5)

> "Even though their (the Bishops') pastoral letters only hypothetically call for disregard of directions which have not yet been made. I know that it is with a heavy heart that each one has signed and issued his pastoral.. It seems almost fan-

(<) RR59/57.
(•) Article published In *The Forum,* August 1957.

tastic that such a situation should have arisen in a Christian country . . . The fact, however, remains that it would be contrary to his duty for any clergyman to refuse his ministry of Word and Sacrament to any *bona fide* worshipper presenting himself to him. And we are bound to say so".

A week later, the following declaration was read at morning Mass in all the Roman Catholic churches in the Union:

"The Catholic Bishops . . . solemnly declare, firstly, that no other authority than the hierarchy has competence to decide on the admittance of persons to Catholic places of worship; and, secondly, that Catholic churches must, and shall, remain open to all without regard to their racial origin. In consequence, the Bishops inform their clergy and flock that there is no restriction on attendance at any Catholic church and that they, the Bishops, take full responsibility for admissions to Catholic churches."

The Synod of the Transvaal Nederduitse Gereformeerde Kerk happened to be in session just after the delegation from the Federal Council saw the Minister. It registered its approval of the eight-point statement quoted above, as being in accord with the policy of the Church in the Transvaal, and also "because these principles are based on the Word of God". It also thanked members of the delegation and approved of their action *after* the interview with the Minister. (This appears to mean that it approved of their decision to publish only four of the points).

There has certainly been some unease within the ranks of the Nederduitse Gereformeerde Kerk. The Federal Mission Council, at its annual meeting in August, discussed means of closer contact between the races over church matters, and also talked of creating more opportunities for Black and White to worship together on occasions. These matters were referred to the executive committee for more definite guidance(B). The Council accepted an invitation to send two fraternal delegates to an international meeting of missionaries to be held at Achimota College in Ghana during December.

To give but two more examples, Dr. A. S. Geyser, Professor of Christian Ethics and Theology at the University of Pretoria, wrote to the Afrikaans newspaper, the *Vaderland*, which had earlier made an appeal for a new approach to the 'church and apartheid issue', and had suggested that the Prime Minister should personally intervene. "The church must seriously reconsider whether it will allow the re-erection of barriers that have been broken down by Christ", Dr. Geyser wrote "... I support your appeal and thank you for it, so that a situation that is embarrassing to the church can be brought to an end"(').

(•) Press reports, e.g. *Star* of 29 August 1957.
(') **Extracts from the letter were renubllshed in the *Star* of 24 July 1957.**

When delivering the annual Peter Ainslie Memorial Lecture at Rhodes University on 10 September, Dr. Ben Marais, professor of theology at Pretoria University, said that any thought of excluding any person from worshipping in any Christian church on grounds of race or colour could never be justified. Any honest person would have to admit that for most Whites the separate church system in South Africa was at the present time based on an unwillingness to worship with Non-Whites. To be Christian, the church would have to free itself from this attitude. If, after that, separate churches still existed for practical reasons, "I, for one, can sec no objection to it on condition, of course, that there is natural and normal contact between the different groups of believers", Dr. Marais said. Yet, he pointed out, the utmost vigilance and searching of conscience would be necessary, for separation on the lines indicated might have the effect, not of bridging or overcoming prejudices, but of giving these prejudices permanence(').

Various Dutch Reformed Church communities, who conduct services for African domestic servants in garages or other buildings in 'White' areas, have been perturbed about their position in terms of the new Act.

EFFECT OF THE NATIVE LAWS AMENDMENT ACT ON SCHOOLS, HOSPITALS, CLUBS OU SIMILAR INSTITUTIONS

The first draft of the Bill

In terms of the first draft of the Native Laws Amendment Bill, schools, hospitals, clubs or other institutions or places of entertainment were in the same position as the churches were originally; that is, the permission of the Minister of Native Affairs and the local authority had to be obtained before they could be conducted in a 'White' part of a town if they had come into existence since ths beginning of 1938, and if any Africans were admitted to their premises; and similar permission had to be obtained before any meeting, assembly or gathering attended by an African could be held on their premises in urban areas outside African residential areas.

The amended draft, which became law

At the same time as he amended the 'Church clause', the Minister tabled a revised draft of other clauses, which became law.

New sub-sections 7(c) and (d) were added to Section *nine* of the Natives (Urban Areas) Act. relating to schools, hospitals, clubs or similar institutions. (It will be noted that the words *'similar* institutions' were substituted for *'oilier* institutions'.

Presumably night-schools, clinics, dispensaries and other institutions similar to schools, hospitals or clubs will be affected by sub-sections 7(c) and (d) if they admit any Africans. Counsel's

(') *Star* report, 11 September 1957.

opinion is that inter-racial organizations such as the Institute of Race Relations, Joint Councils and so on will not be affected, and thus may continue to meet with Africans on their own premises or elsewhere unless prohibited from doing so under sub-section 7 (f), dealt with below. But, although questioned on this point in Parliament, the Minister did not clarify the matter. He did say(') that, in his opinion, it was necessary to prevent the further establishment of inter-racial clubs.

The position of schools, hospitals, clubs and similar institutions which operate in the 'White' part of a town, and which admit any Africans (other than employees) is as follows, in terms of the new Act:

1. If they were established in their present premises before 1938 they do not require permission to continue to operate unless the number of Africans admitted to or attending these premises (other than employees) has increased since 1938, in which case the exemption falls away.
2. In all other cases, the approval of the Minister, given with the concurrence of the local authority concerned, is necessary before they may continue to operate. The Minister may impose such conditions as he deems fit. He accepted an amendment to the effect that this provision will not apply with reference to the admission of an African to any hospital in an emergency.
3. *Membership* of clubs and similar institutions will not be affected(10).
4. However, if the local authority concurs, the Minister may direct that no African (other than an employee) shall be admitted to the institution, if he considers that the Africans attending are causing a nuisance, or that it is undesirable that they should be present in the numbers in which they ordinarily attend. (It should be noted that such orders can be issued irrespective of the date of establishment of the institution).
5. The Minister may make a similar order without consulting the local authority if he considers that the institution is being conducted in a manner prejudicial to the public interest.
6. It would appear that the Minister cannot prohibit Africans from attending *business* meetings, concerned exclusively with the management of an institution — provided, of course, that the institution concerned is authorised to continue to operate.
7. The test as to whether Africans are causing a nuisance, or whether their presence is undesirable, or whether the institution is being conducted in a manner prejudicial to the public interest, is a purely subjective one, the Minister's opinion being decisive.
8. Any person who conducts, as well as any African who attends, a school, hospital, club or similar institution in contravention of a direction issued by the Minister, will be guilty of an offence. The penalties laid down in Section *forty-four* of the Natives (Urban Areas) Consolidation Act. as described abovc("), will apply.

(') Assembly. 21 March 1957. Hansard 9. col. 3238.
(10) Assurance Riven by Ihc Minister of Native Affairs. Assembly. 21 March 1957. Hansard 9. col. 3230.

EFFECT OF THE NATIVE LAWS AMENDMENT ACT ON PLACES OF ENTERTAINMENT

A new sub-section 7(e) provides that, if the local authority concerned concurs, the Minister may direct that no Africans (other than employees) shall attend any place of entertainment on premises situated within an urban area outside an African residential area, if in his opinion their presence on the premises or in areas they traverse to get there is causing a nuisance, or if it is undesirable, having regard to the situation of the premises, that they should be present in the numbers in which they ordinarily attend.

EFFECT OF THE GKOUP AREAS AMENDMENT ACT ON CLUBS, PLACES OF ENTERTAINMENT, AND PLACES WHERE REFRESHMENTS ARE SERVED

Before describing further provisions of the Native Laws Amendment Act, it is convenient to deal with related sections of the Group Areas Amendment Act, Act 57 of 1957.

The principal Group Areas Act did not contain a definition of "occupation". When introducing the Group Areas Amendment Bill on 3 June 1957, the Minister of the Interior said(12) the Government had accepted that the word would be interpreted in its popular sense — by which he meant mere physical presence. It was so interpreted, he said, in cases which were tried by the Transvaal and Cape courts. Difficulty had arisen, however, as a result of a judgment by the Eastern Districts Local Division.

The case to which he referred dealt with whether attendance at a cinema constituted occupation in terms of the Act. The judge was of the opinion(13) that the patrons were not occupying the premises within the meaning and scope of the Act, for they were not habitually present, or physically present for a period of time.

The Minister of the Interior said(14) he considered it was necessary for him to have power to prevent the conducting, in a White area, of a restaurant for Africans, of a cinema catering for Non-Whites, of a club run by Indians.

(') Sec page 20.
(") Assembly, Hansard 19. cols. 7072/73.
(») col. 7322.
(14) cols. 7075. 7332.

Clause 1(g) of the amending Bill as originally drafted provided, in consequence, that the Governor-General might declare by proclamation that, subject to such exemptions as he might specify, any provision of the Group Areas Act relating to the occupation of land or premises would apply with reference to *any person who at any time was present there,* under specified circumstances or for specified purposes. Copies of any such proclamations would be tabled in Parliament. Should both Houses disapprove of such a proclamation it would cease to be of force, but any action taken in terms of it to that date would remain valid.

Opposition speakers pointed out([15]) that the Minister of the Interior was seeking even greater powers than the Minister of Native Affairs had demanded in terms of the Native Laws Amendment Bill. He wanted power to declare that in certain circumstances, specified by him in his sole discretion, the mere presence on land or in premises of *any* person, at any time, constituted occupation for the purpose of the Group Areas Act, and was illegal.

The Minister subsequently moved an amendment, which became law, to the effect that the Governor-General might declare by proclamation that, subject to such exceptions as he might specify, any provision of the Group Areas Act relating to the occupation of land or premises would apply also with reference to any person who at any time was present on land or in premises in the area concerned:

(a) for a substantial period of time; or
(b) for the purpose of attending any place of public entertainment or partaking of any refreshment at a place where refreshments are served; or
(c) as a member of or guest in any club;

as if his presence constituted occupation of such land or premises.

Members of the Opposition considered([u]) that this revised draft effected little improvement; but at least the Minister's intentions had been somewhat clarified. The phrase "for a substantial period of time" was still vague, however; it might well be deemed to cover "employment. Furthermore, all social contacts which now existed, not only between Europeans and Africans (which were now controlled by the Minister of Native Affairs), but also between Europeans and Coloured people, Coloured and Indians, Indians and Europeans, were now to be at the mercy of the whims of the Minister of the Interior.

It was a criminal offence to be found guilty of being in unlawful occupation, and penalties were more severe than those laid dovvn for offences in terms of the Natives (Urban Areas) Act: they were a fine not exceeding £.200, or imprisonment for a period of up to two years.

0") cols. 7030/31.
(16) cols. 7572. 7575. 7364/69.

The Bill provided that copies of proclamations issued in terms of this and certain other sections of the Act must be laid on the Tables of both Houses; but, the Opposition pointed out, it was useless inserting a safeguard unless the necessary machinery was provided to make use of it. These proclamations could be discussed only if the Government itself provided an opportunity, or on a private member's motion; but it was extremely difficult for a private member to get any place on the Order Paper.

Proclamation No. 333 of 1 November 1957 brought provisions (b) and (c), above, into force. That is, it is now illegal, in a group area or controlled area, for persons belonging to a disqualified racial group to attend a public cinema, or to partake of refreshments in a licenced restaurant, refreshment or tea room or eating house, or to visit any club, except under permit.

POSSIBLE PROHIBITION OF MEETINGS TO BE ATTENDED BY AFRICANS

We return, now, to the Native Laws Amendment Act. This inserted new sub-sections 7(f) and (g) to Section *nine* of the Natives (Urban Areas) Act, providing that if in the Minister's opinion the holding of any meeting, assembly or gathering (including a social function) to be attended by an African, and to be held in an urban area outside an African residential area, is likely to cause a nuisance or is undesirable having regard to the situation of the premises or the numbers of Africans likely to attend, he may, in certain circumstances:

(i) by notice in the *Gazette* prohibit the holding of such a meeting within the urban area generally, or within a specified portion of it, or within specified premises or classes of premises;
(ii) by notice in the *Gazette,* or by notice in writing addressed to the person concerned, prohibit any person from holding, organizing or arranging any such meeting, assembly or gathering.

No such notice may be issued, however, unless the Minister has in writing advised the urban local authority concerned of his intention to issue it, and has invited the local authority to inform him within a specified period whether or not it has any objection. If the local authority *does* object, the Minister is powerless to act.

Anyone who holds or arranges a meeting in contravention of a prohibition order, and any African who attends a prohibited meeting, will be guilty of an offence. The penalties laid dovvn in Section *forty-four* of the Natives (Urban Areas) Consolidation Act will apply([17]) (unless the person who convenes a prohibited meeting is deemed to have done so by way of protest against any law, when the penalties specified in the Criminal Law Amendment Act might apply).

<") Sec page 20.

In Counsel's opinion, the formalities with which the Minister must comply are more consonant with the idea of general prohibitions than with the prohibition of specific meetings. Furthermore, the nature of the organizing body does not appear to be relevant. The Minister's powers may not extend to the prohibition of all meetings to be attended by Africans organized, say, by the Liberal Party or the Institute of Race Relations (if these are found not to be *"similar"* organizations). The Minister could, however, prohibit all meetings to be attended by Africans organized by these bodies on their own premises, or could prohibit all such meetings in the urban areas (or portions thereof) in which these bodies operate.

Two points should be noted. Firstly, all meetings, whether of a business or a social nature, held by such organizations on their own premises, or held in specified urban areas or portions thereof, can be prohibited. Secondly, African employees are not specifically excluded in sub-sections (f) and (g): the Minister presumably could, therefore, prevent even the African employees of an inter-racial body from attending business or social meetings organized by it on its own premises or in specified urban areas.

The Minister said in Parliament([18]) that his aim was to prevent troublesome or unnecessary mixed gatherings in towns. If he had wanted to forbid Africans from being *members* of certain bodies, or had wanted to apply *universal control* over mixed gatherings, he could not have done it in an Urban Areas Act, for people who fell under prohibition orders need only go outside the town to be able to meet with whomever they wished.

Except if the Minister decides to prohibit the admission of Africans to a school, hospital, club or similar institution on the ground that the institution is being conducted in a manner prejudicial to the public interest, he must, in all cases, obtain the concurrence of the local authority before issuing prohibition orders in terms of the new Clause 29(c). He said in Parliament([19]) that the local authority would be the one to judge: it must protect the interests of its community against any contravention of the policy of segregation. The Minister would be concerned to ensure that the decision by the local authority was not unreasonable.

Opposition speakers pointed out([20]) that the necessity for obtaining the local authority's concurrence provided no safeguard for inter-racial organizations. During 1955, for instance, the Minister had prevented Johannesburg Municipality from making use of an African housing loan of £3-million offered by certain mining groups until the City Council agreed to carry out the "Sky Locations" Act in the way the Minister wished. Local authorities could be subjected to a number of pressures. The Minister himself had said([21]) during Ihe debate that "the local authority system is a means of executive organization to apply the policy of the country in regard to Native Affairs".

(") Assembly. 21 March 1957. Hansard 9, col. 323Q
(") col. 3227.
<=°) e.g. cols. 3276/77.

It should be noted that, unless further action is taken by the Minister, inter-racial meetings can still be held without breaking thelaw.

REACTIONS BY VOLUNTARY ORGANIZATIONS

The S.A. Institute of Race Relations

The Institute of Race Relations sent a statement to Members of Parliament and to the Press when the first draft of the Bill was received([22]), maintaining that to make the Minister's permission and the acceptance of his arbitrary conditions essential for religious, welfare, educational and cultural contacts and work on an inter-racial basis, was to cut away the very foundations of religious and civil liberty in South Africa. Inherent in the Bill was the extreme danger that civil servants would become the only means of communication between the races. There were already too few bridges between groups. To destroy or undermine those that existed would be to destroy that mutual understanding and tolerance which people of all races had patiently sought to build up over the years. The very existence of the proposed legislation would most certainly discourage the voluntary promotion of new welfare and other work.

Later, after the amended version of the Bill had been made public, the Institute issued another statement([23]) in which it said that the amendments constituted merely a strategic withdrawal, and not an alteration in principle. Already the Department of Native Affairs was issuing directives to restrict the participation of Europeans in African welfare work. This, together with other legislation, would mean widening the gulf between the racial groups at a time when the maintenance of every bridge of contact was essential if South Africa was not to slip into a chaotic condition of mutual antagonism.

On 6th April the President and Director of the Institute of Race Relations issued a further statement in which they said:

> "We deny the right of any government or any one man to assume the powers of dictatorship over the lives of citizens, European and African, which this Bill contains. No one man has the wisdom, knowledge and experience to exercise the powers given under this Bill.
>
> "We assert the right — a right acknowledged in any civilized democratic country — of any organization of loyal and thinking citizens to seek together solutions to the national problems of our country.

<=") col. 3224.
<") RR 43/1957.
<") RR 59/1957.

"We believe that, if this right is denied, as in effect it is denied in this Bill and other legislation, the future of South Africa will be one of entrenched dictatorship".

The decision of the Executive Committee in July, that the Institute of Race Relations should continue exactly as before to do the work it has always done for better race relations, without being deterred by vague threats or undefined dangers, is mentioned in an earlier chapter of this Survey.

During April the Institute published a booklet entitled *The Native Laws Amendment Bill: Its Effects on Religious and Other Freedoms*, which contained a full analysis of the Bill and commentaries on it.

The Liberal Party

The National Committee of the Liberal Party, at its meeting in April, passed a resolution stating that inter-racial association was a cardinal principle of a democratic multi-racial society, and was fundamental to the operation of the Liberal Party. The party, therefore, stated its complete opposition to the Bill. It recognized that there were members of the party who, on grounds of conscience, would be unable to obey this law.

National Union of S.A. **Students** (NUSAS)

At the NUSAS conference held in July, it was accepted that the very existence of this organization depended on the holding of inter-racial meetings. The following resolution was passed:

"NUSAS cannot concede to the Government the right to ban multi-racial gatherings, and it affirms that it will in no way seek the permission of the Minister to carry out its activities, nor will it curtail its work in deference to the Minister's threats".

It was decided that if the Minister should ban any meeting of this organization, NUSAS leaders would ignore the ban, convene the meeting, and take the consequences.

The S.A. Temperance Alliance

The S.A. Temperance Alliance chose this time to alter its constitution, providing that no provincial alliance should have the right to debar from personal membership any person, or from affiliation any organization, on grounds of race or colour.

The National Council of Women of S.A.

On 1 March the National President of the National Council of Women of S.A. wrote to the Prime Minister, urging him to secure the withdrawal of the Bill or the amendment of its terms so that all clauses restricting freedom of association would be eliminated. She pointed out that for the National Council of Women to pursue its work, particularly in the field of social welfare, it was essential for representatives of all sections of the community to meet regularly. Attention was drawn to the fact that if such meetings were made impossible, the NCW would have to withdraw from the International Council of Women, which body was pledged to promoting the welfare of humanity regardless of colour, race or creed.

Welfare Organizations

The South African Red Cross Society was similarly perturbed, in that its constitution forbids it to operate on a colour-bar basis. Any compromise on this issue would seriously endanger its affiliation with the International Red Cross, through which it has done some of its most valuable work — for instance the care of South African prisoners of war.

Many other welfare and other organizations were deeply concerned. Whites and Africans serve together on the central committees of some of these, while other national organizations have separate mixed committees to deal with the Non-White side of their work. The position of these bodies is dealt with below.

Protest meetings

The Cape Western Committees or Branches of the Institute of Race Relations, the Civil Rights League, the Black Sash and the National Council of Women have convened a series of protest meetings in Cape Town. Those attending a public meeting held on 8 April pledged themselves to oppose the passing of the Bill and its implementation if passed. Then, on 4 May, a meeting of local representatives of 22 organizations was arranged: each explained how it would be affected by the Bill. The following resolution was passed:

"The Native Laws Amendment Bill leaves a large number of organizations, to the very existence of which multi-racial association is fundamental, with the alternatives either of continuing to function or of ceasing to exist. As each of these organizations represented at this conference is fulfilling a vital function in the community, there can be no question of any one of them permitting itself to die".

It was agreed:

(a) that all the 22 organizations would continue to function as before;

(b) that each and every one of them would lend its full support to any organization singled out for attack by the Government under the Bill.

Where appropriate, these resolutions were forwarded to the national bodies.

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This meeting was followed by a spectacular protest march from the foreshore area to the Gardens, near the Houses of Parliament, on 20 May. More than 3,000 people of all racial groups and walks of life marched in silence, six abreast, to the tolling of bells. They then formed themselves into a vast semi-circle and pledged themselves to uphold the principles of freedom of worship, of association and of speech. They solemnly declared that they would work for better relationships between all the peoples of South Africa, irrespective of colour or race; and that they would use every reasonable means to secure the repeal of all legislation which fetters freedom and hampers inter-racial contact and consultation.

The Civil Rights Committee in Johannesburg, assisted by the Black Sash, arranged a series of four lunch-hour public protest meetings on the City Hall steps during April. Pamphlets issued by this Committee entitled "Verwoerd Must Go" were distributed.

On the following Saturday a bell tolled all morning from the City Hall steps, where a Black Sash demonstration was held, the theme being John Donne's words: "Never send to know for whom the bell tolls. It tolls for thee".

About a thousand people attended a meeting called by the Mayor of Pietermaritzburg in March at the request of 38 lay churchmen, to protest against the religious restrictions of the Bill. A further public meeting was held in May to protest against the Bill in general: a unanimous motion was passed urging the Pietermaritzburg City Council to refuse to co-operate with the Minister of Native Affairs in preventing inter-racial church services or meetings.

At a public protest meeting held in Durban during April, a Citizens' Committee was elected, which arranged a private conference of churches, welfare organizations and other bodies likely to be affected by the Bill. This conference took place during July. The representatives of 59 organizations who attended it created a Council for the Defence of Freedom of Association with a Standing Committee and Finance and Legal Sub-Committees. Joint action for mutual support was pledged. A representative delegation was appointed to seek an interview with the Durban City Council. Members of the Institute of Race Relations did much of the organizational work for these conferences.

In Port Elizabeth the National Council of Women in association with the Institute of Race Relations and the Black Sash called an exploratory conference of organizations likely to be affected, which was held in June. A continuation committee was appointed.

During April, the Joint Council of Europeans and Africans of Grahamstown arranged a public meeting to discuss the Bill. The police attended, took names and notes, and interviewed several of those present.

OPINIONS OF CERTAIN LEADERS OF AFRIKAANS THOUGHT

At the time when this legislation was being debated in South Africa, Ghana became a sovereign state. The Prime Minister said in the Assembly([24]) that, although no over-hasty action should be taken, in the ordinary course of events, as the Non-White countries in Africa developed, there would have to be contact with their governments, leading eventually to diplomatic relations. The Minister of External Affairs, while on a visit to Paris, said(") there was no doubt that at some time in the future an ambassador would be sent from Ghana to South Africa.

This gave rise to a letter by 'a prominent Afrikaner' which was published in the *Burger* and associated newspapers([26]). The social colour bar would have to be made more flexible, he said. If permanent contact with Ghana — and other emergent Black States — was to be achieved, then Black people would have to be made to feel at home in the Union — and without any colour bar. If exceptions were made of civilized Non-Europeans from outside, South Africans would have to be prepared to do the same in certain cases and in certain directions in so far as their own Non-Europeans were concerned.

He was pleading for a policy of necessary exceptions, the writer continued; as a complete breakdown of social segregation between the races would cause chaos. In specified, necessary cases, transgression of the everyday colour bar — in cafcs, hotels, cinemas — would have to be accepted as natural by all Whites. If a Non-White professor travelled through the country and there was no decent alternative accommodation, he would have to be given a room in the town hotel.

In an interview with a Star feature-writer([27]), Professor L. J. du Plessis, head of the Department of Law at Potchcfstroom University and a leading member of the Gereformeerde (Dopper) Church, is reported to have said that in some way or other the Government or other interested bodies would have to make provision for the accommodation of foreign as well as South African Non-White 'V.I.Ps', and for a common meeting ground where White and Non-White could consult with one another. The only solution he could see was the establishment of multi-racial clubs in every major city and town.

A series of letters from correspondents was then published in the *Burger* and its associates. While they all approached the subject cautiously, only a few dissentient voices were raised against the proposition that the social colour bar would have to become more flexible. It was emphasized that the problem could not be settled by legislation, but was a matter that the people themselves must work out in their own way.

(") **2 May 1957. Hansard 14. cols. 5219/20.**
(") **Press reports, e.g. *Rand Daily Malt,* 12 July 1957.**
(") **Also renubllshed in the *Star.* 22 July 1957.**
(') ***Star. 26* July 1957.**

PRACTICAL EFFECTS OF THE NATIVE LAWS AMENDMENT ACT TO THE DATE OF WRITINGO

In reply to a question in the Assembly as to whether schools, hospitals, clubs or similar institutions admitting Africans and operating in the 'White' parts of towns could continue so to operate, the Minister of Native Affairs said([20]), "applications should be submitted immediately, when arrangements for temporary permission will be made pending the final decision of the local authority and the Minister".

Unsure of its position, the Durban International Club closed for a time by decision of its Executive Committee.

Various national welfare organizations that have Africans on their central committees, and which meet in the 'White' parts of towns, wrote to the Minister asking how they would be affected. The Minister's private secretary replied in each case that the Minister was satisfied that the relevant clause gave sufficient protection to such national welfare organizations. The deduction was that mixed committee meetings could continue as long as, in the opinion of the Minister and the local authority, Africans did not attend in large numbers or create a 'nuisance'.

Committees conducting clubs, or conducting projects in African residential areas, fall into a different category, however.

POSITION OF WELFARE ORGANIZATIONS CONDUCTING PROJECTS IN AFRICAN RESIDENTIAL AREAS

On 11 April 1957 a circular, No. 1176/313, was sent by the Native Affairs Department to local authorities and to all welfare organizations that conduct projects in African residential areas. It read:

> "It is the policy of the Department that Natives should, in cases where these services are not provided by the urban local authority itself, be encouraged to initiate, conduct and control their own social, social welfare and recreational services.
>
> "The provision and control of such services by a body of Europeans or a joint or mixed committee of Europeans and Non-Europeans is contrary to policy and cannot be approved.
>
> "Any Europeans interested in assisting Natives in this respect could operate as a separate advisory committee, but the activities should be conducted by, and the site and/or buildings concerned leased to, a committee consisting entirely of members of the Native group.
>
> "The Department, however, has no objection to European officials of the State or the urban local authority, or European

([20]) 30 September 1957.
([21]) 18 June 1957. Hansard 21, cols. 8362/63.

> nominees of the local authority who are Councillors, being co-opted by the Native committee in an advisory capacity, where necessary ...
>
> "There could, of course, be no objection to a European committee operating separately and voluntarily with the object of raising funds for handing over to the Native Association, and there could, of course, also be no objection to the Native Association obtaining advice and guidance in the management of its affairs from such a committee . . ."

It was suggested in the circular that all payments by the Native committees should be by cheques, countersigned by a responsible European official of the local authority. The constitutions of the organizations should provide for the proper auditing of accounts: draft constitutions of Native associations set up in terms of the new policy should be submitted to the Department for consideration, together with applications for the use of sites or buildings. A copy of the constitution of the Galeshewe Social Centre Association in Kimberley was attached to the circular "for the guidance of all parties concerned".

This circular caused much perturbation amongst welfare organizations. Some of them approached the Departmental liaison officer requesting that they be allowed a period of a number of years to train African committees to carry on the work. The concept of welfare work as carried out in Western society was a comparatively new one to Africans, they said. Contributions from Europeans to such work would dry up, they felt, if contact between the Europeans and Africans was prevented.

Some of the passages in the constitution of the Galeshewe Social Centre Association caused much disquiet, too, for instance, "No person shall be entitled to membership in the Association or to hold any office therein if disapproved by the Kimberley City Council", and, especially, "The receipt books and bank deposit slips shall be submitted to the Auditors monthly ... All cheques shall be .... countersigned by the Auditor".

Welfare organizations pointed out to the Departmental liaison officer that African committees, responsible for raising most of their own funds, could not possibly afford to employ auditors to do such detailed work. In a Departmental letter, in reply, it was said that by 'competent auditor" was meant any sufficiently competent and intelligent person of recognized standing, whether White or Non-White. One small concession was made, so far not confirmed in an official circular, to the effect that voluntary European bodies and individuals, as well as officials, might serve in an *ad hoc* advisory capacity on the African committees.

The Department apparently intends that all welfare organizations concerned in any way with work in African areas should

renew their registration with the National Welfare Organizations Board: this would involve amending their constitutions to comply with the new policy. No official instruction to this effect had. at the time of writing, been issued; but new organizations will, of course, be immediately affected. The whole matter is to be discussed in detail at a meeting of the National Welfare Organizations Board in October 1957.

Section *forty-nine* (a) of the Native Laws Amendment Act enabled the Minister to force welfare organizations to comply with his policy. Previously, any person or body had been able to acquire a limited interest in land in a location or African village for public, mission, educational, recreation, trading or industrial purposes provided that the local authority and the Minister were agreeable([10]); but the 1957 Amendment Act empowered the Minister to impose such conditions as he may deem fit.

THE POPULATION, AND MEASURES FOR ITS REGISTRATION AND CONTROL

THE SIZE OF THE POPULATION

The Bureau of Census and Statistics estimates that the mid-year population in 1957 of the Union, the Provinces and some of the largest towns was as follows :

SOUTH AFRICA	*Whites*	*Coloured*	*Asians*	*Africans*	*Total*
Union	2,957,000	1,319,000	431,000	9,460,000	14,167,000
PROVINCES					
Cape	1,011,000	1,169,000	20,000	2,683,000	4,883,000
Natal	318,000	41,000	353,000	1,935,000	2,647,000
Transvaal	1,370,000	94,000	58,000	3,931,000	5,453,000
Orange Free State	258,000	15,000	——	911,000	1,184,000
MAJOR TOWNS					
Johannesburg	393,300	46,600	28,700	561,600	1,030,200
Cape Town	280,800	351,100	9,500	67,800	709,200
Durban	177,000	24,900	214,400	196,500	612,800
Pretoria	176,000	7,600	7,200	144,500	335,300
Port Elizabeth ...	95,200	52,300-	5,200	86,900	239,600
Germiston	95,000	3,100	2,700	112,400	213,200
Vereeniging/Vanderbijl Park	59,500	1,300	1,300	138,900	201,000
Blocmfontein	62,400	5,700	——	73,500	141,600
Benoni	44,800	5,000	2,200	87,300	139,300
Springs	39.200	1,400	1,300	S7,600	129,500
East London	48,700	6,800	1,900	48,700	106,100
Pietermaritzburg ...	37,600	3,800	21,200	25,600	88,200
Kimberley	22,300	17,200	1,300	28,700	69,500

(") Section *lony-two* (0 of the Native (Urban Anas) Consolidation Act.

RELIGIONS

The most recent figures showing the religions of the people are for the census year 1951 in respect of Whites, and for 1946 in respect of the other population groups. They are as follows(1):

	Whites %	*Coloured* %	*Asians* %	*Africans* %
Nedcrduitse Gereformcerdc Kerk	42.0	30.7	—	3.2
Other Dutch Reformed Churches	11.2	0.8	—	0.2
Catholic	5.3	6.0	1.8	4.8
Anglican	15.8	20.0	1.0	7.1
Non-Conformist Protestant (English Speaking)	20.1	33.5	3.1	28.0
Other Non-Conformist Christian	0.3	—	—	—
Native Separatist Churches ...	—	0.3	—	9.6
Jewish	4.1	—	—	—
Hindu	—	0.I	62.8	—
Moslem	—	4.7	21.5	0.1
Confucian, Buddhist or Parsee	—	—	0.9	—
Spritualist. Free Thinker, etc.	0.1	—	—	—
Heathen	—	—	—	44.2
Other, not stated, unknown, etc.	1.1	3.9	8.9	2.8

PROGRESS OF POPULATION REGISTRATION

The registration of Africans is dealt with by the Native Affairs Department, separate machinery from that for the other population groups being employed, and separate statistics being issued. This whole matter is dealt with in the next chapter of this Survey.

So far as Europeans, Asians and Coloured people arc concerned, everyone already has an identity number given at the time of the last census or subsequently in the case of immigrants and children born since the census. Judging by the population figures quoted above there are some 4,707,000 persons involved.

Information about the progress of population registration has been given at various times by the Minister of the Interior([2]). The names of about 90 per cent, of the people have now been listed on the population register, he said. Because of all the births, marriages, deaths, divorces, immigrants, emigrants, naturalizations, and other factors necessitating alterations, it has, so far, proved impossible to bring the register up to date.

In determining the racial groups of individuals aged sixteen years and over for entry on the population register, data furnished at the time of the last census is checked against that

0) Summarized from U.G. 62/1954.
(2) Assembly. 22 March 1957. Hansard 9. cols. 3313/14. 3319: 20 May 1957, Hansard 17. col. 6359: Senate, 15 February 1957. Hansard 4. col. 824.

subsequently supplied by members of the public, who have been required to complete official forms giving personal details and to submit two copies of recent photographs (Not everyone has done so). Frequent discrepancies are found; and, furthermore, numbers of people applying for birth certificates have challenged the racial groups reflected on these. In an endeavour to clarify matters, officials of the Bureau of Census and Statistics toured the country interviewing Coloured people. The Minister of the Interior said that, up to about May, 1957, some 100,000 'border-line' or doubtful cases had been encountered, of which 25,479 had been dealt with. The Director of the Bureau had handled 305 especially difficult cases, and in 266 of these had revised the classification to which the persons concerned had objected. The remaining 39 cases would go to appeal.

Persons who are dissatisfied with the ruling given by officials may appeal, first, to the special board set up for the purpose. So far, the Minister said, appeals had been lodged by 19 persons classified as Coloured, 42 classified as Asians, and 1,250 classified as Africans. Of the 411 appeals heard, 375 had been upheld.

There had been eight appeals to the Supreme Court, he added, from decisions made by the Board. Seven of these had been decided in favour of the applicants, while the eighth case was pending.

Very slow progress is being made with the issuing of identity cards. So far, of about 2,830,000 persons aged sixteen years and over, 102,764 Whites, 4,682 Coloured persons and 878 Asians have received their cards, the Minister said. He made a significant remarkC): "The question of the issuing of identity cards ... is not necessarily part of a population registration system".

Great difficulties have been encountered by the Interdepartmental Committee appointed to investigate and to advise the Government on the practicability or otherwise of a uniform system of racial classification for the purposes of all laws and provincial ordinances, and no finality has been reached.

In classifications under the Group Areas Act, for example, a woman takes the race of her husband in order that she may live in his group area. A Coloured woman married to an Indian would become Indian in terms of this Act; but would remain Coloured on the population register. Should her husband die, or should they be divorced, she could then return to live in a Coloured group area. Their children would be regarded as Indian while they lived in the Indian group area; but, on reaching the age of sixteen, they could apply to be registered as Coloured if their habits, friends and manner of living were those of the Coloured group.

(3) Senate. 16 May 1957. Hansard 13, cols. 4276/77.

The legal line of demarcation between Coloured people and Africans is even more indefinite. The great variety in the definitions of Coloured people contained in different laws was described in the *Survey of Race Relations* for 1954/1955 (pp. 33/35).

THE 'TREASON TRIALS'

The Background

There has, for years, been mounting unrest among considerable sections of the Non-White communities. The 'Campaign of Defiance of Unjust Laws' was described in earlier Surveys(4). This campaign was called off after the riots which took place in Port Elizabeth, Johannesburg, East London and Kimberley towards the end of 1952, its leaders realizing that, although there was no direct connection between the rioting and the Defiance Campaign, it would, for the time being, be highly unwise to arrange further organized demonstrations in the areas concerned.

Instead, they planned to attempt to place opposition to laws deemed unjust on a non-racial basis, and to that end enlisted the support of White sympathisers. They agreed to keep June 26, the anniversary of the launching of the campaign, as a day of commemoration of the sacrifices made by those who courted arrest for participation in organized contraventions of apartheid regulations, and as a day of dedication to the cause of freedom.

During March, 1954, representatives of the bodies comprising the Congress group met to discuss the organization of a Congress of the People, which would be called to work out a 'Freedom Charter'. The drafting of this Charter, its terms, and its adoption by about 3,000 accredited delegates at a meeting in Kliptown, Johannesburg, on 26 June, 1955, were described in previous SurveysC). During 1956 the Federation of S.A. Women. an organization associated with the Congress movement, organized demonstrations against 'passes for women'(6).

The Government's reactions, too, have been described(7). The Public Safety and Criminal Law Amendment Acts were passed in 1953; restrictions under the Suppression of Communism and Riotous Assemblies Acts were placed on the freedom of movement and association of many of the leaders of the Congress group; members of the Special Branch of the Criminal Investigation Department attended meetings called by Non-White or interracial organizations, taking notes and photographs and in some cases taking down the names and addresses of all those present.

Then, during September 1955, large numbers of detectives carried out raids on the offices of the Congress and other organiza-

(4) *Survey at Knee Relations,* 1951/52. nnitc 11 *ct .ten.;* 1952/53, page 27 *r.l sr.q.*
(5) *Survey ol Race Relations,* 1953/54. P.IRC 11 *cl .«».;* 1954/55. pnitc 5 *et .seq.*
(6) *Survey ol Race Relations. 1955156,* page 8C; 1953/54. pane 13.
(7) *Survey ol Race Relations.* 1952/53. page 34 *el sea.:* 1953/54, pare 13 *el sen:* 1954/55. page 40 *el seq:* 1955/56. page 38 *el sea.*

tions, and on the homes of many individual people, in most of the larger towns of the Union, bearing warrants authorizing them to search for evidence 'as to the commission of the offence of treason or sedition', and to seize any books, typewriters, or documents which might afford such evidence.

Besides this, the Government introduced the Criminal Procedure and Evidence Amendment Act of 1955, providing for additional grounds for the issuing of search warrants, and providing, too, that in any circumstances in which a search warrant might be obtainable, any policeman (and not only those of the rank of sergeant and above, as previously) might proceed without a warrant if he considered that the delay in obtaining one would defeat its object.

The Arrests

Before dawn on 5 December, 1956, members of the police raided the homes of over' 140 persons in towns and villages throughout the country, bearing warrants authorizing them to arrest the persons named, on charges of high treason, and to search for documents relating to 49 specified organizations. Arrests subsequently effected brought the total of accused persons to 156. They included individuals of all racial groups and walks of life; among them were Mr. L. B. Lee Warden, M.P., Natives' Representative for the Western Cape; two former members of the Cape Provincial Council; ex-Chief A. J. Luthuli, President-General of the African National Congress; Professor Z. K. Matthews, the Acting Principal of the University College of Fort Hare; Dr. G. M. Naicker, President of the S.A. Indian Congress; Mrs. Lillian Ngoyi, President of the Federation of S.A. Women; several clergymen, medical practitioners, lawyers, journalists and teachers, and numbers of students, housewives, Congress officials, clerical workers and labourers. Several of the women were mothers of young children. Those from outlying centres were, in most cases, flown to Johannesburg in military aircraft.

They were all detained in the Fort, the central prison in Johannesburg, where for the first three days, they were refused visitors other than their legal advisers. Following a petition to the courts, this ban was removed. At the commencement, the letters they wrote were passed to the Special Branch, and, in some cases, were returned to the writers with instructions that marked passages must be deleted. This was stopped by the Director of Prisons when the matter was brought to his notice. Bail was refused pending the commencement of the preparatory examination, which opened before a magistrate in the Johannesburg Drill Hall on 19 December. Proceedings were adjourned on the first day because necessary microphones and interpreters had not been provided.

The hearing on the following day was very much interrupted. Firstly, all counsel for the defence threatened to walk out unless a

wire cage which had been erected overnight to separate the prisoners from the public was removed. A compromise was eventually reached: at the earliest possible moment the front and sides of the cage would be taken down, leaving railings instead. After several procedural questions had been settled the Crown Prosecutor commenced to outline his case; but after an hour proceedings were adjourned because of an uproar outside.

This was caused by one of several clashes between the police and the large crowds, mainly of Africans, which gathered outside the Drill Hall in the early days of the enquiry. Baton charges were ordered at various times. On the second day a group of Africans began stoning the police, some of whom then opened fire. About twenty Africans were at various times treated in hospital for injuries; two European bystanders were reported to have received bullet wounds: and three Press photographers were arrested and their films confiscated. Some 500 especially briefed policemen, White and Non-White, then cordoned off the area.

That afternoon, applications for bail were heard at the Supreme Court. The Crown asked for £1,000 bail for each of the Europeans and £.500 each for the Non-Whites. The judge, however, fixed the figures at £250 each for Europeans, £100 for Indians and £50 for Coloured persons and Africans, subject to certain conditions, which were that the persons concerned must report to the police at a set time each week, must surrender passports and undertake not to communicate with any Crown witnesses, must not attend any meeting other than of a social, religious, educational or recreational nature, and must address no gatherings whatsoever. Exceptions to this last condition were made in the cases of Mr. Lee Warden, a Member of Parliament, and the Rev. D. C. Thompson, a Methodist minister, the latter being permitted to preach sermons provided that he gave the police a copy of his proposed sermon in advance. All the accused were that evening released on bail.

Defence Fund

After meetings had been called in Durban, Sophiatown and elsewhere to discuss the question of a fund to provide legal defence, a central Treason Trials Defence Fund was launched, sponsored by two ex-judges, the Archbishop of Cape Town, the Bishop of Johannesburg, the Dean of Cape Town and twenty-two other prominent citizens. This fund later received official registration under the Welfare Organizations Act. With the money raised it secured the services of advocates for the defence, guaranteed the sums necessary to enable the accused to be released on bail, and provided some assistance with the maintenance of the accused and their families. At the time of writing, however, the preparatory

examination had dragged on for nine months, and as very few indeed of the accused had been able to continue in employment, very real hardship had been suffered.

The Preparatory Examination

The closing paragraph of the Crown Prosecutor's address, which paragraph was read on the first day, before the applications for bail were heard, read, "The basis of the high treason charge will be incitement and preparation for the overthrowing of the existing state by revolutionary methods involving violence — and the establishment of a so-called people's democracy on the basis of the Eastern European Communist satellite States and China".

He later elaborated on this, referring to the Freedom Charter, to speeches made by some of the accused, to the Western Areas Removal Scheme and the Evaton riots. Evidence would be led, he said, to show that the accused advocated action which created unrest and hostility between White and Non-White, that there had been incitement to revolt, and that it had been suggested that assistance from outside countries would be forthcoming. The people before the court were either office-bearers or active members and supporters of organizations known as the 'national liberation movement', which planned to set up a people's democracy, and to defeat the government by extra-parliamentary action. They had called for 'freedom volunteers' who took a pledge, "I hereby agree to fight apartheid. I take the oath. I will die fighting it".

One of the Defence Counsel then outlined the defence. The people before the Court, he said, did not propose merely to defend themselves against the allegations, but would assert, and in due course would ask the Court to hold, "that these prosecutions are a testing of political breezes in order to ascertain how far the originators can go in their endeavours to stifle free speech, criticism of the policies of the Government, and, in fact, all that the accused believe is implicit in their definition of the oft-misused word 'democracy'."([n])

The defence would allege that the trial had been instituted in an attempt to silence the ideas held by the accused and the thousands whom they represented — ideas which sought equal opportunities for, and freedom of thought and expression by, all persons of all races and creeds. It would show that no attempt had ever been made by the accused to conceal their aims or the manner in which they hoped to achieve them; that at no time had they sought to bring about changes in the government by subversive or violent means; and that no assistance was sought from abroad to bring about such changes — allegations to this effect had been deduced from quotations taken out of their context, he continued.

(") As quoted in the *Slar.* 9 January 1957.

During the nine months that followed, many hundreds of documents seized by the police in various raids were placed before the court for incorporation in the record; and very many detectives, White and Non-White, in turn gave evidence about speeches made at meetings they had attended.

The preliminary examination was adjourned on 11 September, until 13 January 1958, the Crown case by then being nearly at an end.

ACTION UNDER THE SUPPRESSION OF COMMUNISM AND **RIOTOUS** ASSEMBLIES ACTS

According to information given by the Minister of Justice at various times(°), the Liquidator appointed in terms of the Suppression of Communism Act has 'named' 608 persons (235 Whites, 67 Coloured, 47 Asians and 259 Africans) as being officials or active supporters of organizations deemed unlawful. (So far only the Communist Party has been deemed unlawful: this was done in the Act itself). Of the 76 trade union officials 'named', 57 have been ordered to resign from their unions. Fifty-four persons have been prosecuted, all but three having been convicted, for promoting the aims of Communism as defined in the Act or for disobeying orders restricting their activities.

At the time when the Minister spoke (i.e. after the commencement of the treason enquiry), ten orders issued under the Suppression of Communism or Riotous Assemblies Acts, prohibiting persons from being in specified parts of the Union and/or from attending gatherings, were in force. Three gatherings were prohibited during 1956 under the Riotous Assemblies Act.

DEPORTATIONS AND REFUSAL OF VISAS OR PASSPORTS

Not all cases of deportation or of the refusal of passports or visas become public knowledge; but a few examples can be quoted.

Rabbi Dr. A. Ungar, head of the Jewish Reform Congregation in Port Elizabeth, had been in the Union under temporary permit, and while here had made friends among all sections of the population and had become an outspoken critic of the Government. He planned to leave the country at the end of January 1957, as he had accepted an appointment in London; but was served with a deportation order requiring him to leave a fortnight earlier than he had arranged.

Mrs. M. L. Hooper, an American citizen who had been resident in Durban for some months, was during March 1957 served with a removal order and was arrested, to be detained in custody pending deportation. She was subsequently released on a

(•) Assembly, 8 February 1957. Hansard 3. cols. 805/6: Scnntc, 20 March 1957. Hansard 9. col. 2341.

technicality, by order of Court, and while her case was pending left the country voluntarily.

Dr. George W. Carpenter, an American missionary, was refused an entry visa when in February 1957 he wished to visit the Union on behalf of the International .Missionary Council in connection with the meetings of the Council to be held in Ghana during December.

Visas were also refused in March to six members of the Yale University jazz-band who, after hearing from Father T. Huddleston of the Africans' interest in jazz, had planned to tour the Union, devoting the proceeds from their concerts to the furtherance of jazz in African townships.

Among those who were refused passports when they applied for these (or. in some cases, re-applied after a previous refusal), were Miss Gladys Thala, an African nurse who had been elected by the African nurses of the Union to represent them at an international conference of nurses in Rome; Mr. Harry Bloom, the author of the novel *Episode:* Mrs. Jessie McPherson, an ex-mayor of Johannesburg and chairman of the S.A. Labour Party; Mr. Patrick Duncan, national organizer of the S.A. Liberal Party; and Mr. V. C. Berrange, one of the counsel for the defence in the 'treason trials'.

COMMISSION OF ENQUIRY IN REGARD TO UNDESIRABLE PUBLICATIONS

The Report of the Commission of Enquiry in regard to Undesirable Publications was published towards the end of the period under review([10]).

The Commission pointed to the enormous growth in many countries in the sale of publications and the production of films that emphasized crime, sex, sadism and perversion. Not a single work of literary merit among those examined was found to be undesirable: a responsible writer might deal with evil aspects of the snatch of life he described in his work, but did not drag in daring or shocking details for their own sake, portraying these as normal, and hence causing a distorted picture of life to be imprinted on the minds of the readers, especially the young ones.

Although many undesirable overseas paper-bound books and comics were already banned in the Union, large numbers of such publications still circulated here. The English ones were largely imported, since it was uneconomic to produce them here, but the Afrikaans ones were locally published and there had been a very rapid growth in their circulation.

On the whole, the Commission said, undesirability of the type described above manifested itself to a far greater extent in the periodicals and books intended for Europeans than in those published specially for Non-Europeans (although some Non-Whites, of course, did read the former type of publication).

But, the Commission added, in most newspapers there was a high incidence of reports, articles and other contributions that tended to engender, or which might have the effect of engendering, friction between the European and Non-European population groups.

Very strict measures were recommended for the control of undesirable publications, which were described in general as those that would be deemed indecent, offensive or harmful by 'the ordinary, decent, reasonable and responsible inhabitants of the Union'. The Commission then went on to particularize, however, describing as undesirable such publications as. *infer alia,* were blasphemous, tended to harm moral values, tended to engender friction or feelings of hostility between the various population groups, or tended to promote the spread of Communism or the further achievement of any of its aims(").

The Commission recommended the establishment of a Publications Board, with which all publishers of periodicals, magazines and newspapers, and also all booksellers, must register. No magazines should thereafter be sold in public places except in kiosks erected by local authorities or at railway bookstalls. Educational, charitable or welfare organizations publishing periodicals distributed exclusively to those among whom they endeavoured to promote their aims might be exempted from registration.

So far as periodicals and magazines (but not newspapers) were concerned, the Board would have power to allow publishers to produce these freely, or to rule that (hey might not be distributed unless a copy of each issue had been approved by the Board, or if several editions deemed undesirable had appeared, to prohibit distribution. The setting up of a Publications Board of Appeal, the decisions of which would be final, was recommended.

If a publisher failed to obey these conditions, or if an undesirable article or illustration was published, whether in a newspaper, magazine or periodical, court proceedings might be instituted against the publisher, editor, orderer, importer, printer, distributor or owner (not the author). Extremely severe penalties were suggested.

The Commission also recommended what it termed 'promotive' measures for the advancement of good literature and the general education of the community. In the teaching of literature and history in schools, it considered, emphasis should be placed, not on memorization, but on the cultivation of a love for the subjects. Adult education should be accepted as an integral part of the

(">) U.G. 42/1957.

(") Control over publications deemed liable to promote inter-racial hostility or the aims of Communism already exists.

Union's educational services, an Institute for Literature being set up to co-ordinate the activities of organizations working in this field. It was strongly recommended that a separate investigation should be conducted without delay of the questions of providing good literature for the various Non-White groups, of making this readily available, and of providing guidance in connection with the selection of reading material.

The Government has not yet stated its attitude to these recommendations. A Press Commission Report is still awaited which must, in part, cover the same ground.

CIVIL LIBERTIES IN SOUTH AFRICA

Two studies of civil liberties are being prepared for the S.A. Institute of Race Relations. Mr. Donald Molteno, Q.C., is writing a booklet on civil liberties in South Africa; and Dr. the Hon. E. H. Brookes, ex-Senator elected by Africans, is undertaking a wider, more general, analysis of the nature of civil rights and individual liberties in a multi-racial state.

MATTERS AFFECTING SPECIFIC GROUPS

ENGLISH-SPEAKING CITIZENS

NATIONAL ANTHEM AND FLAG

As from 2 May 1957, *Die Stem van Suid-Afrika* became the official national anthem of South Africa, to the exclusion of "God Save the Queen". The fact was achieved by a simple declaration by the Prime Minister, who said that no legislation on the matter was necessary, for, although both anthems had usually been sung on appropriate occasions in the past, South Africa had never previously had an official national anthem(1). He read aloud an English translation which, he considered, captured the spirit of *Die Stem.*

Since 1927 the Union Flag and the Union Jack have flown side-by-side from official buildings and on official occasions. Early in 1957 a private member's Bill was introduced to establish the Union Flag as the only official flag of the country. Government time was made available for the debate. Considering that this was a first step towards the introduction of a new flag, the United Party did not support the measure. It became law as the Flags Amendment Act, No. 18 of 1957.

During September 1957 the Minister of Justice was due to open certain new buildings in Daveyton African Township, Benoni. On hearing that the Town Council planned to fly both the Union Flag and the Union Jack during the ceremonies, he cancelled his visit. The Prime Minister is reported(2) to have said that no

0) Assembly a May 1957, Hansard 14 col. 5244.
(2) *Rand DMy Mail.* 30 October 1957.

Cabinet Minister, in his official capacity, would attend any function in the Union at which, unless the occasion called for it, any flag but the Union Flag was exhibited, or any anthem but the national anthem was played. The Governor-General would be advised to follow a similar line of action.

COLOURED PEOPLE

PARLIAMENTARY REPRESENTATION

Separate Representation of Voters Repeal Bill

The Separate Representation of Voters Repeal Bill was a private member's motion, introduced in the Assembly by Mr. L. Lovell, M.P., of the Labour Party, on 8 February 1957. The aim of the Bill was to restore the rights of the Coloured people of the Cape to vote upon the common roll in the election of members of the Assembly and Cape Provincial Council. The fact that the Supreme Court had dismissed the application for an order declaring the relevant legislation to be invalid provided no good reason, Mr. Lovell said(3), for ceasing to advocate a sound and humane policy. The Bill provided Parliament with the opportunity to right a great wrong. In previous debates the matter of the Coloured vote had been inextricably tangled in the question of the entrenched clauses, and members of the House had never had a real opportunity of voting upon the crisp question, "Do you want the Colourcds upon the common roll, or do you not?"

The Minister of the Interior said(4) that the Coloured vote on the common roll had been nothing more than an illusion. The Coloured people had been a political football; corrupt leaders and political agents had exploited their vote. In many cases the Coloured voter had been called upon to arbitrate in disputes between Europeans, and in some constituencies was able to decide which party would gain the victory. Many Coloured people were beginning to realize that the new system would be to their advantage. The Bill before the House would destroy the foundations of this new system before the building had been completed.

The Leader of the United Party said(n) that in so far as the Bill was a protest, and had brought to mind once again the actions of the present Government in regard to the Coloured vote, it had served a useful purpose, and to that extent would have his Party's support. But the Bill did not deal with the question of the enlargement of the Senate, and provided no permanent solution. The United Party believed, he continued, that it was in the best interests of both the Europeans and Coloured people to retain the common franchise laid down in the South Africa Act. He had

(») Hansard No. 3. cols. 869-873.
(«) cols. 875/6.
(3) cols. 878-883

asked the Party's constitutional committee to investigate the whole constitutional position arising from the recent Appeal Court judgment. (The scheme later decided upon by the United Party is described in the first chapter of this Survey).

The debate was adjourned until 8 April, then again postponed, and finally the Bill was withdrawn.

Nomination of a Senator on the ground of his knowledge of the Coloured people of the Cape

The Separate Representation of Voters Act of 1951, which was declared invalid by the Appeal Court and then, after the enlargement of the Senate, was re-validated in terms of the South Africa Amendment Act of 1956, provided that a European Senator would be nominated by the Governor-General on the ground of his thorough acquaintance with the reasonable wants and wishes of the Coloured people of the Cape.

In terms of Proclamation No. 1061 of 19 July 1957, the Rev. J. M. N. Breedt, head of the theological school of the Dutch Reformed Mission Church, was nominated to fill this position.

Delimitation of Coloured constituencies

It was also provided in the Separate Representation of Voters Act that, as soon as possible after the passing of the Act, four Coloured constituencies would be delimited in the Cape for the election of the four representatives of Coloured people to the Assembly.

As was described in our last Survey(⁶), during 1956 the United Party applied, in the names of two Coloured voters, for the Senate Act and the South Africa Amendment Act to be declared invalid. This application was dismissed in turn by the Supreme Court, Cape Town, and the Appeal Court. By then, the time for a general delimitation was close at hand.

The Electoral Laws Further Amendment Act, No. 8 of 1957, thus provided that the first delimitation for the Coloured seats would be that conducted after the general delimitation of White constituencies (in progress at the time of writing).

LAND SETTLEMENT

According to information furnished by the Minister of the Interior in the Senate('), three areas are being developed for settlement by Coloured farmers — Eksteenskuil, where there are already 80 settlers, part of the Richtersveld, with 300 families already living there, and the Mier Settlement, also with 80 settlers. After the completion of irrigation works and stock watering places, it will be possible to provide for a further 400 families in these areas.

(⁵) Page 30.
(') 16 May 1957. Hansard 13, coU. 4277/78.

His policy, the Minister said, is to persuade Coloured farmers now living amongst Whites to exchange their properties for land in one of these settlements.

ASIANS

BIRTHPLACES OF ASIANS RESIDENT IN SOUTH AFRICA

It is of interest that, according to 1946 census figures only recently published(⁸), as few as 10.4 per cent, of the Asians then in South Africa had been born outside the Union. This proportion will, of course, have decreased in the eleven years that have since elapsed.

Of these 10.4 per cent, who were not Union-born, only 20 per cent, had been in South Africa for less than ten years — 26 per cent, had been here between 10 and 25 years, 42 per cent. between 25 and 50 years, and 12 per cent, over 50 years.

DEPORTATION OF INDIANS

Persons born in India who arc declared prohibited immigrants in South Africa, or who are found guilty of offences rendering them liable to deportation, have, of late, sometimes found themselves to be State-less persons when the Indian Government has refused them permission to return. The Minister of the Interior said in the Senate during March(°) that, after conviction for one of the specified offences, an Indian had been sent back to India, but was refused permission to land and was thus forced to return to South Africa in the same ship. He would be kept under arrest until India was prepared to receive him.

Another recent case of hardship was that of the Bliayat family of Springs. Dr. A. Bhayat was born in the Union, but lost his domicile (as a member of any other racial group would do) by being out of the country for over three years. He was actually away for fourteen years, and during that time married in India. Unlike members of other groups, however, Indians without domiciliary rights arc required to obtain the permission of the Minister of the Interior before bringing their wives and children to South Africa. Dr. Bhayat failed to request permission, and was told that his wife and son would have to return to India until he had re-acquired domicile.

They left by air, but on arrival in Nairobi were refused a passage to India by the airline operating from there, on the ground that the papers issued to them by the South African immigration authorities were not in order. They were thus forced to return to the Union at their own expense. After weeks of uncertainty, the Minister of the Interior finally authorized them to remain here until Dr. Bhayat re-acquired domicile.

(⁸) Vol. IV of Population Census, U.G. 34/1954. Calculations by the writer.
(•) Senate. 28 March 1957. Hansard 10. cols. 2798/99.

AFRICANS

CONTROL OF AFRICANS IN URBAN AREAS

Address by Secretary for Native Affairs

At the annual meeting of the Institute of Administrators of Non-European Affairs, held at Margate during September 1957, an address prepared by the Secretary for Native AlTairs was read on his behalf by a senior departmental official. It used to be regarded as self-evident, he said, and it was still the considered opinion of the vast majority of South Africans, that there must be legislation dealing with the Bantu in particular. "It stands to reason that the entry of the Bantu from their own areas into European areas, from their own primitive form of life into the complicated life of our towns . . . calls for measures to regulate this entry and to cushion the impact of the more advanced culture, in the interests of Bantu and European alike ... It would be unwise to ... depart from the principle of dealing with all the Bantu as a separate entity, including all those individuals who have made cultural progress and who should for that very reason remain within and prove a valuable asset to their community."

"It is, of course", he said, "much too early to express a definite opinion in regard to the reaction of the urban Bantu population. All that one can say at this juncture is that the present atmosphere leaves very much to be desired: the social life is vitiated by loose morals, the incidence of illegitimacy is very high, parental control is ineffective, juvenile delinquency is prevalent, drunkenness is on the increase and life is made insecure by the unsavoury and dangerous activities of rival gangs. What is lacking is the steadying influence of a happy home life, strong family units and a healthy community spirit, factors which played such an important part in the tribal life of the Bantu."

The Secretary for Native Affairs considered it frivolous to say that the laws framed by his Department were such that well-intentioned Africans could not obey them. He invited the considcrcd views of delegates on what can be done to ensure the implementation of the various enactments affecting the Bantu in the urban areas in such a manner as to guarantee the necessary control by enlisting the positive co-operation of all parties concerned, thereby eliminating the friction and ill-will which tends to vitiate city life. He made various suggestions in regard to the avoidance of summary arrest for pass law offences, which are outlined below.

Curtailment of Powers of Local Authorities

The Native Laws Amendment Act (Act 36 of 1957) contained three provisions which curtailed the powers of control of local authorities of Africans in their areas:

(a) *Irregularities in Native Administration Departments to be Reported to the Government.*

According to the first draft of clause 38(d) of the Bill, it was in future to be the duty of the most senior officer in the Native Administration Department of every urban local authority to report not only to the local authority (as already provided for), *but also to the Secretary for Native Affairs,* any irregularity which might occur in his department, or any other occurrence which he might deem it advisable to bring to their notice.

According to the Explanatory Memorandum issued on the Bill, this amendment was introduced at the request of the Institute of Administrators of Non-European Affairs.

It was opposed by the United Municipal Executive, which asked the Minister of Native Affairs to drop the clause. He said(10) that he was not prepared to do so. Managers of Non-European Affairs, he said, do not act only as officials of a City Council: they also have certain statutory duties entrusted to them, and they can be appointed only under a licence issued by the Minister. There should be one central Native policy for the country, he continued. *"The local authority system is a means of executive organization to apply the policy of the country in regard to Native affairs".*

He later accepted a small amendment moved by the Opposition. Reports of Managers of Non-European Affairs, dealing with irregularities or other occurrences requiring the attention of the authorities, are in future to be submitted to the Secretary of Native Affairs via the local authority, which must forward such reports within seven days of their receipt.

(b) *Increased Control over Regulations Applicable to African Townships.*

In terms of the first draft of clause 47(i) of the Bill, the Administrator of the province and the Minister of Native Affairs were to be empowered to amend, vary or reject draft regulations submitted by a local authority without necessarily first referring them back to the local authority that had submitted them.

This provision, too, was criticised by the United Municipal Executive, which sent a deputation, representative of each province, to ask the Minister precisely what functions he wanted urban local authorities to carry out in future in regard to Native administration.

This clause, too, was subsequently amended. It now provides that the Minister, without consultation with the local authority concerned, may vary or amend draft regulations *unless a new principle is thereby introduced,* or may reject them.

(c) *Increased control of expenditure from Native Revenue Accounts.*

The Natives (Urban Areas) Act formerly provided that the appropriation of assets from the municipal Native Revenue

(10) Assembly. 21 March 1957. Hansard 9. colj 3222/24.

Accounts should not take place otherwise than in accordance with estimates of expenditure passed by the local authority and approved in writing by the Minister. The Amendment Act of 1957 empowered the Minister to impose such conditions as he may deem fit.

(d) *Deprivation of power to admit African work-seekers.*

In terms of Section *thirty* (a) of the Amendment Act, the power to permit African work-seekers to remain in urban or proclaimed areas for longer than 72 hours is removed from municipal influx control officers and vested only in government labour bureaux.

Criticism of those amendments

The attitude of the United Municipal Executive has been dealt with above. Johannesburg City Council requested the Minister to receive a deputation, but he refused on the ground that this would create a precedent for all local authorities to see him separately. The clauses concerned were firmly opposed by the Opposition during the Parliamentary debates.

In a memorandum sent to all Members of Parliament and to the Press(11), the Institute of Race Relations said that, in matters affecting Africans, local authorities were fast becoming mere agents of the central government. The Institute emphasized that there was far too great a degree of centralization already, existent, and that the welfare of the country required greater flexibility in local administration and a relaxation of central control. Local authorities were in closer contact with their communities, and had a far more intimate understanding of local conditions, than a central authority located in Pretoria.

INFLUX CONTROL AND REFERENCE BOOKS

Further Restrictions imposed by the Native Laws Amendment Act of 1957

(a) *Right to remain in urban areas.*

As the law previously stood, expressed in Section *ten* (l)(a) of the Natives (Urban Areas) Consolidation Act:

(a) An African born and permanently resident in an urban area could remain there without having to seek permission;

(b) so could those who *at any time in their lives* had worked continuously in the area for one employer for a period of not less than ten years, or who had lawfully remained continuously in the area for not less than fifteen years, provided that *during these periods* they had not been convicted of any offence in respect of which they were sentenced to imprisonment without the option of a fine for a period of more than seven days, or with the option of a fine for a period of more than one month.

(11) RR 42/1957.

On point (a), the Transvaal Provincial Division of the Supreme Court ruled during 1955 *(Mathebula vs. Ermelo Municipality*(12)) that an African who was born within an urban or proclaimed area, but who had abandoned residence therein, might, during a 72 hours' visit to that area, if he so desired, legally become a permanent resident of that area again merely by forming such an intention. In consequence, the 1957 Amendment Act provided(13) that an African must have resided *uninterruptedly* since birth in the area concerned in order to gain automatic exemption.

The Bill also provided that Africans in category (b) above will no longer qualify for automatic exemption unless they have *continued to remain* in the area concerned and have not accepted employment outside it. (This clause was subsequently amended, as described below).

During the Second Reading debate, members of the Opposition pointed out(14) that an African might lose his right to remain in the town where he was born, or in which over a very long period of years he had established a domiciliary right, merely if he undertook a course of study elsewhere, or visited his wife in the country, or if his employer transferred him to another town. He might then be turned out of a home he had acquired with hard-earned savings. (As will be explained later, the Prohibition of Interdicts Act has been applied in the cases of Africans who do not qualify to remain in an urban area; which means that if convicted by the courts for being there illegally, they have no legal *right* to compensation for the value of their property).

The Minister of Native Affairs replied(15) that an African would not lose his domiciliary right in a town if he left it temporarily on holiday, or if his employer sent him to work elsewhere for a short period of time — even for three to six months. In this connection he cited, particularly, Africans employed by building contractors. He subsequently agreed to substitute the word *"reside"* for *"remain"* in the passage quoted in (b) above, thus clarifying the position.

The implications arc still grave for Africans who accept employment away from their home towns, however. Industrialists and other employers who for some reason decide to move to premises in an adjoining urban area may find that this entails losing their trained African workers.

Opposition speakers pointed out, too(16), that the amendment meant that, unless born in the town concerned, an African would lose his right of residence there if, during *the whole of his life* (and not merely the preceding ten or fifteen years) he committed an

(12) 1955 (4) S.A.L.R. 443.
(13) Clauses 30 (a) and (b) of the Bill (Sections *thirty* (a) and *tt»* of ihc Act.)
('«) Assembly. 21 Match 1957. Hansard 9. cols 3245. 3291.
(15) Assembly. 9 April 1957. Hansard 9 cols. 4386/87.
(16) cols. 4374/75. 4401.

offence carrying a penalty of more than seven days' imprisonment without the option of a fine, or more than one month with the option. In view of all the restrictive laws imposed, it was extraordinarily difficult for an urban African to avoid, during his whole life-time, committing some offence which carried these penalties.

The Minister (hen agreed to substitute a higher penally — of over six months or a fine of over £50.

The leader of the Natives' Representatives said([17]) that there was a very large proportion of the African population who had no right to live anywhere at all. From the cradle to the grave they had no guarantee that they would ever be in a position to have a legitimate home. The Government was creating a rootless proletariat with nothing to bind them to the community — they could only become the enemies of society.

The Minister subsequently added a provision that if an African who previously qualified to remain in an urban area loses that right, cannot find anywhere else to live, and cannot obtain employment or accommodation, he may be provided with a site in a rural village. But, the Opposition asked([18]), how would he maintain himself there?

The final version of Section *thirty* (b) of the Amendment Act changes paragraph (b) quoted above to read that an African may remain in an urban area if:

(i) he has worked continuously in such area for one employer for a period of not less than ten years, or has lawfully resided continuously in such area for a period of not less than fifteen years;

(ii) *and has thereafter continued to reside in such area;*

(iii) *and is not employed outside such area;*

(iv) and has not during either period *or thereafter* been sentenced to a *fine exceeding* £50 *or to imprisonment for a period exceeding six months.*

The Native Laws Amendment Act made one further alteration to the influx control measures. An Amendment to the principal Act made in 1955 (Act 16 of 1955) provided that an African whose home is in the Union may be permitted to re-enter an urban area after being away for not more than twelve months provided that he is returning to his previous employer, to engage in the same class of work that he carried out just prior to leaving. In terms of the 1957 Act, Africans originally allowed into an urban or proclaimed area for specific periods (e.g. harvesting teams or other seasonal labourers) will no longer be permitted to return unless they obtain permission.

(") cols. 4380/81.
(") col. 4414.

(b) *Magistrates and Native Commissioners to be empowered to order Africans out of urban areas if they have failed to obey regulations.*

As the law previously stood, an urban African who failed to observe the terms and conditions governing his presence in an urban location, Native village or hostel could be ordered out only after a court conviction.

The Amendment Act providcdC") that, on application by a manager or location or hostel superintendent, a Nalive Commissioner or Magistrate may order an African out if it is proved to his satisfaction by means of affidavits (or oral evidence also if considered necessary) that the African concerned has failed to observe the regulations. Three days' notice of intention to apply for such an order must be served on the African, he must be advised of the time and place of the hearing, and he will be entitled to appear personally or to be legally represented.

According to the Explanatory Memorandum, this *"does away with the need of resorting to costly civil process".* The Native Commissioner or Magistrate will act, not in a judicial, but in an administrative capacity, and the proceedings will, therefore, no longer be subject to appeal as in the case of ordinary civil proceedings. There will be limited right of review only, if the African can prove that the Native Commissioner or Magistrate acted *male fide* or without applying his mind to the issue.

(c) *Further classes of officials empowered to demand the production of documents by Africans.*

The definition of an 'authorized officer', entitled to demand the production of documents by Africans, and, without warrant, to arrest any African whom he has reason to believe is 'idle or undesirable', was very much widened in terms of the Amendment Act([20]).

It now includes all those who were previously empowered to do so for specific purposes under the Natives (Urban Areas) Act, the Native Labour Regulation Act. the Natives Taxation and Development Act, and the Natives (Abolition of Passes and Co-ordination of Documents) Act. And besides these, other European officials are now to be vested with these powers — for example, further classes of employees of an urban local authority, of receivers of Native tax, and of inspectors of Native labour. The Minister is to be enabled to authorize still further persons, for instance Non-European policemen, to demand the production of documents by Africans.

The Explanatory Memorandum points out that machinery will be provided to restrict the demand of documents to such docu-

(19) Clause 48 of Ihc Bill.
(") Clauses 1 (b) and 23 <a> of ihe Bill.

ments as may be specially mentioned in the authority given to the person concerned. "It is not the intention," it states, "to clothe a Non-European with the powers to demand from a European the production of a licence issued under Sub-section (4) of Section *nine"* — i e. a licence to accommodate specified numbers of Africans.

A further section of the Amendment Act([21]) placed it beyond doubt that anyone who refuses to produce on demand by an authorized officer any permit, certificate, licence or other document which he is required to carry is guilty of an offence.

(d) *Extension of definition of an 'undesirable person* ([22])

The principal Act, as amended by Act 54 of 1952, provided(") that whenever any authorized officer has reason to believe that any African in an urban or proclaimed area is 'idle' or 'undesirable', he may, without warrant, arrest this African, or cause him to be arrested by a police officer, manager or location or hostel superintendent, and have him brought before a Native Commissioner or Magistrate.

If the African then fails to give a good and satisfactory account of himself, the Native Commissioner or Magistrate may order him to return to his home, or (if the African agrees) to enter into specified employment, or to be sent to any specified place, or (in the case of a man) to be sent to a work colony, or (in the cases of boys between the ages of 15 and 19) to be sent to a youth camp.

Unless the African qualifies to remain permanently in the urban or proclaimed area where he was arrested, besides being ordered out, he may be ordered not to return except with the written permission of the Secretary for Native Affairs. Furthermore, the African concerned may be detained in custody pending any removal ordered.

The penalties for being deemed 'undesirable' are, then, very severe. The Act previously specified that an African can be deemed 'undesirable' if he has, *inter alia,* been convicted of certain offences relating to liquor, or has failed to depart from an urban or proclaimed area after having been required to do so, or (in the case of a woman) has entered the area without the necessary permits.

The 1957 Amendment Act made it possible for an African to be deemed 'undesirable' also if he is convicted of any offence involving traffic in drugs, or of public violence, or of violence to an officer administering any part of the Act if as a result he has been sentenced to imprisonment (with or without the option of a fine) for a period of more than fourteen days.

(e) *Removal to rural villages, and right to live outside locations.*

The law previously specified that an African convicted of being

(") Clause 50.
(") Clause 41 (b).
(") Section *twcnty-ntnt.*

wrongfully within an urban or proclaimed area may be removed to his home or last place of residence.

In terms of the Amendment Act([21]) he may also be removed to "any place indicated by the Secretary for Native Affairs within a scheduled Native area or a released area" — in practice, according to the Explanatory Memorandum, to a rural village.

With the exception of classes of Africans listed below, no African may live in an urban area elsewhere than in a location. Native village or hostel([2r']). In terms of a proclamation relating to that area, the Governor-General may now order those living outside African residential areas to remove to a rural village in a scheduled Native area or released area.

Those exempted are Africans who already own properly valued at £75 or over and their heirs (who will presumably be dealt with under the Group Areas Act), registered Parliamentary voters in the Cape (with certain exceptions) and the families of these persons, domestic servants, residents of approved hostels, compounds, etc., or of the four "areas approved for the residence of Natives" (two of which are being dealt with under the Group Areas Act), and others specially exempted.

The Minister explained([26]) that where an urban area is adjacent to a Native area, it will not be necessary for the local authority concerned to provide a location, if it has not already done so. The Africans will be accommodated, instead, in a village within the Native area, where they can have property rights.

He did not mention that in towns like Pictermaritzburg, Dundee, etc., where he has disapproved of the siting of the existing African locations or townships, the effect will probably be that large numbers of Africans will be forced to move some distance out of the towns, spending many hours daily travelling to and from work.

(f) *Entry upon land or buildings in urban areas.*

Section *twenty-nine* (d) of the Amendment Act states that, save as is provided in any law or when acting in the course of his duty, no African shall enter or remain on or in any land or building in an urban area outside an African residential area without the permission of the owner or lawful occupier.

The opening Opposition speaker pointed out that this provision might bear extremely harshly on an African having a perfectly legitimate reason for wishing to enter the premises. He might, for example, want to visit a sick relative in an emergency, and for a variety of reasons it might be impossible for him to obtain permission.

(») Clauses 34, *29* (a) and (b).
(") This was previously the case.
<") Assembly, Hansard 9. col. 3219.

(g) *Reactions to the Rill.*

The statements, marches and meetings of protest against the Native Laws Amendment Bill, described in an earlier chapter of this Survey, were directed, not only against the clauses relating to inter-racial meetings, but also against those placing further restrictions on Africans.

Two further facts should be mentioned. At a meeting of Native Advisory Board leaders from Transvaal towns, held in Johannesburg on 28 April, it was decided to draw up a memorandum stating *inter alia* that the Bill would "destroy the few remaining rights of the African people"([27]). and to urge the Minister of Native Affairs to withdraw it in its entirety.

The Institute of Race Relations, in a statement([2S]) sent to all Members of Parliament and to the Press, expressed its conviction "that the increasing power of dictatorial control wielded by the Minister of Native Affairs is inducing in Africans an antagonism and resentment which is tending to bring law and order into contempt, and is seriously worsening race relations in South Africa. If this process is allowed to continue, irreparable harm will be done to the whole South African community."

Application of the Natives (Prohibition of Interdicts) Act to orders issued under Influx Control Regulations

The Natives (Prohibition of Interdicts) Act, No. 64 of 1956, was described in the previous edition of this Survey([29]). When this measure was introduced, the Minister of Native Affairs said([30]) that it was being placed on the Statute Book as a preventive measure, to be used only when urgently needed, after proof had already been given of resistance in an unreasonable manner.

In terms of a Proclamation issued during March 1957([31]), this Act was applied in respect of any warrant issued by a Magistrate or Native Commissioner, addressed to a police officer, ordering the removal to his home, or last place oC residence, or a rural village, or (in the case of a 'foreign' African) the territory from which he came, of an African convicted of:

(i) being in an urban or proclaimed area for longer than 72 hours unless exempted under Section 10 of the Natives (Urban Areas) Act (see page 56). Wives, unmarried daughters, and sons under the age of eighteen of exempted Africans arc also exempt);

(') Still further clauses of the Dill are dealt with in appropriate chapters of this Survey (sec index).
(28) RR 42/1957.
(29) *Survey of Race Relations* 1955/56. pare 71.
(30) Assembly, 7 June 1956. Hansard 19 col. 7138.
(31) Proclamation 79 of 1957. dated 29 March 1957.

(ii) being a 'foreign' African and having entered an urban or proclaimed area, or accepted employment there, without the written permission of the Secretary for Native Affairs, given with the concurrence of the local authority.

The effect is that whenever an African is ordered out of a town by a Magistrate or Native Commissioner because he has lost his job, cannot obtain a permit to seek another (and is not in the 'exempt' classes), or whenever an African is ordered out because he is found to have contravened influx control regulations, or is deemed to be 'idle' or 'undesirable', or is working in a neighbouring urban area, he cannot apply for an interdict to suspend the execution of the order, nor may the order be suspended pending the outcome of review proceedings or of an appeal.

An appeal may be lodged only after the removal order has been obeyed. If it should prove successful, the court may order that the African be compensated *for his actual losses suffered in complying with the order.*

An African ordered out of a town has, thus, no *legal* right of compensation for the value of a home he may have acquired with hard-earned savings (on a leasehold plot). If ordered out of a town, his location site permit would be cancelled. He could dispose of his home, or of any improvements he had made to the site, to an approved buyer, if forthcoming, or to the local authority, but might well not obtain the full value. If he appealed against the removal order, after complying with it, *and succeeded,* it might be impossible for him to obtain proper compensation: his dwelling might have been allocated to someone else, or he might have lost hisjob.

New Provisions relating to Reference Books

A Native Laws Further Amendment Act, No. 79 of 1957, was passed at the end of the 1957 Session. Some of its provisions relate to reference books.

(a) *Issuing of Reference Books.*

Section *eleven* (1) provides that notices may be published in the *Gazette* requiring all Africans in a specified area who have attained the age of 16 years to report at a certain time and place for the issue of reference books.

(b) *Powers of summary detention of Africans not in possession of Reference Books.*

Section *thirteen* provides that if. after the fixed date applicable to his area, an African is found not to be in possession of a reference book, he may be brought before a Native Commissioner or other designated official to be issued with one. (This applies to women as well as men: the masculine is used merely for the sake

of brevity). Pending the completion of any enquiries deemed necessary, this official may detain the African in a reception depot, lock-up, police cell or gaol for a period not exceeding seven days, which period may be extended for further periods of up to seven days, provided that the total period of detention does not exceed thirty days.

The Minister pointed out that this provision was taken over from Act 67 of 1952.

Members of the Opposition said(32) that this did not make it any more acceptable. A man or woman could be detained for thirty days without any warrant, without any charge being preferred. This far exceeded the powers of the police in cases of arrest under the Criminal Procedure Act; yet here the individual was not being charged with any offence. They moved, as an amendment, that any African "who fails to appear as required by the Native Commission shall be guilty of an offence".

The Minister replied(33) that power of summary detention was necessary to deal with the hypothetical case of a person who refused to have a reference book, and planned to disappear.

In terms of Government Notice No. 1747 of 8 November 1957, the 'fixed date', after which all African men in the Union and South-West Africa will be required to possess reference books, is 1 February 1958.

(c) *Duties of Employers.*

Section *seventeen* provides that after the fixed date, no one in the area concerned may employ an African not in possession of a reference book, or with a book that shows, that the African's service contract has not been signed off by the previous employer. In cases of difficulty or dispute, Africans may appeal to the Native Commissioner to record the termination of their previous contracts.

(d) *Falsification of Reference Books.*

In Section *twenty-four,* the number of offences for forgery, misuse, misappropriation and fraud in connection with reference books is increased from six to fifteen.

Members of the Opposition said(34) that a long list of offences would not stop forgeries. This was a police matter and should be dealt with under common law. There seemed to be no end to the accumulation of criminal sanctions against Africans.

Life to many of them, particularly in the cities, was becoming an intolerable burden. The gaols were crowded with pass-law offenders. Young girls of the apparent age of 16 would in future also be liable to summary arrest if iheir documents were not in

(32) Assembly. 14 and 18 June 1957. Hansards 20 and 21. cols .8562/6.
(33) col. 8564.
(34) cols. 8372. 8386, 8575/9.

order. One member estimated(35) that during 1955, some 600,000 Africans must have spent at least one night in gaol for pass law offences. (In many cases, of course, the same person was prosecuted more than once).

Arrests for pass law offences

Every day, in the larger towns, many hundreds of male Africans are arrested on suspicion of vagrancy or crime. Many of those who are not suspected criminals pay sums in admission of guilt, at the police stations, and are then warned to leave the area if they are not entitled to be there.

Those who do not pay admission of guilt are then screened. The finger prints of suspected criminals are taken, and if these people are found to have criminal records, they are dealt with by the criminal courts. Youths are taken before the juvenile courts. Of the remainder, those who are suspected of being in the municipal area without the necessary permits are sent to the District Labour Bureau, where they are given the choice of accepting work on a farm, or of facing prosecution. This matter is dealt with in more detail below. If they refuse farm work, they arc sent back to the Native Commissioner's offices.

These people and also the Africans who allege that they are legally in the municipal area, are then prosecuted. If found guilty, after serving whatever sentence may be imposed, they may then return to their employment if they arc legally in the area, or, if they have, bad records may be banned from the area for specified periods, or, otherwise, if there is a shortage of labour, may be allowed to apply for permits to seek work.

In view of the extremely large numbers of Africans employed or seeking work in the cities, which means that officials are overworked and harassed, and of the fact that so many of the Africans concerned are bewildered by the complex laws and arc often illiterate, the whole system of passes and influx control gives rise to great frustration and frequent miscarriages of justice. Tempers tend to flare up when people are tired and exasperated. There was a disturbance in Johannesburg during February 1957, for example, when about a thousand Africans waiting outside the labour bureau were told to leave because the staff could not handle their cases that day. The staff there can deal with about 3,000 people daily, but sometimes greater numbers than this present themselves for attention. It can happen that a man is forced to return daily for up to four or more days, meanwhile being out of work and perhaps penniless.

Another minor incident occurred in Johannesburg during June, when a crowd of about 300 tired men, returning from work in the evening, mobbed a police constable who was arresting an African for an alleged pass offence.

(35) col. 8386.

Because the laws arc so complex, quite innocent people are frequently arrcslcd. Africans are, for example, allowed to visit an urban area for up to 72 hours without seeking permission; but if picked up by the police it is very often difficult for them to prove in court that they are in the town merely on a short visit. To give but one example, two candidates for the Methodist ministry, arriving from Swaziland, alighted at Johannesburg station by mistake during July, and were arrested. The examination of candidates had to be held up for two days while extensive enquiries were made as to their whereabouts.

In the address he presented at the conference of the Institute of Administrators of Non-European Affairs, mentioned above, the Secretary for Native Affairs urged officials to show tact and discrimination in the implementation of the law. The number of prosecutions for pass law offences, he said, far exceeded the safety margin. The people implicated were no longer subject to any social stigma; society must necessarily suffer irreparable harm as the punitive system ceased to have any educative and remedial effect.

It had been rendered an offence, he said, for an African to fail to produce a document on demand. The Department had considered allowing a period of grace within which the document might be produced, but concluded that this would mean playing into the hands of the criminal element. Circumstances did exist in which drastic action was justified; But it had been left to the official concerned, with his sense of justice and fair play, to react as circumstances dictated. It would not throw the administrative or controlling machinery out of gear if an African found in the vicinity of his employment without his reference book were not summarily arrested, but taken to his alleged employer so that his *bona fides* could be established. It should be possible, in a large number of cases, to establish a man's identity by telephoning his employer or a municipal identification officer. A man should not be arrested for having an incorrect endorsement in his book through some obviously genuine mistake on his part or through some oversight on the part of the endorsing authority.

The scheme of enrolling petty offenders for work on farms

In order to keep petty offenders out of gaol, the Department some years ago devised a scheme whereunder such people are offered employment in non-prescribed areas (priority being given to farm labour) as an alternative to prosecution. Many farmers now recruit labour by giving power of attorney to officials in District Labour Bureaux to enter into contracts of service with Africans for periods of three to six months.

Again, because of the large numbers involved and the bewilderment and ignorance of many of those concerned, misunderstandings and injustices arise. During the first week of July 1957, the *Star* featured several such cases.

Nelson Langa, for example, is a cleaner employed by the Johannesburg City Council, earning £2 8s. 9d. per week plus free accommodation in the municipal compound, where he has many friends. He disappeared on 18 June 1957. After making extensive enquiries, his brother's attorneys found that he had gone to work on a farm in the Bethal area. A *habeas corpus* application was made, the brother submitting that it would never have entered Langa's head voluntarily to accept farm work, at a lower wage than he was earning and in a district where he was a complete stranger, without telling his brother or friends, or giving notice to his employers, or even taking his clothes with him. The judge ordered his release.

Langa's story, on return, was that he had been arrested on the way home from work. He did not have his reference book with him, but, without avail, showed the police his badge of employment and his broom. After spending the night in gaol he was taken to the District Labour Bureau where some misunderstanding obviously occurred. It appeared, from the story told by Langa, that he was unaware of his rights, was dealt with hastily, and was terrified of the punishment that might be meted out if he faced prosecution.

Nelson M., a lad aged fourteen, came on an expedition from Louis Trichardt to Johannesburg with a lorry driver, to help him load his vehicle. They pulled up for a few minutes in Alexandra Township, where the driver went to call on a friend. When he returned, Nelson had disappeared. He had been arrested, was taken to the police station, with others was given a talk on the virtues of farm labour (in English, Sotho and Zulu — but he speaks Shangaan only), and then found himself in a queue of men pressing their thumb-prints on to service contracts for farm work. He was then taken to a farm near Heidelberg. The lorry driver's attorney telephoned the farmer, pointing out that the contract was illegal as Nelson was under age; and he was then returned to Johannesburg, a bewildered youth.

Harry is a shoemaker in Alexandra Township who was doing well and decided to take on a young assistant. He took this lad to the pass office to obtain the necessary documents, and while there, was ordered to produce his own papers. He had a reference book, a permit to live in Alexandra Township, and a licence to work there as a shoemaker: but through some oversight the number on his licence did not correspond with the entry in his reference book. Both he and the youth were arrested, and, they alleged, were taken to a farm in the Dunnottar area without being given any opportunity of telling their relatives what had happened. Some days after arrival there, Harry managed to get into touch with an attorney who procured their release.

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It is by no means suggested that all those going from urban areas to (he farms are sent there in such circumstances; but the system is undoubtedly open to abuse, as the above examples show. Moreover, although the treatment afforded the Africans on the farms may be good in a large majority of cases, this is certainly not always so([36]).

Effect of influx control measures on the labour supply in large urban centres

Judging by the position in Johannesburg, a difficult situation is arising in regard to the supply of labour for heavy manual work and domestic service in the cities. Africans born in the area, who have attended school, generally do not care to undertake this type of work, particularly as the cash wages offered are low; and the Government officials who implement the influx control machinery are unwilling to allow more Africans into the urban area while many already there are unemployed. On the other hand, there are insufficient openings as clerical workers or artisans to absorb the educated lads, whose progress is limited by colour bars.

Influx control and reference books for African women

(a) **The Native Laws Further Amendment Act**

The Native Laws Further Amendment Act, No. 79 of 1957. which is referred to above, contained several provisions relating to African women.

Section *eleven* (1), which stated that notices may be published in the *Gazette* requiring all Africans in a specified area who have attained the age of 16 years to report at a certain time and place for the issue of reference books, also laid down that these books may differ in form in respect of men and women.

Section *ten* (a) provided that the fixed date, after which all Africans in specified areas will be obliged to possess reference books, may differ in respect of Africans of specified classes. (According to the Minister("), the word "classes" here refers to men and women). He said, too, that service contracts would be omitted in the women's books. He wished to place it beyond all doubt, in the wording of the Act, that the Department could issue women with reference books different from those of the men.

Members of the Opposition took the opportunity again to oppose the issue of reference books to African women. The opening speaker said([38])that Africans "have always strenuously objected to their women being required to carry documents. Their objection is based on two reasons. The one is that, at any rate, the reserve Native regards the woman as being a minor under the guardianship

([36]) Sec examples cited in *Survey ol Knee Relations,* 1955/56. paire 82.
(") Assembly, 14 and 18 June 1957. Hansards 20 and 21. cols. 8176, 8558.
(") e.g. col. 8183.

of the head of the kraal; and the second reason is fear of police interference with their women. There have, unfortunately, been cases of women who have been molested by young policemen under cover of demand for documents .... I submit that to force the issue during the present unrest is very injudicious and will only fan the flames of resentment that are already evident all over the country".

In reply to the argument that White women, too, would eventually be issued with identification cards, he pointed out that African women, unlike the Whites, would be liable to summary arrest if they did not produce their reference books on demand.

The Minister said(") that 196,064 reference books had already been issued to African women in 91 districts. The vast majority of the men were now in possession of their books.

(b) **The issuing of reference books, and the women's reactions**

As was reported in our last Survey([40]), by the end of September 1956, officials of the Native Affairs Department had visited 37 small towns to issue reference books to women. During the year now under review, women in more than 76 further towns have been required to' report for the issue of these books. Their distribution has not yet been attempted in the major centres: the largest of the towns so far visited are places like Graaff-Reinet, Middelburg (Cape), Heidelberg, Pietersburg, Odendaalsrus, Wclkom, Umtata, Standerton, Queenstown, Volksrust, Vryheid. Barberton and Nelspruit.

Although in a large majority of cases the process has gone smoothly, firm opposition has been encountered in some areas. During November 1956, for example, a team of officials visited Lichtenburg in the Western Transvaal, to find a crowd of nearly a thousand women waving banners bearing slogans protesting against passes for women. It was said([41]) that they had been incited to do so by about fifteen women from the Reef, who were subsequently arrested. Some of the men joined their women-folk, and, according to reports, the Africans began shouting and demonstrating. The police, who were then summoned, made a baton charge which may have been illegal([42]), the people retaliated by throwing stones, and eventually the police opened fire. It was reported that two Africans were shot dead, and six policemen and two other Africans injured. Similar trouble occurred in Vcntersdorp, nearby, during the following week; but this time the police dispersed the crowd without violence on either side.

Efforts to issue reference books at Pietersburg, in the northern Transvaal, have twice been frustrated. On the first occasion, in

(") cols. 8177. 8431.
([40]) page 84 of *Survey ol Race Relations for* 1955/56,
([41]) Official allegation as reported In the *Star,* 8 November 1956.
([42]) Remarks of the magistrate who investigated the matter, as repeated by the Minister of Justice, Assembly 5 April 1957. Hansard 11. col. 4152.

June 1957, the team of officials was stoned by a crowd of about two thousand and driven from the location. They returned the following month, to find a gathering of some three thousand women shouting in chorus that they did not want passes. As these women refused to appoint spokesmen to discuss the matter, the officials again retired, which was the signal for much jeering(43).

A state of near panic arose in Standerton, in the south-eastern Transvaal, during July. On the day when the issue of reference books was due to start, 914 African women formed up in procession to seek an interview with the Mayor. They were intercepted by the police at the gates of the location, were all arrested, and were charged with taking part in an illegal procession in Marais Street, which led to the 'White' part of the town. As the White residents would otherwise have been practically bereft of women servants, the women were all then let out on bail.

It was rumoured that riots were likely on the day of the trial. Hysteria spread through the town. About 80 extra policemen were brought in from surrounding areas, some residents bought up supplies of ammunition, while others left the town temporarily. But then there was a complete anti-climax. The women arrived peaceably at the court, some carrying their babies. When the first batch of 39 of them appeared before the magistrate, the Town Clerk maintained that they had not received permission to hold a procession in Marais Street or any other street in the White area. But as it transpired that the women had not entered Marais Street but were still within the location boundaries when they were arrested, they were all discharged.

A few days later there was a demonstration at Balfour, between Standerton and Johannesburg. Nearly three hundred reference books had already been issued there, it was reported(44), when the grievances of some women boiled over. They stacked and burned about two dozen of the books, and then large numbers of them inarched in procession to see the local magistrate. He calmed them by explaining that the officials were merely administering the law of the country. A few women, who had instigated the burning of the books, were arrested.

Graver troubles occurred during April in Moiloa's Location, part of the Baphurutse Reserve in the north-western Transvaal, where the issue of reference books was arranged just at the time when the Chief Abraham Moiloa had been ordered by the Native Affairs Department to desist from carrying out the duties of a chief, and had been officially advised to leave the area. As will be described later, the people had a number of grievances, but one of these was passes for women. Great ill-feeling arose against the chief's uncle and three of his henchmen, who were said to be

(43) Press reports: *Rand Dally Mail,* 11 June and 27 July 1957.
(44) *Star,* 23 July 1957.

willing to co-operate with the authorities in this matter, and against teachers who had taken out reference books. Rioting broke out, numbers of people were arrested, the tempers of the women flared up, they destroyed about 300 of the books, and the issuing team then left the area.

Numbers of reference books were burned, too, in Gopane's village in the same reserve(45). When about 35 women were subsequently arrested, crowds of others demanded that they be apprehended also: 233 of them were placed under voluntary arrest and they were all transported to Zcerust, where some of Ihc women were later prosecuted and convicted.

More subtle methods of resistance were employed in the two African towns of Motswedi and Braklaagte, in the same area. When the officials arrived there, the towns were deserted, all the women having disappeared into the bush.

During October 1957, the Magistrate at Nelspruit in the eastern Transvaal announced to the Africans that reference books would be issued to women on the following day. The Africans turned on him, damaging his car and that of the location superintendent. These men were rescued by the police who arrested fiVe women alleged to be the ringleaders. Some three hundred women then marched to the police station, demanding the release of their leaders. After they had refused to disperse when ordered to do so, the police made a baton charge and finally opened fire. Four Africans were wounded.

The rest returned to the location, but by now their tempers were at boiling point. Later that evening Africans broke into the new beerhall, damaging the building and removing money from the safe.

They were dispersed by the police; but then set about organizing a strike for the next day, which was said to have been about 95 per cent, effective. Some of the Africans who did set off for work were stoned. The police, who had been heavily reinforced, charged and fired on angry crowds armed with battle-axes and loaded sticks — six policemen and eight African civilians were injured. After reports of threats against them, the power station and petrol pumps were guarded all day by armed men.

The police then raided the two locations, arresting about 140 people on various charges. After that, the Africans submitted, and the women accepted their reference books.

Reference books have not yet been issued to women in Johannesburg; but the Natives Resettlement Board, charged with the removal of Africans from the Western Areas, has issued permits of identification to those living there, as a means *of* proving their entitlement to be rehoused at Mcadowlands. Early in 1957 the

(45) *Rand Daily Mail* report, 4 September 1957.

police began asking women in the Western Areas to produce their permits. On 12 May, some two thousand Africans attended a meeting in Sophiatown called by a Western Areas Anti-Permit Committee. They drew up petitions listing their objections to the compulsory production of permits or passes by women, and decided to seek an interview with the Mayor on 16 May.

The City Council was much perturbed about this whole matter. As H result of its urgent representations to the police and the Native Affairs Department, the police action was temporarily suspended.

Then, on 16 May, a mass gathering of about 20,000 Africans assembled in Sophiatown to give a send-off to the deputation of seven that had been appointed. Some 6,000 people accompanied the deputation, arriving in numerous columns at the City Hall, and necessitating the diversion of traffic. They behaved in an orderly way.

The Mayor received the people's representatives, accepted the petitions, and explained that it was not at the City Council's instigation that the police had taken action: in fact it was at the Council's request that the action had been called off. He would, he said, investigate the possibility of issuing exemption certificates to African women who qualified for these, their affidavits to be accepted as it would be physically, impossible to screen everyone. He advised the leaders to urge the Ministers of Justice and Native Affairs to introduce the identity card system for African women (as contemplated for White women), instead of a system involving the immediate production of reference books. He then appeared on the City Hall steps with the African leaders, before the crowd, to indicate that the interview had taken place.

On the following day, according to instructions received from the Assistant Commissioner of the S.A. Police, a senior police officer called on the Mayor([46]). He asked, and was told, what had transpired at the meeting with African leaders. He discussed the conviction of the police that mass gatherings of Africans in thickly populated While areas could easily lead to serious disturbances. The Mayor announced that if the Africans had a legitimate problem there was no reason why he, as first citizen, should not receive them.

(c) **The issuing to women of permits to be in urban areas**

As has been recounted in previous Surveys, Section *ten* of the Natives (Urban Areas) Act was amended in 1952 to include *all* Africans of working age in the provisions relating to influx control. Many local authorities have not attempted to apply this control in the case of women, however, for it cannot effectively be applied unless the women have some document of identification, and the

([46]) An account of the circumstances was given by the Minister of Justice. Assembly 7 June 1957. Hansard 19. cols. 7488/89. Also see the press of 25 May.

provision of such documents requires elaborate administrative machinery. Moreover, as Johannesburg City Council has pointed out, the labour bureau regulations do not apply to women, thus the officials have no means of determining the demand for female labour. Permits to reside in the locations arc required by law. Several of the larger local authorities operate voluntary employment bureaux for women.

There arc, however, a few municipalities that do require African women to obtain permits entitling them to be in the urban area. Those not in possession of these documents are liable to prosecution, as are the persons who employ them. This is the case in Bloemfontein, Vereeniging and Boksburg.

Pietermaritzburg, Durban, Randfontein and Roodepoort have introduced a system of registration on a voluntary basis, as a means of protecting those who are legally entitled to be in the area. Registration permits must be produced when applying for municipal housing or, in some cases, for employment.

After the decision had been made that all Africans would eventually be required to leave the Western Province of the Cape and that, meanwhile, influx control would be very strictly applied there, the Government directed local authorities in this area to apply Section *ten* of the Act to African women. Cape Town, adjoining municipalities and the Divisional Council of the Cape then commenced issuing permits to women indicating the purpose for which and period during which they might remain in the urban area: these periods vary from one month to a year.

At the conference in September of the Institute of Administrators of Non-European Affairs, the Cape Town Manager of Native Administration gave the following analysis of the documents so far issued to women in the Cape Peninsula:

Permitted to live with their husbands (who are legally in the area)	14,955
Permitted to remain in the area for purposes of employment	10,299
Exempt from influx control regulations	959
	26,213

There were a further 4,928 women who had left the area of their own accord, or who had been refused permission to remain.

(d) **Demonstrations of protest against passes and permits for women**

Demonstrations against passes and permits for women have again taken place, during the past year, in large numbers of centres, for example Pietermaritzburg in November and January, Rand-

fontein in February, Johannesburg in March, Cape Town in June, and Brakpan and Uitenhage in July. Then, on the anniversary of the mass protest staged last year by the Federation of S.A. Women(47), there were demonstrations in large numbers of towns throughout the Union. The women have carried banners and have handed in petitions to the Mayors or Native Commissioners. In a few cases some of them have been arrested and charged with participating in illegal processions; but, in the main, no action has been taken by the authorities.

An 'Association to Abolish Passes for African Women' has been formed in the Western Cape, the original sponsors being the African National Congress Women's League (Cape), the Federation of South African Women (Cape), the Black Sash (Western Cape), the Anglican Church Mothers' Union (Cape), and the National Council of Women (Cape Town Branch). The basis is now being widened to include organizations other than those solely representative of women.

'FOREIGN' AFRICANS

Provisions of the Native Laws Further Amendment Act

Section *four* of the Native Laws Further Amendment Act (No. 79 of 1957) provides that any person not born in the Union who has been convicted of doing or saying anything with the intent of promoting hostility between Black and White, or any 'foreign' African whose presence in the Union is by reason of his activities or on any other ground deemed by the Minister of Native AfTairs not to be in the public interest, may be declared by the Minister to be an undesirable inhabitant of the Union. The Minister may by warrant cause such persons to be removed, and pending removal to be arrested and detained in custody.

Section *eight* contains what the Minister said was a consequential amendment. The Natives (Urban Areas) Amendment Act, No. 16 of 1955, provided that Africans from the High Commission Territories required the written permission of the Secretary for Native Affairs, issued with the concurrence of the local authority, to be in an urban area. An exception was, however, made in the case of those already lawfully in an urban area at the commencement of the Act, as long as they remained there uninterruptedly. This exemption was removed in terms of Section *eight* of the 1957 Act.

The Minister said(48) that there had been repeated clashes in Newclare, Evaton and elsewhere caused by groups of Africans of Sotho origin, for example, -those calling themselves the "Russians". The authorities often knew who the leaders were, but were powerless to act against them because they shielded behind subordinates,

(47) Sec *Survey of Race Relations, 1955/56,* page 86.
(48) **Assembly, 14 and 18 June 1957, Hansards 20 and 21. cols. 8172/5. 8425.**

inducing these subordinates to commit the actual crimes. He wished to have power to deport the leaders. Some of them were exempt from the necessity for having permits to be in the urban areas concerned; for this reason it was necessary to do away with the exemptions granted in 1955, and permits could then be refused when deemed necessary.

The whole matter had been discussed with a representative of the High Commission Office, who was assured that the Minister had no intention of repatriating large numbers of Africans, but merely wished to have power to deport leaders of gangs that were causing trouble.

Opposition speakers made three main points:

(a) Deportation should be dependent upon conviction in a court of law, not on the Minister's decision, which, with the best will in the world, might be based on false information. Victimization by informers would be possible. This should be a police matter. If it was known who the real offenders were, why was it impossible for the police to obtain evidence against them?

(b) Cancellation of the exemptions granted in 1955 would create a sense of insecurity among all those previously granted them.

(c) Many Africans originally from the High Commission Territories had been many years in the Union, had become Union nationals, and had married South African women. What was to become of their families if the men were deported?

Possibilities of Naturalization of Africans

The Institute of Race Relations wrote to the Secretary for Native Affairs enquiring whether 'foreign' Africans could become naturalized in the Union, and received the following reply:

> "With reference to your letter of the 17th July, 1956, I have to inform you that no provision exists in terms of which foreign Natives can acquire Union status. Formerly, the disabilities applicable to foreign Natives could be removed under certain circumstances in terms of an administrative relaxation, but the relative provisions were withdrawn during last year. Those Natives who are in possession of certificates of Removal of Disabilities will, however, continue to enjoy the privileges thereof, i.e. they are regarded as Union Natives for all administrative purposes. I have no record of the number of foreign Natives who are in possession of such certificates.
>
> "The legal provisions which control the entry of foreign Natives to the Union are the Immigrants' Regulation Act, 1913, administered by the Department of the Interior and the Natives (Urban Areas) Act 1945, (Section 12), administered by this Department."

While there is no colour bar in the Nationality Acts, persons seeking naturalization must not be prohibited immigrants, and must prove that they can read and write one of the official languages with sufficient proficiency: this provision probably automatically excludes the large majority of Africans.

There is, thus, apparently no way in which 'foreign' Africans who have been in the Union for many years, and whose wives and children arc Union-born, can acquire permanent rights here.

BANISHMENT OF AFRICANS

Several more Africans have been banished from their homes during the year under review. Arthur Sekhukhuni, second in succession to the Paramount Chieftainship of the Sekhukhuni tribe in the northern Transvaal, and his uncle Godfrey, were in April summarily removed to Matubatuba and Mtunzini respectively, in Natal, on the ground that they were disturbing the peace of the tribe, resulting in the frustration of order and good government. They had been campaigning against the acceptance of the Bantu Authorities Act by their people. No opportunity was afforded them of bidding farewell to their relatives or of collecting their clothes and money before their departure.

During July, some 15,000 members of the Sekhukhuni tribe donned ceremonial dress and gathered, from as far as twenty miles away, at the tribal meeting place. The Regent presented to officials of the Native Affairs Department a petition signed by about 30,000 tribesmen, urging that their 'sons' should be returned to them.

Also during April, Mhlupeki Hlongwane and Mcoshhaw Mdhluli, of the Ngobo Location at Bergville in Natal, were banished to Duivelskloof and Sibasa respectively, in the Transvaal, because of disquiet that had arisen as a result of their having visited the men condemned to death for the Bergville police murders(<9).

The disturbances that took place in Moiloa's Location at Linokana in the Marico district of the western Transvaal, near Zeerust, have been referred to above, in connection with passes for women. Early in April the hereditary chief of the Linokana section of the Baphurutse tribe, Abraham Moiloa, was ordered by the Native Affairs Department to desist from carrying out the duties of a chief, on the ground that he had failed to co-operate with the Department. He had opposed the Bantu Authorities and Bantu education schemes. He was not issued with a banishment order, but was advised to leave the area for Ventersdorp. Just at this time, officials arrived to issue reference books to the women.

About fifty tribesmen from Johannesburg arrived during the following weekend to join in a tribal meeting, at which there was violent criticism of the Bantu Authorities system, passes for women, and Native Trust Regulations. The Native Commissioner arrived

(") Sec *Survey ol Race Relations. 1955/56,* page *95,*

and tried to address the crowd, but they would not grant him a hearing. Anger mounted against Abraham's uncle, Michael Moiloa, and three of his henchmen, who were said to be willing to co-operate with the authorities in regard to the reference books; and eventually a near-riot situation developed and these four men were dragged off to a deep hole nearby and told to throw themselves in. The police, who had meanwhile arrived, then intervened; and numbers of the Africans were arrested.

During the week that followed, trouble continued amongst the leaderless tribesmen. Some of them demanded contributions from the rest towards the defence costs of those who had been arrested. Several of those who failed to contribute were assaulted, or had their huts burned down. A church was set alight because some members were suspected of accepting reference books, and the school was boycotted for the .same reason. Piles of reference books were burned. Then police reinforcements arrived in the area and many further arrests were made. Numbers of Africans were subsequently tried and some convicted on a variety of counts; and the Government appointed a commission to enquire into the disturbances.

On the day before the one-man commission was to hear evidence, in Zeerust, a Government Notice was published in a *Gazette Extraordinary,* prohibiting gatherings of more than ten Africans in the Marico district except with official permission. Nevertheless, early next morning processions of well over a thousand Africans, mostly women, began marching to the town from Moiloa's location and Gopane's village. They were turned back by a force of some forty well-armed policemen, who set up a road block, and by eight aircraft which flew low, weaving and twisting just above the people's heads.

The case of Paulus Mopeli, the grandson of Moshesh, created much indignation. He and his wife were banished from their home in Witzieshoek after the rioting that occurred there in 1950, and were sent to Nebo in the Eastern Transvaal. During November 1956, he was accused by the Native Commissioner of stealing some grapes from a Trust farm. When the case came before the court, the Native Commissioner himself was on the bench; but on Mopeli's objection, he withdrew. The Assistant Native Commissioner then heard the case and found Mopeli guilty.

He appealed, and was instructed by the Attorney General to appear in court in Pretoria when the appeal was to be heard. But the Native Commissioner refused him permission to leave Nebo. He went, none the less, and his appeal was upheld. He then made the mistake of returning to Witzieshoek to make arrangements for money to be sent to him at Nebo. He was arrested, and after spending a month in gaol was tried for leaving his place of banishment without permission. The judge ruled that his visit to Pretoria

was justified, but not his visit to Witzieshoek, made some trenchant remarks about the conflicting instructions given to Mopeli, and imposed a suspended sentence.

The Natives (Urban Areas) Amendment Act, No. 69 of 1956, which empowered local authorities to serve removal orders on Africans whose presence is deemed by them to be detrimental to the maintenance of peace and order, was described in our last SurveyC"). It was mentioned, too, that Germiston municipality had availed itself of this power and had ordered four Africans to leave its area. According to information given by the Minister of Native Affairs in the Assembly on 8 February 1957([51]), only one other African had by then been banished, by the local authority of Petrus Steyn in the Free State.

CONTROL OF MEETINGS

Government Notice No. 2017 of 1953, as amended, which specified that, with certain exceptions, no meeting, gathering or assembly at which more than ten Africans are to be present may be held in designated areas unless with the permission of the Native Commissioner or magistrate, was, in February 1957, also brought into operation in the district of Cradock in the Cape([52]).

As has been described above,.it was, during November, made effective, too, in the Marico district.

ENTRY OF EUROPEANS INTO URBAN AFRICAN TOWNSHIPS AND LOCATIONS

The second portion of Section *twenty-nine* (d) of the Native Laws Amendment Act, No. 36 of 1957, provides that, except for persons performing their functions under any law and employees of the government or of the local authority acting in the course of their duty, no-one shall enter or remain in any Native village or Native hostel without the permission of the official appointed to manage it.

There had previously been no provision such as this embodied in *law-* although Section *thirty-eight* (3) (e) of the Urban Areas Act empowered any local authority to make *regulations,* requiring the approval of the Administrator and the Minister, providing for the prohibition or regulation of the entry into or sojourn in a location, Native village or Native hostel of any person not resident therein. Many local authorities issued regulations along these lines. In Johannesburg for example, they provided that no one, unless resident there, might visit a Native location, village or hostel for longer than three hours unless they had the Superintendent's permission: there was no need to seek permission for shorter visits.

([50]) Page 74.
(-•') Hansard 3, col. 801.
("> For oilier areas where this Notice is in operation see *Survey ot Race Relations,* 1954/55 page 70, and 1955/56 page 88.

Meetings between Europeans and Africans, will, thus, still be possible in African residential areas without the permission of the Minister, provided that the permission of the manager or superintendent of the area concerned has been obtained. But the appointment of such officials is subject to the Minister's approval, and the senior officer of a municipal Non-European Affairs Department has become responsible not only to his local authority, but also to the State Department of Native Affairs. Public meetings or assemblies of Africans arc subject to control in a number of urban areas; and any meetings in an urban African residential area may be prohibited by a magistrate after consultation with the police and municipal officials.

BANTU AUTHORITIES

Progress to April, 1957, in (he establishment of Bantu authorities

According to information given by the Minister of Native Affairs in the Senate([53]), by the end of 1956 three regional authorities and 64 tribal authorities had been established. The general council and the 26 district councils in the Transkeian Territories had been transformed, respectively, into a territorial authority and 26 district authorities.

By the beginning of April 1957, a further thirty tribal authorities had been set up.

Proclamation 110 of 18 April, 1957

During April, Proclamation 110 was gazetted. This provided that, unless a Bantu authority had already been established in the area, every appointed chief or headman was within thirty days to constitute a tribal or community council in accordance with local law and custom, and within a further thirty days was to inform the Native Commissioner of their names. If a traditional chief or headman's council was already in existence, this would serve the purpose.

Should the chief or headman fail to make the appointments, the Minister himself might do so.

Progress since then

As a result, the establishment of Bantu authorities was speeded up. Between April and September 1957 inclusive, 70 tribal authorities and 44 community authorities were created in the Transkei, and 50 Tribal authorities in other African areas.

Constitution of tribal authorities (other than in the Transkei)

The head of a tribal authority is the local chief or headman. Proclamation 110 of 1957 set out the powers and duties of appointed chiefs and headmen, which included *inter alia* the pre-

([53]) 19 February 1957. Senate Hansard 5. col. 948.

vention of unauthorized efflux to the towns, registration of births and deaths, public health, the control of occupation and cultivation of land, soil conservation, the prevention and detection of crime, and, in approved cases, powers of civil and criminal jurisdiction.

It was laid down that no chief or headman is to become a member or take part in the affairs of any political organization or of any association deemed by the Minister to be subversive of or prejudicial to constituted government or law and order. A chief or headman may be dismissed if he neglects or refuses to comply with any provision of the regulations, or disobeys a lawful command given by an authorized officer of the Government, or misconducts himself, or abuses his powers — this in addition to any penalty which may be imposed under any other law.

This power assumed by the Minister to depose appointed chiefs was soon exercised, as the cases quoted above indicate. Besides these, the chief of the Mamathola tribe in the northern Transvaal was dismissed in August 1957 after he had resisted Departmental pressure to move, with his people, from land they maintained they had occupied for 200 years. This case will be described in greater detail later. No hereditary (as against appointed) chief has been deposed during the year under review; but, as has been told, chief Moiloa was ordered to desist from carrying out the duties of a chief.

The Bapedi Tribal authority which had been set up in Sekhukhuneland during July 1957 was disestablished during November.

The members of a tribal authority consist of the tribal councillors : the elective principle is excluded; which means that unless they arc appointed by the chief as councillors, the more educated and enlightened Africans play no part in the administration. The appointment of a councillor may, in terms of Proclamation 110, be cancelled at any time if, after an enquiry held by a member of the public service, he is found to be negligent in the performance of his duties, or if his removal is deemed desirable in the general interests of Africans in the area.

Tribal levies

The system of tribal levies on African taxpayers is being increasingly introduced. On application by a tribe with the Native Commissioner's encouragement, and if the Minister of Native Affairs is of opinion that the majority of the taxpayers in the tribe concerned are in favour, the Governor-General imposes a compulsory levy by Proclamation in the *Gazette.* Failure to pay then becomes a criminal offence. Voluntary levies may also be decided upon, in which case there is merely a moral obligation upon taxpayers to contribute.

At the end of March 1956, there were 166 compulsory levies and 577 voluntary levies in force([64]).

During the year now under review, that is, October 1956 to September 1957 inclusive, 66 new compulsory levies were imposed. The periods during which these levies would be in force varied, as did the amounts, which ranged between 2s. and £3 10s. Od. a year, the average being 17s. for men and 10s. for women taxpayers. The main purpose for which the money was required was the erection and maintenance of schools; but other purposes included, in various cases, the erection of a vocational training school or of clinics, road maintenance, provision of fencing or dams, the payment of salaries of tribal officials, or the education of sons of chiefs. The budgets of all Bantu authorities are subject to Departmental approval.

Regulations for Regional Authorities (other than in the Transkei)

Regulations for regional authorities were gazetted on 2 August 1957. It was laid down that these bodies are to consist of at least nine members (including the head) the number depending on the number of tribal or community authorities in the area concerned. The heads of these bodies will be *ex-officio* members, they will meet to appoint others, and the remaining members will be selected by the Native Commissioner, all appointments being subject to the Minister's approval. Once more, the elective principle is excluded.

If there is a paramount chief in the area, he or his deputy will be head of the regional authority; otherwise the head will be the leading chief if there is one, or a chief selected by the members of the regional authority—again, subject to the Minister's approval. As in the case Of the tribal authorities, the appointment of any member may be cancelled if, after an enquiry, he is found to be negligent in the performance of his duties, or if his removal is deemed desirable in the general interests of local Africans.

Regional authorities are to be empowered to impose rates on taxpayers of up to £1 a year. Additional sources of revenue will be the local tax paid by Africans in the area, squatters' rents, fees for services provided, fines, donations, contributions by tribal authorities, and any moneys voted by Parliament for wages or agricultural works or other projects. This revenue is to be spent on the administration of the authority, education, roads, bridges, dipping, agriculture, afforestation, clinics or hospitals. The authorities are to meet at least six times a year, an executive committee carrying on business between meetings.

The regulations state that no observer other than members of the tribe in the area served by the regional authority, its employees, or Government officials, may attend its proceedings, unless with the permission of the Native Commissioner given after consultation with the head.

(") Report of the Controller and Auditor-General. U.G. 40/1956. cages 783/85.

Tribal or Community Authorities in the Transkei

The hierarchy of Bantu authorities to be established in the Transkei was described in our last Survey(1). In that area, only, there are to be four tiers in the pyramid — the tribal (or community), district and regional authorities, and, finally, the territorial authority.

A tribal authority will be established in a local area where a chief exists and the society is homogeneous; in other cases there will be a community authority under a headman. There are eventually to be 917 of these "bodies: as is stated above, 70 tribal and 44 community authorities have already been set up.

It will be recalled that at its 1955 Session the United 'Transkeian Territories General Council (now the territorial authority) accepted the Bantu Authorities system in principle, but requested that a committee be appointed to consider how best to integrate the council system (which provided for the elective principle) with the new proposals.

This committee's report, adopted the following year, formed the basis for a system which differs slightly from that introduced in other areas. The elective principle is retained to some degree in the bodies forming the lower tiers of the pyramid, but, as was explained in our last Survey(56), the direct representation of commoners ceases at the district authority level.

Except in Pondoland (the last of the Transkeian Territories to be annexed and incorporated into the council system), the local chief or headman, who is head of the tribal or community authority, appoints at least one-half of its members. Of the remainder, one-third are appointed by the Native Commissioner, and the remainder by African general taxpayers acting in consultation with the head and in such a way as he, with Departmental approval, may decide. In Pondoland, two-thirds of the members are appointed by the Paramount Chief and the remainder by the Native Commissioner. All appointments are subject to official approval and cancellation.

The Transkeian Territorial Authority

The first meeting of the Transkeian Territorial Authority (previously the General Council) was held during May 1957. There was one notable change: whereas formerly the innermost ring of the horseshoe of seats had been occupied by the magistrates, at this meeting they were occupied by the chiefs, the magistrates sitting in the background and being present in an advisory capacity only.

Shortly thereafter, as from 1 July, Mr. L. H. D. Mbuli was appointed as the first African Secretary and Treasurer of the

(1) *Survey at Race Relations* 1955/56. pages 59 *el sea.*
(56) Page 64.

authority. He succeeded Mr. E. W. Pearce, who became the Supervisory Officer of the Bantu authorities in the Transkei.

The Field Officer of the Institute of Race Relations attended the first meeting of the territorial authority. His main impression was one of confusion: the chiefs seemed only then to be beginning to realize the full implications of the change. There was an atmosphere of uncertainty and apparently of mutual suspicion among the chiefs(57).

In the Assembly during May(58) Mr. W. P. Stanford, the Parliamentary representative of Africans in the Transkei. said that he had come to the broad conclusion that the Bantu authorities system had in the main been accepted by the chiefs and headmen since they had little choice, in the face of the Minister's strong desire that they should do so, and because they were dependent for their position on the Minister's pleasure. Speaking generally, the people had not accepted the new system: opposition was particularly noticeable in areas, such as parts of the Ciskei, where tribalism had declined.

Criticisms made to him had been the handing over of power, in many cases, to chiefs who lacked the educational background necessary for the handling of public affairs and of public moneys: the selection of members of the authorities, not by ability, but by blood; and the reversion to tribalism, from which many of the people had emerged. The Bantu authorities system might be compared with the European system of local and provincial councils, it was said: acceptance of this system should not preclude direct representation in Parliament.

TAXATION OF AFRICANS

Proposed increase

Except for indigents unable to work and young men attending approved educational institutions, every male African between the ages of 18 and 65 pays a general (or poll) tax at a flat rate of £1 a year. African women do not at present pay this tax. The rate was fixed in terms of the Native Taxation and Development Act of 1925.

The Minister of Finance said in the Assembly during April that the Government proposed that women should in future be taxed, and that men should pay increased amounts. The suggested rates were as follows:

Taxable income	*Men*	*Women*
Up to £180 a year	£1 10 0	Nil
£180—£240	£1 15 0	£ 1 0 0
£240—£300	£2 10 0	£ 2 0 0
£300—£360	£ 3 5 0	£ 3 0 0
£360—£420	£ 4 0 0	£ 4 0 0
Over £420	£1 for every completed amount of £60 or part thereof.	

(57) RR 89/1957.
(58) 23 May 1957, Hansard 17 cols. 6579/81.

RRH

As a result of representations made by various bodies, opposition in Parliament, and events such as the bus boycott, described later, this proposal was not proceeded with during the 1957 Session.

Information elicited by the Institute of Race Relations

The Government's intention to increase the rate of African taxation was announced by the Governor-General when he opened the 1957 Session of Parliament, and had been foreshadowed earlier.

The Institute of Race Relations prepared a memorandum(59) which was sent early in March to all Members of Parliament and to the Press. The following points were made in this, and in a further memorandum prepared later, when the ternis of the Government's proposals became known:

1. Africans paid income and provincial taxes on the same basis as did members of other racial groups.
2. In their case the general tax was substituted for the personal tax.
3. The proposed new system for general taxation of Africans was inequitable in several respects:
   (a) Africans were already taxed for eight years more of their lives than were members of other racial groups. (Africans pay from the ages of 18 to 65, whereas members of other groups pay personal tax from the ages of 21 to 60)
   (b) The rate of personal taxation was reduced for married White, Coloured and Asian men; but African men paid at a uniform rate, whether they were married or single.
   (c) It appeared, from the information available, that an African woman would not become exempt from paying the general tax when she married. No married White, Coloured or Asian women paid personal tax.
   (d) So far as people in the lowest income groups were concerned, the proposed rate of general taxation for African men was higher than was the rate of personal taxation payable anywhere in the Union except for *unmarried* persons in Natal.
   (e) Persons in the lowest income ranges, into which most Africans, but very few Europeans, fell, were least able to afford to pay any taxes whatsoever, since practically all of their income was absorbed in expenditure on the absolute essentials of living, and most of them were existing at a standard well below the bread-line.
4. It should not be overlooked that *Africans paid further direct taxes, which members of other racial groups were not called upon to pay,* e.g.
   (a) Local tax was paid by occupiers of land in a rural location at the rate of 10s. per hut per annum, up to a maximum of £2. Holders of land under quitrent, persons over 65 years of age, and students attending approved educational institutions were exempt.

(") RR 39/1957.

   (b) Compulsory or voluntary tribal levies were in force in numerous areas, and Bantu regional and territorial authorities (and, in the Transkei, also district authorities) were also to be empowered to impose levies of up to £1 a year. A rural African thus might be called upon to pay up to £3 a year to the various authorities (and £4 in the Transkei).
   (c) Africans in urban areas were required to pay an education tax of up to 2s. a month for lower primary schools, and also to contribute £1 for £1 to the costs of erecting higher and post primary schools.
   (d) A hospital levy at the rate of 2s. 6d. a year was in force in the Orange Free State and parts of Natal.
   (e) All new housing schemes in urban areas had been placed on an economic basis (this matter is dealt with in a later chapter of this Survey); and, furthermore, amounts were added to the rentals to cover, almost completely if not entirely, the costs of township administration, and health, welfare and recreation services.

(5) *Still further payments* were made by Africans, e.g.
   (a) quitrcnts or squatting fees, and ploughing, dipping, grazing and other fees;
   (b) dog tax;
   (c) other contributions to provincial treasuries;
   (d) a share of import duties, excise, stamp duties, etc.:
   (e) licence fees and fines;
   (0 pass and compound fees;
   (g) purchase of kaffir beer, on which most local authorities made a profit;
   (h) contributions to churches, missions, welfare services, etc.;
   (i) value of free labour supplied by tribesmen for the construction of works;
   (j) African labour made it possible for (he mines, factories and other public companies, wool farmers and others to show the profits on which very high taxes were paid by them.

The amounts paid by Africans under the various heads mentioned above were, in some cases, not known; but the Minister of Native Affairs had said in Parliament(fn°) that over and above income tax, general tax and local tax (about £3,320,000 a year is paid under these heads), Africans contributed between £30-million and £40-million annually.

As was mentioned in our last SurveyC') the Native Aflairs Department estimated that during the 1955/56 financial year, the State and provincial administrations would spend some £31 J-million

(59) Assembly. 28 March 1957. Hansard 10, cols. 3744/46.
(•') Page 92.

on services for Africans, plus, during that year, £3½-million specially voted for the development of the Reserves.

No accurate comparison was possible, the Institute said, of the contributions by Africans with the cost of the services they received; but it was certain that the White section of the population was not subsidizing the Africans to the extent commonly believed — if at all.

After pointing out that, according to budgetary surveys, between 69 and 78 per cent, of African families in urban areas had incomes *below* the minimum necessary to provide the barest essentials of healthy living, the Institute maintained that any increase in taxation could result only in a further decline in health standards, in the efficiency and productivity of African labour, and in African purchasing power. There would be serious repercussions on the economy of the whole country. It was generally accepted in modern societies that the wealthier people should be taxed according to their ability to pay, in order to alleviate the poverty and to increase the productivity of the poor. In no modern, progressive countries were the poor expected to finance their own social services.

AFRICAN INSURANCE COMPANY

A life insurance company, the African Horizon Insurance Co., Ltd., was launched in the Cape during January 1957 with an initial capital of £100,000. Africans pay a few shillings each week or month to insure their lives for amounts from £50 upwards. Interest developed rapidly, so that within a few weeks African agents were appointed in the Free State, Transvaal, Natal and Eastern Province. The Board of Directors of this company has both European and African members, its chairman being Senator L. Rubin.

WITCH DOCTORS AND HERBALISTS

Witchcraft Suppression Act, No. 2 of 1957

The Witchcraft Suppression Bill was introduced in Parliament during January. The Minister of Justice, responsible for its introduction, said(") that the aim was merely to consolidate existing laws and to impose more severe penalties.

Sometimes, he said, when an African experienced misfortune or fell ill or died, his friends went to a witch doctor, who named some individual as being a wizard or witch, responsible for the trouble. This person was then often injured or murdered, or else his hut was burned down. In future, if the person responsible for the 'naming' was proved to be a witch doctor by habit or repute(63),

(«=) Assembly. 28 January 1957, Hansard 2. cols. 244/45.
(«) This phrase was added subsequently following a suggested amendment moved by the United Party.

or if murder occurred as result of the 'naming', he would be liable to imprisonment for periods of up to twenty years, or to whipping not exceeding ten strokes, or both.

If the person 'named' was subsequently killed it would be presumed until the contrary was proved that he was murdered as a result of the allegation. If he was not killed but he or his property was injured in any way, the penalty for the person who 'named' him would be a fine of up to £500, or imprisonment for a period of up to ten years, or whipping not exceeding ten strokes, or a combination of these penalties.

More severe penalties than those previously laid down were to be imposed for persons found guilty of employing a witchdoctor to name someone as a wizard, or of harming or injuring someone on the advice of a witch doctor, or of professing a knowledge of witchcraft to do injury to someone, or of practising witchcraft or fortune-telling for gain and in order to do harm to someone.

None of the Opposition speakers opposed the principle of the Bill. The leading speaker for the United PartyO") pointed out that pagan superstitions, which were still to be found even to-day in certain parts of Europe, brought terror into the lives of individuals and in the past had sometimes had far-reaching political consequences. While punitive measures were necessary to suppress the evil practices, the only real solution, he said, lay in the spread of Christianity and in advancement in the scale of civilization. The promotion of these objects, he maintained, would certainly not be attained under the Government's policy of encouraging Africans to revert to tribalism and develop along their own lines.

A former Minister of Health(") said that when he toured the country as Chairman of the National Health Services Commission he found numerous tragedies following in the wake of witch-doctors' advice: people were prevented from seeking advice at hospitals or clinics until it was too late for recovery to be possible. He urged that more should be done in the sphere of health education.

Herbalists

In an article published in *African StndiesC")*, Dr. H. J. Simons pointed out that in terms of Section *thirty-four*(a) of the Medical, Dental and Pharmacy Act of 1928, anyone who is not registered as a medical practitioner commits an offence if, for gain, he practises as one or performs any act specially belonging to a doctor's calling. Any person who sells patent medicines or herbs may recommend his wares, and may even advise his customers as to their properties and merits, provided that any charge made is for medicines supplied, and not for diagnosing the disease or prescribing a remedy.

(") Dr. D. L. Smit. M.P.. col. 240.
(«) Dr. Ihc Hon. H Gluckman, M P.. cols. 260/61.
(«•) Vol. 16 No. 2 of 1957.

These restraints apply also to tribal medicine men and herbalists; except in Natal where those skilled in healing and herbs may be licensed to practise curative medicine among Africans for gain, even to the extent of performing surgical operations. Policy is aimed at their gradual elimination, however: no new licences may be issued unless with the Minister's consent, which is seldom given. There were 322 herbalists practising legally in Natal at the time when Dr. Simons wrote; but, as he pointed out, many others carried on illegal practices.

Herbalists sell bark, herbs, bones, skins and other nostrums under a general dealer's licence, and patent medicines under a patent medicine dealer's licence.

RIOTS AND DISTURBANCES

Disturbances that have occurred in connection with specific issues, for example the treason trials or passes for women, are dealt with in the relevant section of this Survey.

Newclare.

There were further disturbances during December and January of the year under review at Newclare, one of Johannesburg's most evil slums, which is the area that has for so long been terrorized by the 'Russians' — a group of militant-minded Africans of Sotho origin([r"]). Troubles at Newclare during the past year, however, have been between members of two rival Sotho clans, the Matsieng and Masupa, rather than between the 'Russians' and Africans of other tribes.

A minor incident during December led to fighting, during which numbers of members of one clan were injured. Their supporters poured into the township on the following evening and waged minor warfare against the rival group — knives, knobkerries, sticks, stones, home-made battle axes, pistols and shotguns were used. Eventually the fighting was stopped by the police, one African constable receiving fatal injuries.

A further serious clash occurred some six weeks later, many injuries being caused, and one member of the Matsieng clan being fatally wounded. His funeral triggered off another battle in which about a thousand men and women were involved. The homes of some members of the Masupa clan were wrecked and, again, many people were injured. This time the police were forced to open fire before they succeeded in quelling the riot. It was reported that about thirty Africans were admitted to hospital.

Vlakfontein

General unrest had for some time been simmering at Vlakfontein, the large African township to the east of Pretoria, caused by a variety of factors, one of which was the extremely high transport charges. Matters were brought to a head in October 1956, when the Location Superintendent, who had been urging the Africans to tidy up their gardens and to build fowl runs of acceptable standard, decided to demolish those fowl runs that were unsatisfactory. Some of the municipal police, whom he ordered to do this, exceeded their instructions and began uprooting trees and plants in the gardens. The women were furious, and some of them stoned the policemen.

([r"]) See *Survey n/ Race Relations* 1955/56, pages 97 *el sea.* for previous hlsiory of the 'Russians'.

The following day was a Saturday, when many of the men were at home. Several thousand angry men, women and children gathered for a meeting outside the beerhall, where a European was in charge. Passions mounted and eventually boiled over: the crowd stoned the beerhall, smashed its windows, damaged the bicycles of municipal policemen, and then set fire to the beerhall and to the car of its manager.

The S.A. Police were hurriedly summoned: their vans were stoned as they arrived. They poured out of their vehicles and made a baton charge to disperse the crowd: but as soon as they retired the mob re-formed. Six baton charges were necessary before control was established, individual policemen, who found themselves in difficulties, opening fire with their revolvers. Eight police constables and six civilian Africans were injured.

Fifteen Africans were later convicted on charges of assault. The Location Superintendent was replaced shortly after the riots; but a committee of inquiry later absolved him of all blame.

Langa

Police raided a meeting of the African National Congress at Langa township. Cape Town, during February 1957, in order to arrest some nine Africans from other areas who had entered the township without permission. This was highly resented, stones were thrown, and a baton charge was made by the police to disperse the crowd.

Wolliuicr Beerhall, Johannesburg

One evening in August 1957, when most of the customers of the Wolhuter Beerhall near the centre of Johannesburg had already left, supplies of a matured brew of kaffir beer came to an end, and a new brew was served. The customers who remained, some 200 of them, protested about its quality and queued up to demand the refund of their money.

Some of them became impatient and threw their beermugs in the air. This mood caught on. The crowd rushed into the street, stoning the beerhall and passing cars. Large numbers of policemen were forced to cordon off the area before order could be restored.

Davcyton

The model African township of Daveyton, Benoni, where the f principle of ethnic grouping was first applied, was described in thJR last edition of this Survey([68]).

Serious rioting occurred there during March 1957. It was said that a gang of unruly Xhosa children attacked a school serving lj the Swazi group, killing one of the pupils and injuring two teachers. The children poured out of the building and hundreds of than were soon engaged in fighting.

The parents gradually became involved. Before long, thousands of Swazi and Xhosa were engaged in open tribal waiy/1 fare. At least four, but probably more, were killed. In spite oi J the efforts of the police, fighting continued for over two days and nights — at least another five people were killed. On hearing-i that two members of their tribe were amongst the casualties, the Zulus joined forces with the Swazi, while it was rumoured that the Sotho were contemplating coming to the assistance of the Xhosa.

Great confusion reigned until the police eventually managed to regain control. The schools were closed; some two thousand Africans stayed away from work; more than that number of women and children sought temporary refuge outside the township.

African leaders have expressed the view that the system of ethnic grouping, which accentuates tribal division, was at the rooM of the trouble.

Dube **Hostel,** Johannesburg

(a) *The background.*

It will be recalled([69]) that following the passing of the 'Locations in the Sky' Act, Johannesburg Municipality obtained a housing j loan for the erection of a cottage hostel at Dube (one of the African townships grouped together to the south-west of the city). This can accommodate 5,152 men. The City Council planned to build further hostels, and meanwhile to use the Dube one to cater fo.f*J men who were living as sub-tenants in slum areas, or as illegal lodgers in back yards or on the top of blocks of flats, allowing those who had in the past been lawfully accommodated to remaid where they were for the time being. But the Minister of Native AlFairs insisted that at least half the accommodation should be used for the rehousing of people to be moved under the 'Locations' in the Sky' Act — which provided that, unless specially authorized, no owner of a building in the 'White' part of a town may allow more than five Africans to live there.

Of necessity, then, the Council moved large numbers pfj cleaners and domestic servants to Dube from blocks of flats and offices, hotels and other buildings in the 'White' areas. These met

([68]) *Sanity nl Pare Kelalian.i.* 1955/56. nasc 123.
(") Sec *Survey ol Race Relallans* 1955/56. pages 124 *el seq.*

were nearly all Zulus, their class being known colloquially as *\licaia.* For convenience, the illegal lodgers who filled up the remaining accommodation were also selected mostly from the Zulu tribe.

This caused two difficulties. Firstly, it was socially undesirable to place over 5,000 single men in the midst of family dwellings. Secondly, the families in the neighbourhood were of mixed origin. The ill feeling that developed tended to canalize along tribal lines.

(b) *Riot in May* 1957

During May 1957, the Superintendent of Dube Hostel called in the police to arrest certain Africans who were said to be preying on the residents, and to confiscate dangerous weapons that were being collected.

About twenty Africans were arrested and taken to the Superintendent's office. Scores of the residents suddenly turned on the police, attacking them with stones and knobkerries, and in the confusion the prisoners escaped. As the crowd grew, the police fired warning shots in the air, then retired to await reinforcements.

For a time the Africans continued angrily to stone the municipal offices, smashing hundreds of windows; but, according to evidence given later by the Stiperintcndent([70]) (at an inquest) he eventually succeeded in quietening the crowd. Then, he said, the police reinforcements arrived, piled out of their lorries, and made a baton charge. At some stage (whether before or during the charge is not clear), stones were flung at the police. Then, again, the Africans turned on the police, who opened fire with revolvers and later with a sten gun. Eventually the Africans were forced to withdraw, dropping large numbers of assorted weapons as they ran.

A European constable and twelve Africans were admitted to hospital, and two Africans were shot dead by the police — later, at the inquest, the magistrate recorded a verdict of justifiable homicide.

(c) *Mounting tension*

As is described in a later chapter of this Survey, residents of the African townships have for years been preyed upon by the *tsotsis* — gangs of youths of no specific tribal affiliation. There is a grave state of lawlessness. The *tsotsis* are particularly active on the trains on Friday evenings, robbing workers returning from the city of their pay-packets.

The *izicaza* (or Zulu 'flat-boys') who had been moved to Dube were not accustomed to this treatment. Lacking adequate police protection, they decided to take matters into their own hands and declared war on the *tsotsis.* Older residents of the townships learned to avoid travelling on the (rains between 6 and 7 p.m.

(") **Ai** reported in *Rand Dally Mail,* 18 October 1957.

Weeks of tension ensued. The ill feeling that had developed between the *izicaza* and the families in the township had tended to develop along tribal lines, as is explained above: now the *izicaza* apparently began identifying the *tsotsis* and other gangsters with the Sotho people. It is said that they carried out assaults, not only on the *tsotsis,* but also on law-abiding men, women and children, and that they were encouraged by the fact that no official action was taken against them for doing so.

(d) *Riot in Dube, Meadowlands and other townships, in September,*

Fighting broke out on a Saturday afternoon, 15 September 1957, between rival gangs of men armed with knobkerries, iron bars, battleaxes, sticks, and firearms. Suddenly, thousands in Dube, Meadowlands and other townships went beserk, a major battle taking place between members of the Zulu and Sotho tribes near the hostel, in the streets, and between the houses.

After some hours order was restored by the police, who used firearms as well as batons. It is alleged by Africans that some of the police firing was indiscriminate, being directed blindly into the grounds of Dube hostel. More than 40 Africans were killed during the riot or died of wounds, and scores more were seriously injured.

(e) *Action taken after the riot.*

A series of meetings was immediately held by some sixteen responsible African citizens, among them the Field Officer of the Institute of Race Relations, and concrete suggestions were placed by them before the authorities. As short-term measures they suggested that representatives of the Sotho and Zulu paramount chiefs should be asked to tour the townships, urging their people to refrain from lawless acts (this was done); that the police should concentrate on disarming warring factions *before* trouble started; that funeral gatherings created potentially explosive situations and should not be held at weekends without police protection; and that meetings in the townships should not be limited to members of one tribe,

As longer-term measures, the Africans urged that the system of ethnic grouping, which accentuated tribal division, should be abolished; and that hostels for single men should not be built amongst family dwellings.

The Director of the Institute of Race Relations pressed for the appointment of a commission of inquiry; urged the City Council to meet with representatives of the police, the Government Native Affairs Department and the African people, to discuss methods of avoiding further clashes; and once again maintained that if the police had insufficient forces to control the situation, the scheme of civilian guards, under police control, should be revived.

Johannesburg City Council urged the Government to appoint a judicial commission of inquiry. The private secretary to the Minister of Justice replied: "It is considered that in view of previous inquiries, which were instituted when similar occurrences took place, and the known facts of the present events, the establishment of such a judicial commission is unnecessary."

The City Council then decided itself to appoint an independent commission headed, if possible by a retired judge, to consider:

(i) the immediate causes of the riots;
(ii) the root causes of the conditions of unrest in the South-western Native areas which gave rise to the riots; and
(iii) what remedial measures may be necessary and advisable to avoid similar happenings in the future.

GENERAL RESEARCH

Research projects connected with education, employment, health and so on are dealt with in appropriate chapters of this Survey. Some of the more general projects in progress are described below.

Afrikaans-English relations

S.A. Institute of Race Relations:

(i) Causes of friction between Afrikaans- and English-speaking people (Study sponsored by the Institute).
(ii) A pilot study, in the Bloemfontein area, of the school language medium question and of the reason for the development of parallel English and Afrikaans cultural, economic, welfare, sporting and other bodies.

Coloured Affairs

Stellenbosch University:

(i) Kontak en assosiasie tussen Kleurlinge en Naturellc in Wes-Kaapland.
(ii) 'n Sosiologiese studie van vroulike Kleurlinghuisbediendes in Wes-Kaapland.
(iii) Aspektc van die houdings van Kleurlinge teenoor Blankes.
(iv) Drankmisbruik en misdaad onder Kleurlinge jin Wes-Kaapland.
(v) Rol-differensiasie in die gesinslcwe van die Kleurlinge in Wes-Kaapland, met spcsialc vcrwysing na die vroumocdcr-rol.
(vi) Maalskaplike stratifikasie en vertikale mobiliteit ondcr die Kleurlinge van Stellenbosch.

Natal University:

Psychological factors in *marginality* in a S.A. Coloured Community.

Witwatersrand University:

Die wedersydige beinvloeding van die Blanke-, Bantoe- en Kleurling-kulture in Noord-Kaapland.

Indian Affairs

Potchefstroom University:

Die Indicrvraagstuk in Natal, 1870-1914.

African Affairs

Rhodes University:

Study of a mixed community of pagan and Christian Bantu in the Border region.

Witwatersrand University:

(i) An investigation into educational and occupational differences in test performances on a battery of adaptability tests designed for Africans.

(ii) Child-rearing practices and personality development in an urban African community.

(iii) African civilization in Southern Africa before European conquest (Study sponsored by the University).

University of South Africa:

Die verhouding Blank tot Naturel in die Transvaal tot 1902.

Institute of Race Relations:

(i) Insurance companies operating amongst Africans in Durban.

(ii) Reaction of African families in Durban to the carrying of passes.

URBAN AREAS

LOCAL GOVERNMENT

Commission of Inquiry into Local Government (Transvaal)

It will be recalled(1) that the first interim report of the Transvaal Local Government Commission dealt with licensing. In its second report the Commission suggested the creation of a full-time Board for the Advancement of Local Government; the replacement of municipal standing committees by a single executive committee of the City or Town Council; and the replacement of town clerks by principal officers who would be responsible for the efficient administration of the work of all municipal departments.

The third and final report, to which a draft ordinance was attached, was published in July 1957. The Commission considered

(1) *Survey ol Race Relations.* 1954/55. page 118.

that this new ordinance should tell municipalities what they may not do "rather than prescribe in elaborate circumlocution what they may do. This would emphasize what is believed to be a fact — that local government is in the hands of responsible citizens who are not likely, except in ignorance, to abuse powers publicly entrusted to them". The Commission considered that present sources of municipal income arc inadequate, and recommended that local authorities be granted wider licensing authority, power to levy an entertainment tax, etc.

It suggested that the principal officers should be appointed by Town Councils from lists of applicants drawn up by the proposed Board, thus giving the Administrator supervisory powers over the appointment of the key officer to each municipality.

One matter was raised that affects Johannesburg very considerably. In terms of a Governor-General's proclamation, the City Council in 1939 set up a municipal social welfare department which has done excellent work. The law advisers subsequently discovered that it had been beyond the powers of the Governor-General to issue this proclamation. In 1946 the city asked the Government to legalize the position, but was informed that until the Supreme Court declared the proclamation to be invalid, Johannesburg could continue its social welfare activities on the assumption that it was not *ultra vires.*

The Commission's view now is that social welfare work should not be entrusted to local authorities unless at least nine-tenths of the expenditure is refunded by the Government. It states, however, that it has been authoritatively informed that the Union Department of Social Welfare would prefer to do the work itself rather than to refund nine-tenths of the money spent by local authorities. The Commission recommends that, if the legal position is not rectified, Johannesburg should be prevented from continuing to spend unlawfully the money of the ratepayers.

This caused much concern. A special meeting was called of the Johannesburg Co-Ordinating Council of Social Welfare Organizations, which has 135 affiliated societies. The general feeling was that the city had cause to be extremely proud of its social welfare department; and that far more social work was required, not less. Resolutions were passed urging that the legality of the department be placed beyond question.

Public Bodies (Language) Draft Ordinance (Transvaal)

A Transvaal Ordinance passed in 1916 provided for the equal treatment of both official languages by local authorities in the province. The Public Bodies (Language) Draft Ordinance, introduced in the Provincial Council in July 1957, sought to introduce a high degree of compulsion.

families did move to Metz. But the opinion of a large section of the tribe was hardening against the move. At this time, representatives of the Press were refused permission to visit the Wolkcbcrgfarm.

At the beginning of June, 25 lorries arrived at Wolkeberg to start moving those families who had harvested their crops. With them were a few policemen and some officials, who commenced paying out compensation. The chief and 119 families received their money — a total of about £5,000 according to the Minister in the speech quoted above.

But at that stage some of the women staged a demonstration, protesting that the compensation was inadequate and that there would be nowhere for them to sleep on arrival at Metz. Additional members of the police were brought in. Then attorneys acting for the tribe arrived, and said that an interdict was being sought to stay the removal. The officials left.

At the end of June the school and post office at Wolkeberg were closed; the people were informed that old age pensions would in future be payable only at Metz; and the Minister announced that ploughing and the keeping of stock at Wolkeberg would be forbidden by proclamation, and that if the tribe did not agree to move the question of compensation might have to be reviewed.

Meanwhile, the Government was encountering difficulties also at Metz, where about 1,200 members of a clan of the Bakone tribe were living. They had been there for longer than any of them could remember, living as 'squatter' labour tenants. In August 1956 they were given three months' notice to leave, and were told that assistance would be afforded them in obtaining employment on European farms. This date was later extended. By June 1957 they had still not moved. Some of them were then charged with the unlawful use of land; but the charges were withdrawn. At the same time, Proclamation No. 236, described above, was published in draft form (this empowers the Department to cancel any African's right of occupation of land of which the Trust is the registered owner).

During August 1957, Chief Mamathola was deposed. Officials visited Wolkeberg to interview his niece, the chieftaincss apparent; but she was in hiding. She is reported([18]) to have said that she was ready to become head of the tribe when her uncle, who was old, tired and ill, was unable to carry on; but would refuse the appointment if it was made on the assumption that she would be prepared to lead her people to Metz.

Negotiations with the tribe had at first been on a voluntary basis; but a Governor-General's removal order was issued later. Counsel for the Mamathola petitioned the Supreme Court. Pre-

(") *Star,* 15 August, 1957.

toria, for this order to be declared invalid on the ground that it had not been approved by both Houses of Parliament, as was necessary in terms of the Native Administration Act in cases where tribes were unwilling to comply. If the order were brought to the notice of Parliament, the Mamathola said, they would apply for permission to plead against it at the Bar of the House, They asked, too, for orders declaring the deposition of the chief to be null and void, and setting aside the decision to close the school and post office at Wolkeberg. This decision had not been made for *bona jide* reasons, they maintained, but merely in order to harass the people into moving without the sanction of both Houses of Parliament.

Other Tribes in the North-Easfcrn Transvaal

A general reshuffle of the tribes in the north-eastern Transvaal is in progress, the object being to reassemble scattered portions of tribes prior to the setting up of regional authorities.

Towards the end of August 1957 the removal was commenced of some 4,500 members of the Bakone tribe from the Pedi area in Sekhukhuneland to their new tribal home on Trust land, 40 miles away in the Nebo district, north of Groblersdal. A rural village has been established there.

AFRICAN NATIONAL SOIL CONSERVATION ASSOCIATION

The African National Soil Conservation Association held its 1957 Annual Conference in Sekhukhuneland. Lectures and practical farming demonstrations were given. The Association has raised money for a tractor which will be hired out to Africans in the Xalanga district of the Transkei. Miss M. Soga, an Executive Committee member, has made her farm there available for demonstrations of scientific farming methods.

EMPLOYMENT

GENERAL ECONOMIC CONDITIONS IN SOUTH Al RICA

Tn his annual review of economic conditions in the Union, the Head of the Department of Economic Research and Statistics of the S.A. Reserve Bank reported(') that during 1956 the Union was faced with higher rates of interest abroad, and with a further reduction in the net inflow of foreign capital as against a growing import bill, as well as with a persistent shortage of labour and a further gradual increase in the cost-price structure in several sectors of the economy.

The Union's net national income increased from £1,494.5-million in 1954/55 to £1,54S.7-million in 1955/56. the increase being

(') *Quarterly Bulletin o/ Slat/slics,* S.A. Reserve Dank. March 1957.

accounted for mainly by larger contributions from gold mining and uranium production, and, to a lesser extent agriculture. There was a levelling off in secondary production.

The Governor of the Reserve Bank said(2) that, after making due allowance for increases in the average wholesale and retail price indexes and in the population, the *real* income per head of the population showed hardly any change in 1955/56, as against an average increase of more than three per cent, during the two preceding years.

The slower rate of industrial development, he commented, had served to bring about a better balance in the Union's economy as a whole. It had, for example, enabled the public sector to make more rapid progress in its efforts to catch up with the backlog in its transport, power, telecommunication and other services. But, he added, there was always a danger that the pendulum might swing too far: the Reserve Bank was taking steps to try to avoid this.

The Chairman of the Standard Bank of S.A., Ltd., agreed(3) that the slower tempo of development was not without virtue for the time being; but pointed out that, if fresh injections of capital did not follow once the dangers of inflation were passed, the phase of consolidation might be unduly prolonged, to the detriment of natural development.

No official loans were raised abroad by the Government during 1956 — although it did receive about £2-million from drawings under a loan granted by the International Bank at the end of 1955. The budgetary surplus of £13½-million, as well as a further contribution of £13½-million from Revenue Account, were thus used for capital development in the public sector, and a savings levy was imposed for the same purpose. The Governor of the Reserve Bank said that circumstances called for special endeavours to raise new loans abroad for both the public and private sectors, and to attract risk capital for development. A favourable economic climate for investment would have to be maintained, he pointed out.

The Chairman of the Standard Bank of S.A., Ltd., added that there was a world-wide shortage of capital, and what was available would naturally tend to flow to those areas where political and social conditions seemed to offer the greatest promise of continued stability. In its report to the U.S. Department of Commerce, an American trade commission that toured South Africa expressed the view(4) that the Union provided a considerable potential market for private investments; but added that the complexity of the inter-racial problem was a matter of serious concern to business people, and its ultimate solution would be a determining factor in the future development of the country's economy.

(2) Address nt a meeting of stockholders. 7 August 1957.
(3) Address at annual general meeting held in London, 31 AURUS1 1957.
(4) As reported in the *Star*. *1* August 1957.

In an editorial article in *The Manufacturer*(5) it was pointed out that, in spite of the world-wide shortage, there was some capital available. During the first nine months of 1956, when South Africa received nothing, Canada received £152-million. Official foreign loans to Australia amounted to £A105-million in 1955/56; while the Federation of Rhodesia and Nyasaland received £28-million in 1955 and £12-million in the first six months of 1956 in net long-term capital inflow.

LABOUR AND IMMIGRATION

Labour as well as capital is, of course, required for expansion. The Chairman of the Standard Bank said that there was virtually full absorption of labour at present, thus any increase in production would call for an. additional force of skilled workers.

The Government's plans for increasing the efficiency of White labour through vocational guidance and selection services, free artisan courses for adults, rehabilitation schemes, the application of efficiency methods and mechanization, and incentive bonus schemes, have been described in some detail in previous Surveys(6).

It was pointed out by the Governor of the Reserve Bank that there might be scope for improvement through the simplification and expediting of immigration formalities. During 1956, there were 14,919 White immigrants and 12,885 White emigrants(7).

It will be recalled that, previous to 1949, any British subject had been able to acquire South African nationality after two years' residence in the Union; but the Citizenship Act of that year made five years' residence necessary (as against six for aliens). However, a United Kingdom citizen is not required to appear before the Immigrant Selection Board, as are people from Holland, Germany and other countries(").

During May 1956 South Africa joined the Inter-Govcrnmcntal Committee on European Migration (I.C.E.M.). Britain is not a member of this organization. The present Union Government has still not accepted the principle of State-aided immigration; but during October 1957 it was announced that an agreement had been reached with I.C.E.M. in terms of which employers in South Africa might share with this committee and the Netherlands Government the cost of subsidizing the fares of Dutch settlers coming to the Union. If the settler was to join State or semi-State services here, the South African Government would contribute the employer's share of his travelling costs.

Many industrialists have continued to urge that more effective use be made of the Union's resources of African labour. Three examples only will be quoted. Firstly, the Chairman of the Board

(5) April 1957.
(6) *Survey nf Race Relations* 1951/55 pages 161/165; 1955/56 page 1C2.
(7) Official *MnnlMr Bulletin ol Statistics*.
(8) Minister of the Interior. Senate. 16 May 1957. Hansard 13. cols 4263/74.

At the congress of the Transvaal Agricultural Union held during August, a resolution was adopted reading, "While aware of the dangers of the abuse of alcohol, Congress is also conscious of the tremendous damage wrought by the illicit liquor trade which makes the ban on liquor ineffective . . . For that reason, Congress calls the attention of the authorities to the necessity of revising (he liquor laws to allow the reasonable supply of liquor to Natives under conditions ensuring a minimum of abuse"([12]).

As from the beginning of August 1957, European beer and light wines were on sale to Africans in Southern Rhodesia. Restrictions on the sale of liquor to Africans had, previously, been relaxed in Northern Rhodesia, the Belgian Congo, Nyasaland, Basutoland and Swaziland.

IMMORALITY ACT, No. 23 OF 1957

The Immorality Act of 1957 was mainly a consolidating measure, but several new provisions were introduced. *Inter alia,* maximum penalties for illicit carnal intercourse between Europeans and Non-Europeans were increased, and it was rendered an offence for a White person and a Non-White together to commit an indecent or immoral act, or to solicit one another to the commission of such unlawful acts.

When introducing the Bill, the Minister of Justice said([13]) that in prosecutions under the Immorality Act of 1927 as amended, it had occurred that a Non-White woman pleaded guilty while the White man charged as her accomplice pleaded not guilty. A separation of trials was then necessary because the admission made by the first accused would prejudice the case against the second. In view of her plea, the woman was found guilty and sentenced to prison, while the man tried to secure an acquittal. There had been cases in which he was acquitted because the evidence was not conclusive. It had also occurred that the woman had been bribed by the man to deny the evidence she had given in the first place, professing, at his trial, to know nothing about the matter. In cases where a man was acquitted after his accomplice had been imprisoned, she was immediately released unless she had given false evidence at the second trial. He had given instructions, the Minister said, that his Department should investigate whether provision could be made for these cases to be heard jointly. In the meanwhile, the proposed amendments would remove certain anomalies.

Spokesmen for all the main Opposition parties maintained([M]) that immorality cannot be dealt with effectively by legislation. In spite of the criminal sanctions imposed in 1950 there had been an increase since then in the number of prosecutions for illicit carnal

([12]) *Star.* 29 August 1957.
([13]) Assembly, 29 January 1957, Hansard 2. cols. 310/1.
([14]) Cols. 314/24.

intercourse. Legislation made spies and snoopers of other people and of the police, and led to blackmail. It resulted in invasion of the worst kind of the privacy of the individual. Social conventions, rather than criminal sanctions, should be relied upon to check private immoral acts which did not affect society at large. Mature countries of the Western world aimed at raising the moral perception of the people rather than at applying a kind of social vengeance to those who submitted to temptation in such matters.

There have been at least four further cases, during the past year, in which a Non-White person was sentenced to a term of imprisonment while the White person charged as the accomplice was acquitted or given a suspended sentence. Numbers of organizations continue to urge that there should be joint trials in all such cases, and that no plea of guilt by either party separately should be accepted. It has been pointed out that a Non-White woman, unable to afford legal defence, often pleads guilty in ignorance of the processes of the law.

EXTERNAL AFFAIRS

SOUTH AFRICA'S MEMBERSHIP OF THE UNITED NATIONS

When the three items affecting South Africa — her racial policies, her treatment of people of Indian origin, and the status of South-West Africa — were again included on the General Assembly's agenda, for its 1956 Session, the South African Government announced its intention to withdraw from active participation in the affairs of the United Nations.

Speaking in Parliament in June 1957([1]) the Minister of External Affairs said that South Africa would remain a member, but until such time as the United Nations decided to conform to the provisions of its own Charter, *viz* Article 2 (7) (which does not authorize intervention in the domestic affairs of any country), South Africa would maintain only token representation. It would not participate in debates of the General Assembly, nor in discussions of any of the Committees except those of the Fifth Committee, which was concerned with the financial affairs of the United Nations. It would record its vote in the Assembly only when Article 2 (7) was at issue, or in very exceptional other circumstances. Its permanent representative had been replaced by a more junior member of its Diplomatic Service.

Members of the Opposition said([2]), "There is nothing wrong in the Government having a policy which is unpopular with the majority of the people of the world, but let the Government openly admit it, instead of trying to justify those policies by putting cvcry-

([1]) Assembly. 10 June 1957. Hansard 20, col. 7598.
([2]) Cols. 7625. 7612.

body else in the wrong" . . . "Is it not better to go in there, come what may, fight whoever wishes to fight us either on the question of jurisdiction or on the merits of a case, and be ready to help our allies in this international forum?"

Later, in a Press statement!;[1]), the Minister of External Affairs said that the South African Acting Permanent Representative had recorded his objection to, and later his vote against, the placing of the three items affecting South Africa on the United Nations' agenda for the 1957 Session. Although the inscription proposals had again been adopted by large majorities, the voting showed an improvement in South Africa's favour since the previous Session. From the great majority of the Communist bloc and of the so-called 'Bandung' or Afro-Asian group, South Africa could expect only determined opposition on the items concerned. Tts future relations with the United Nations would largely be determined by the attitude of countries which were outside the Bandung-Communist combination.

The Union's present policy of 'token' representation could not be continued indefinitely, the Minister concluded. Sooner or later the matter of South Africa's continued membership of the United Nations would have to be considered by the Union Government.

In the meanwhile, South Africa has continued to participate in the work of the World Health Organization and the Food and Agricultural Organization.

UNITED NATIONS' CONSIDERATION OF RACIAL POLICIES IN THE UNION

It was reported in our last Survey that the recommendation by the Special Political Committee that the three-man commission on the Union's racial policies be re-appointed, was not adopted by the General Assembly at its 1955 Session, receiving one less than the necessary two-thirds majority of votes.

At the next Session, the United States told the Special Political CommitteeC[1]) that, while it disagreed with the racial policies of the Union, it believed that in the existing situation there was little more that the world organization could constructively do than it had already done without the co-operation and goodwill of South Africa. The United States hoped that this item would not automatically be included in the agenda of the Twelfth Assembly. It considered that the most constructive approach for the United Nations was through the examination of various aspects of human rights in their broad application, rather than through focussing discussion exclusively on the situation in a single member state.

(3) e.g. *Rand Daily Mail.* 27 September 1957.
(4) *Caae Time;* report. 17 January 1957.

At the end of January 1957, the General Assembly, by 56 votes to five, with twelve abstentions, deplored the fact that the South African Government had not observed its obligations under the Charter, and had pressed forward with discriminatory measures which would make the future observance of these obligations more difficult. It called upon South Africa to reconsider its apartheid policies in the light of its obligations and responsibilities under the Charter, and in the light of . . . progress achieved in other contemporary multi-racial societies. It invited the South African Government to co-operate in a constructive approach to the question, more particularly by its presence in the United Nations.

The matter was again debated at the next Session of the General Assembly, in November 1957, a resolution couched in somewhat similar terms being adopted by 59 votes to six, with 14 abstentions. South Africa's failure to respond to similar appeals in the past was deplored. She was asked to review her policies in the light of the high principles and purposes enshrined in the Charter, and in the light of world opinion, and to inform the Secretary-General of her response.

Britain was one of those who voted against the resolution. Her representative said that this decision was in no way influenced by the merits or demerits of South Africa's policies, but was based on the fact that Article 2 (7) of the Charier did not authorize intervention in the domestic affairs of any country. Until Article 2 was changed by constitutional means, it was outside the jurisdiction of the United Nations to discuss the matter(").

TREATMENT OF PERSONS OF INDIAN ORIGIN IN THE UNION

In January 1957 the General Assembly, by 42 votes to none with twelve abstentions, appealed to the Government of the Union to negotiate with India and Pakistan with a view to solving the question of the treatment of persons of Indian origin in South Africa in accordance with the purposes and principles of the Charter and the Universal Declaration of Human Rights. The parties concerned were invited to report as appropriately, jointly or separately, to the Assembly on the progress of the negotiations. A similar resolution, for submission to the Assembly, was passed by the Special Political Committee in November 1957, by 63 votes to none with fourteen abstentions.

The Union Minister of External Affairs had said earlier(6), "There is not the slightest prospect that South Africa will agree to abandon her attitude in regard to intervention in our domestic affairs . . . We sec no purpose therefore in proceeding with the further discussion of this matter" (i.e. the treatment of persons of Indian origin).

(«) *Star* report. 27 November .1957.
(«) Assembly, 26 April 1956. Hansard 13. cols. 4435/36.

SOUTH-WEST AFRICA

As far back as 1946, the General Assembly of the United Nations recommended that South-West Africa be placed under the international trusteeship system, as was being done in the case of all other remaining mandated territories. (South-West Africa was, however, the only 'C mandate. Unlike the others, it was to be administered as if it were an integral portion of the country entrusted with its administration). The Union Government maintained that its international function of administration was exercised on behalf'of the League of Nations, not of the United Nations. It would, nevertheless, continue to act in the spirit of the mandate.

In 1947 the Union Government announced that, as a voluntary concession to the position of the United Nations as the spiritual heir of the League, South Africa would submit to it annual reports similar lo those which had previously been sent to the Mandates Commission. But two years later, the new Government decided that no further reports would be submitted.

In 1950 the International Court of Justice, having been asked for an advisory opinion, upheld South Africa's claim that the Union Government was not legally obliged to place the territory under United Nations' trusteeship, but stated its opinion that the Union was not competent to alter the status of South-West Africa unless with the consent of the United Nations; that the General Assembly was legally qualified to exercise supervisory functions over the administration of the territory; and that the Union Government was under an obligation to submit to this supervision, to render reports to the United Nations, and to transmit petitions of the inhabitants of the territory.

Annually, since then, the Union Government has been requested by the General Assembly to agree voluntarily to place the territory under international supervision, and to submit reports on its administration. This it has refused to do. However, in September 1952 it offered certain concessions. It suggested that, under the aegis of the United Nations, an international treaty embodying the spirit of the mandate should be concluded between the Union on the one hand, and on the other, the United Kingdom, France and the United Stales, which were the only remaining Powers of those originally conferring the mandate on South Africa. Should negotiations on these proposals proceed satisfactorily, the Union Government would agree to make available to the Powers concerned information on the administration of South-West Africa.

These concessions were not accepted. A seven-member committee, headed by Mr. Thanet Khoman of Thailand, was set up to negotiate with the Union Government and to prepare annual reports on the administration of South-West Africa. Meanwhile, South Africa, which had earlier arranged for the territory to be represented in the Parliament of the Union as an integral part thereof, decided in 1954 that the administration of Native Affairs should be transferred from the Administrator of South-West Africa to the Union Minister of Native Affairs. The Prime Minister said(7) that South Africa, and South Africa alone, was competent to decide on the administration and future of South-West Africa.

During 1956 the question arose of whether it was admissible for the seven-member committee to grant oral hearings to petitioners from the territory. By an eight to five majority the International Court gave the advisory opinion that it might do so, provided that the General Assembly was satisfied that such a course was necessary for the maintenance of effective international supervision of the administration of the territory. During January 1957 the General Assembly authorized the committee to grant oral hearings to petitioners; and evidence was then heard from the Rev. Michael Scott and from Mr. E. Mburumba Getzen, a South-West African studying at Lincoln University, Pennsylvania.

In February 1957 the membership of the special committee was increased from seven to nine. Its chairman said(8) that, much as the committee had tried, it had failed to obtain South African recognition of the United Nations' role in regard to the territory. The introduction of new elements would enable other countries to share in the present efforts.

Two further reports by this committee were published during 1957. In its third report the committee stated(9) that it had again been unable to escape the conclusion that conditions in the territory were for the most part — and particularly for the African majority — still far from meeting in a reasonable way the standards of either endeavour or achievement implicit in the purposes of the mandates system. Detailed criticisms were made. The committee gave its opinion that the situation called for close re-examination by the General Assembly.

In its next report, released in September 1957(10), the committee wrote of increasing political, social and economic pressures and restrictions on the vast majority of those living in the territory, and deplored what it described as the continued trend towards the deliberate subordination and relegation of these people to an inferior status. It referred, *inter alia*, to educational facilities, labour laws and regulations, and restrictions on freedom of movement.

The Union's policy, the committee considered, was to give paramount importance to interests of the European population, and its ultimate goal was the incorporation of the territory into the Union. The General Assembly was urged to consider immediate action to preserve the international status of South-West Africa pending its placing under international trusteeship.

(7) Senate. 21 May 1956. Hansard 15 cols. 3631/32.
(8) *Star* report. 14 February 1957.
(9) *Star* report. 7 December 1956.
(10) *Star* report, 3 August 1957.

At its 1956 Session, the General Assembly adopted a resolution asking the committee to study what action was open to the United Nations lo ensure that South Africa fulfilled all obligations assumed under the mandate pending the placing of the territory under trusteeship. It also asked the Secretary-General of the United Nations to explore ways for a satisfactory solution of the question and to take whatever steps he deemed necessary to that end.

A new course of action was decided upon by the General Assembly towards the end of 1957. By 50 votes to ten, with 20 abstentions, it resolved to set up a 'good offices' committee composed of Britain, the United States and one other member to be appointed by the President of the General Assembly, to explore with the South African Government the possibility of reaching an agreement which would continue lo accord to the territory an international status. Brazil was later appointed as the third member of the committee.

RELATIONS OF THE UNION WITH OTHER AFRICAN TERRITORIES

In the Assembly during May 1957, the Prime Minister said(11) that there was and must be room in Africa for countries which were under White domination as well as for other countries which were Non-White. In the ordinary course of events, as these countries developed, there would have to be contact between the various governments, which would increasingly have to co-operate and consult on matters affecting common interests. In the course of time there would have to be ordinary relations, and even diplomatic relations. But over-hasty action should not be taken. "Our own White population in South Africa will have to learn to realize this, and that is not something which one can just do overnight".

It was announced during December 1956 that a Division of African Affairs had been created within the Department of External Affairs, headed by a Senior Assistant Secretary (Diplomatic) with the rank of a Minister. Mr. Robert Jones, who was appointed to this post, represented the Union Government at the ceremonies in Accra when Ghana attained sovereign status.

The Minister of External Affairs said in the Assembly during June(12) that the general question of outside financial and economic aid in the development of emergent independent territories in Africa was primarily a matter for the countries concerned and for the metropolitan powers. "As far as the Union of South Africa is concerned, we naturally welcome any development on the continent of Africa . . . provided that no impediment will be placed in the way of South Africa's access to those markets. The territories

(11) 2 May 1957. Hansard 11. cols. 5219/20.
(12) Assembly, 10 June 1957. Hansard 20 *cols.* 7634/45.

to the north of the Limpopo are the natural markets for our large and expanding industries". The Minister added that he hoped South African industrialists would take greater pains than they had done in the past to secure a footing in those markets.

After talking of South Africa's active participation in the work of C.C.T.A. (the Council for Technical Co-operation in Africa) and C.S.A. (the Scientific Council for Africa), the Minister said that during his recent visit to New York he had held discussions with the Foreign Ministers of four of the African states; and he intended, during the Prime Ministers' Conference in London, to have discussions with the Prime Minister of Ghana.

An African representative of the Ghana Government visited the Union during November 1957 lo attend a meeting of the Maps and Surveys Committee of C.C.T.A. The Department of External Affairs gave him all possible assistance, its officials accompanying him wherever he appeared in public.