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UNION OF SOUTH AFRICA.

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# REPORT

OF THE

# COMMISSION OF ENQUIRY INTO RIOTS IN DURBAN

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*Issued by Authority.*

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# REPORT OF THE COMMISSION OF ENQUIRY INTO RIOTS IN DURBAN

TO

HIS EXCELLENCY, THE RIGHT HONOURABLE GIDEON BRAND VAN ZYL, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, DOCTOR OF LAWS, GOVERNOR-GENERAL OF THE UNION OF SOUTH AFRICA.

MAY IT PLEASE YOUR EXCELLENCY,

We, the undersigned, appointed by Commission under Your Excellency's hand, have the honour to report as follows:—

## I. THE TERMS OF REFERENCE.

The terms of reference of Your Excellency's Commission were:

“ To enquire into and report upon the events which led to and the causes of the recent riots in which Natives and Indians in Durban and vicinity were involved; and should the Commission find that the riots were preceded by strained relations generally between the said two racial groups, the causes of the strained relations.”

The terms of reference were published for general information in the *Government Gazette* and newspapers circulating in the Union. Interested persons and organisations were invited to give evidence before the Commission, as well as to state their views on the subject of the investigation, and the Press gave wide publicity to this invitation.

Your Commission sat at Durban and held 24 meetings, 22 public sittings and examined 146 witnesses.

We wish to put on record our appreciation of the able and energetic assistance rendered by the Secretary, Mr. B. C. v. d. Merwe, who took abstracts of evidence from and at the hearing led numbers of illiterate persons who were anxious to put their averments or points of view to us and, but for his help, would have been unable to do so.

## II. THE JURIDICAL STATUS AND FUNCTIONS OF THE COMMISSION.

At the very outset of our investigations we realised that there was a surprisingly widespread misconception as to the status and proper functions of the Commission. As the prevalence of this mistaken idea has a bearing upon the procedure adopted by us, and possibly upon the correctness of our conclusions, we consider it expedient briefly to state our views on the subject.

At the first session of the Commission a number of organisations intimated that they were prepared, through their representatives, to give and adduce evidence, but only upon a condition dictated by them, namely, that they be allowed, through their respective counsel, to exercise “ the right of cross-examination ”.

The exercise of this imagined “ right ” was refused, but the Commission intimated that it had no objection to the evidence of any individual witness or representative of an organisation being led by counsel appointed by such witness or to hearing argument presented by such counsel. Thereupon counsel withdrew, and the organisations concerned expressed their intention to abstain from giving or leading evidence before us.

The bodies which intimated, either verbally or by letter, that they were prepared to give evidence only on condition that they be allowed to cross-examine witnesses were the following:—

- (1) The Communist Party of South Africa, Durban District.
- (2) The Council for Asiatic Rights (Johannesburg).

- (3) The Joint Committee of the African National Congress and the South African Indian Congress.
- (4) The Indo-European Joint Council of Pietermaritzburg.
- (5) The Durban and District Indian Retailers' Association.
- (6) The Rope and Mat-workers' Industrial Union (Natal).
- (7) The Tobacco Workers' Union (Durban Branch).
- (8) The National Union of Tea and Coffee Workers (Durban Branch).
- (9) The Box Workers' Union.
- (10) The Chemical Workers' Union.
- (11) The Durban Indian Municipal Employees' Society.
- (12) The Brewery and Mineral Water Workers' Indian Union.
- (13) The African Commercial and Distributive Workers' Union.
- (14) The Natal Food and Canning Workers' Union.
- (15) The South African Fin Workers' Union.
- (16) The Paint, Polish and Varnish Workers' Union.
- (17) The Natal Sugar Industry Employees' Union.
- (18) The Combined Native Advisory Boards of the City of Durban.

Other organisations originally withdrew, but subsequently altered their attitude and gave evidence before us.

Two basic fallacies underlie the attitude adopted by the recusants: first, they laboured under the misapprehension that the functions of the Commission, and consequently the procedure to be adopted by it, were those appertaining to litigation; secondly, they considered themselves at liberty to abstain from giving their testimony if so advised. Both notions are obviously incorrect.

Your Commission is not a creature of Statute. It was set up by virtue of the executive powers vested in Your Excellency-in-Council under the Constitution. In Proclamation No. 22 of 1949 it has pleased Your Excellency to declare that the provisions of the Commissions Act, 1947 (Act No. 8 of 1947), shall be applicable to this Commission of Inquiry, but that is not a constituent enactment—it is a measure “to make provision for conferring certain powers on commissions appointed by the Governor-General for the purpose of investigating matters of public concern”. It follows that British Royal Commissions of Inquiry provide a closer analogy to the present one than Tribunals of Inquiry set up under the provisions of the Tribunals of Inquiry (Evidence) Act, 1921 (11 Geo. 5 Ch. 7). In the proceedings of Royal Commissions no one has the right to appear except persons summoned or invited to testify, much less has any one a right to be represented by counsel or by counsel to cross-examine other witnesses. In fact, counsel are seldom present. Even in the proceedings of Tribunals set up under the Act of 1921 a tribunal “shall have power to authorise the representation before them of any person appearing to them to be interested to be (represented) by counsel or solicitor or otherwise, or to refuse to allow such representation”. (Section 2 (b).)

The proper function of a Commission of Inquiry is to find the answers to certain questions put by Your Excellency in the terms of reference. A commission is itself responsible for the collection of evidence, for taking statements from witnesses and for testing the accuracy of such evidence by inquisitorial examination—inquisitorial, that is, in the Canonical, not the Spanish sense. This Commission was charged with the duty of investigating the causes of the riots to the end that a recurrence be avoided, not in order that guilty persons may be punished. It is entirely within the discretion of the Commissioners whether they will permit representation by counsel or otherwise and whether they will permit cross-examination and, if so, to what extent. Where the actions of certain individuals come under close scrutiny who, as a result of the findings of the Commission, may be subject to prosecution or some other form of prejudice, a Commission may be well advised to permit cross-examination on behalf of such witnesses or other persons. To do so would be no more than a delegation of a certain portion of its functions or a vicarious performance of its duties under supervision and control.

Ours was not an inquiry of that kind. There was no triable issue before us, no plaintiff or defendant, no prosecutor and no accused person. To concede the privilege of cross-examination to certain organisations or persons and withhold it from others would have been arbitrary. On a superficial view it may seem equitable that the privilege should be accorded to those against whom accusations

or imputations are directed by witnesses; the Government, Ministers and ex-Ministers, the Corporation of the City of Durban and organisations representing the Indians or Natives, respectively. A moment's reflection will serve to disclose the visionary nature of such a course. The individual Police Officer against whom damaging allegations are made by a witness may be more directly prejudiced thereby than the Government in power or even the State; an organisation representing, say, Indians may be more concerned with the attainment of its political objects than with the sufferings of a humble member. If we had permitted cross-examination there would have been a host of cross-examiners with varying degrees of skill in handling that weapon. In some instances counsel who appeared before us and who were most insistent that they be allowed to exercise the "right" of cross-examination were exceedingly lame in the simple proceeding of examining or leading a witness upon abstracts of evidence previously taken. To allow some to cross-examine would have been arbitrary discrimination; to allow every one to cross-examine every other witness would have been like setting upon each other a rabble of inexpert swordsmen in a dark room. There would have been much noise and no light. There would have been no gain in truth, and our sittings would have lasted an unconscionable time.

Those who pressed for "the right" of cross-examination relied upon the similarity between a Commission of Inquiry and litigation. We have pointed out one respect in which the analogy is false; there are many others. In litigation the parties who may be affected are predetermined in the pleadings. The issues are crisply raised and succinct. From the nature of our task it follows that there could be no initial joinder of issues between determinate parties. To render the analogy plausible one would have to postulate litigation in which the issues are kept fluid and in which potential parties have practically unlimited rights to amendment of pleadings and intervention.

For these reasons your Commissioners came to the conclusion that to allow the cross-examination of witnesses by witnesses was not practical or feasible.

### III. RESULTS OF THE PROCEDURE ADOPTED.

Your Commission was empowered to summon the recusants as witnesses and would have done so if by such a course any useful purpose could be served. At the end of our sessions it became abundantly clear to us that nothing would be gained by compelling their attendance and examining them.

From the admitted reasons for their conditional tender of evidence and subsequent abstention it is clear that their aim was not to uncover the truth and establish facts, but to make propaganda—not to shed light, but to engender heat. Some of the organisations concerned are domiciled far from the scene of the trouble. If the causes of public disorders may be determined by abstract reasoning, Commissions of Inquiry would be superfluous. In the circumstances your Commission did not consider that it was called upon to serve as a sounding-board upon which noise could be made, both here and abroad. It is significant that Dr. Lowen, the most ardent claimant of the right to cross-examine, represented the Joint Committee of the African National Congress and the South African Indian Congress, two organisations each of which purports to have at heart the interests of one of the two sections between which the clash occurred. His rôle of cross-examiner would have been no enviable one. It is not surprising, therefore, that he sought the causes of a collision between the two not in the movements of either or both—not in the contacts between the two sections or the relations between them—but in external events.

We are satisfied that the abstention of the recusants has been no loss. Numbers of reliable witnesses came forward to give evidence. If we had to forego the doubtful advantage of receiving the evidence of theorists and the ideological dogmatists, we had the assistance of eye-witnesses and persons with first-hand knowledge of the subject of our investigation. Those who gave evidence before us represent a fair cross-section of the community; a Senator representing the Natives; the Mayor of Durban and officials of the Corporation; officers and men of the South African Police Force; Native Commissioners; representatives of the Natal Indian Organisation; spokesmen of the Indian Bus Owners and of the Indian Transport Employees' Union; Native Chiefs and Headmen and a number of individuals, Europeans, Natives and Indians, including a number of Natives who had been convicted of offences committed during their participation in the riots. We heard a Professor of Economics who had made a close study of conditions in Durban and its environs before the riots, students of race relations, ecclesiastical dignitaries,

and illiterate eye-witnesses. In the result, we are satisfied that we have gained as clear an impression of the disorders and their causes as is humanly possible.

#### IV. THE RIOTS.

On the 13th January, 1949, at about 5 p.m., the disorders broke out as unexpectedly as a bolt from the blue. We are satisfied beyond doubt that everybody concerned was taken by surprise and that no one had reason to anticipate the riots. The rare witnesses who alleged that the disorders were premeditated or that the Police had been warned but turned a deaf ear to these warnings, was either wise after the event or simply lying. Responsible and credible witnesses belonging to all sections of the community are agreed that the outbreak of the riots came as a complete surprise.

On the day and hour mentioned thousands of Natives and Indians were congregating at the Victoria Street Bus Rank in Durban and at the Berea Road Railway Station nearby, in order to proceed by train or bus to their homes in the suburbs and the peri-urban areas of Durban. A Native youth was assaulted by an Indian adult in circumstances to be described later. Bystanders took sides on racial lines and soon a free fight developed. Numbers of Indians mobilised to attack the Natives, and hordes of Natives strained at the leash to get at the Indians. The Police were on the scene promptly and succeeded in separating and dispersing the mobs. In the meantime sporadic fights took place. At this stage violence was not one-sided; assaults led to reprisals and provocative action. Indian men and women took up positions on the balconies and from this safe point of vantage hurled brickbats, bottles and other missiles upon the heads of the Natives below. At this stage the disturbance was confined to the Indian centre. By 11 p.m. order had been restored, but ominous quiet supervened, during which the "grapevine telegraph" played a fateful rôle. As the non-Europeans dispersed to their homes, garbled and alarming accounts of the day's happening were disseminated. In the peri-urban areas the story went that the Native youth had been done to death in a brutal manner by the Indians, that he had been decapitated and that the Indians had placed his head in a Mosque, whence they refused to yield it up for burial. In reprisal Natives began to stone Indian-owned buses at Cato Manor and Clairwood. Further afield runners brought news that the Indians in Durban had "finished off" all the Natives in the city, and Natives leapt to arms intent upon doing likewise by the Indians in their immediate vicinity. Only with difficulty were they restrained by their Chiefs and Headmen from marching on such an enterprise. Ultimately order was restored throughout the Durban area.

It seems that during this lull much discussion must have taken place among the Natives, for on the next day they evinced a marked change of mood. On the 13th they had been roused to sudden anger, but many had taken the occasion merely to indulge in rough horseplay. Now they added up the wrongs, real and imaginary, which they had suffered at the hands of the Indians and when fighting broke out afresh shortly after mid-day on the 14th in the Central Police Area, the Natives were generally the aggressors and they attacked with increased ferocity. They now gave expression to a definite aim; to be rid of the Indian once and for all. When the Police dispersed bands of Natives the latter cried: "Our fight is not with you but with the Indians; you prepare the ships, we will see to it that they embark—in two days there will not be a single Indian left in the country!"

The violence spread and gained momentum. The mobs of Natives swelled into "impis" chanting the Zulu war-cry and indulged in bestial orgies. Major Bestford, the District Commandant of the Durban area, describes the situation which now developed in these words:—

"Houses were now being burnt by the score, all in the vicinity of Booth Road. Almost all the Indians not evacuated from this area were either killed, burnt to death or left dying. While the men were clubbed to death, Indian women and young girls were raped by the infuriated Natives. This state of arson and looting continued throughout the night and when further Military and Naval reinforcements arrived many instances occurred where the forces had to resort to the use of firearms to protect life and property."

On Saturday, the 15th January, further Police and Military reinforcements arrived from various centres in the Union and by that evening, save for sporadic outbreaks of violence, the situation was quiet. The incidence of the occurrences dwindled, and by the 17th everything was normal—superficially at least.

There are significant features in the course taken by these disorders. In the beginning the Natives desired to "punish" Indians. They directed their attention

to the persons of their adversaries rather than to property. But public violence thrives by feeding upon itself; by indulging in barbarous chants and deeds the Natives worked themselves into a frenzy—they no longer desired to hurt but to kill, to destroy the Indian and all that belonged to him. Another significant feature is that at the commencement of the riots the Indians were a fighting faction. After Native violence had been quelled by the forces the Indians again became truculent, provocative and aggressive. But while the disturbances was at its height they were pathetically passive and allowed themselves to be slaughtered like sheep. The Police had to break down their doors to get them out of their homes and take them to places of safety, but on the 16th, when the authorities had restored order, numerous reports were received of assaults by Indians upon Natives.

## V. THE CASUALTIES AND THE DAMAGE.

(a) *The casualties* during the riots were:

*Deaths*: 142 (1 European, 50 Indians, 87 Natives and 4 individuals whose race could not be determined).

*Injured*: 1,087 (32 Europeans, 11 Coloureds, 541 Natives and 503 Indians; of the injured 58 died).

(b) *Damage to Property*:

*Buildings destroyed*: 1 factory, 58 stores, 247 dwellings.

*Buildings damaged*: 2 factories, 652 stores, 1,285 dwellings.

It is clear that during the riots an immense amount of movable property was looted. It was not the duty of the Commission to assess the damage sustained, but it soon appeared to us that it would be extremely difficult, if not impossible, to arrive at an approximately accurate figure. Witnesses who gave evidence as to the extent of their losses were obviously motivated by the hope that they would be compensated. As a result they were inclined grossly to exaggerate. It is clear, however, that many were ruined.

Indian witnesses averred that the disturbances were not riots but a massacre in which the Natives were the aggressors and the Indians passive sufferers. From what we have already said it is clear that this allegation, though perhaps true of the peak period of the disorders, is in general incorrect. 87 Natives died in the riots, 35 as the result of gunshot wounds. Some Indians are known to have used firearms against the Natives. It was suggested to us that all the Natives who died as the result of gunshot wounds were killed by Government Forces in restoring order. This is not true. Some deaths were caused by firearms of different calibre from those used by the various Forces. 18 Natives were stabbed to death, and a number died of injuries received in the riots rather than in the suppression of the disturbances.

## VI. THE IMMEDIATE CAUSE OF THE RIOTS.

The spark which caused this tragic explosion was almost ludicrous in its insignificance. If one sifts the obviously perjured evidence, the probable facts appear to be these. A Native boy, 14 years of age, had words with an Indian shop assistant, 16 years of age, and slapped the latter's face. The Indian youth lodged a complaint with his employer, also an Indian, who came out of the Indian Market into Victoria Street and assaulted the Native boy. In the tussle the Native's head accidentally crashed through the glass of a shop window, and in withdrawing it the boy received cuts behind the ears, which caused the blood to flow. Unfortunately, this happened at a time when, as we have described, a mass of Natives and Indians had congregated in quest of conveyance to their homes. The Natives saw an adult Indian assaulting a Native child and they saw blood. That was enough. They went berserk and attacked every Indian within sight.

Actually the victim of the initial assault suffered no serious injury. He was taken to hospital, where his wounds were stitched, and he was allowed to go home. It is extremely unlikely that his assailant intended to do him serious injury. The Indian was subsequently tried on a charge of assault with intent to do grievous bodily harm, but was convicted of common assault and sentenced to pay a fine of £1 or to suffer imprisonment with hard labour for 7 days.

## VII. ALLEGED CONCOMITANT CAUSES.

Public disorders break out, run their course like fevers and come to an end either by being overcome or by destroying their host, the State. Owing to negligence on the part of the authorities, a foreseeable and preventable disturbance may occur; because of further neglect an outbreak of insignificant proportions may degenerate into riots with consequences of national importance. Again, partisans in the disturbances may be aided and abetted by the authorities or by other instigators, and a small flame may thus be fanned into a serious conflagration. For lack of a better word we call such causative factors "concomitant causes". A number of these were suggested to us:—

(a) *Neglect on the part of the authorities to prevent the initial outbreak.*

It is abundantly clear that prior to the riots the Police had no reason to believe that the relations between Natives and Indians were otherwise than cordial. Responsible Indian witnesses, to suit their case, laid great stress on their assertion that this was indeed so. The riots came as a complete surprise to mixed organisations, such as the Institute of Race Relations. On the face of it, everything was quiet in Durban. To suggest that the authorities are to blame for failing to prevent the initial outbreak is to reproach them with not having powers of divination.

(b) *Failure of the Police to repress the initial outbreak with vigour.*

It is easy to be wise after the event. When the outbreak occurred on the 13th of January, the Police were on the scene promptly and did everything in their power to quell the disturbance. It must be remembered that at this stage those who took part in the disorders were not organised gangs occupying different, and defined, localities in space. The disturbance occurred in public thoroughfares crowded with people, in which fights broke out here and there at different spots. If the Police had had recourse to greater violence than the occasion seemed to demand, they would have injured numbers of persons who were entirely innocent. If they had resorted to firearms, the very Indians who now complain of their lack of action would have joined the outcry against the unnecessary slaughter of non-Europeans. A Native eye-witness described this phase of the riots in the following words: "In a way the fight was like many others between the two sections; the only difference was that on this occasion the Africans showed unity and determination." We are satisfied that the Police acted with promptitude and discretion, considering the unexpectedness of the situation which developed and the forces at their disposal.

(c) *Failure of the Police to foresee the possibility of a renewal of hostilities on the 14th.*

After the initial outbreak of disorders on the 13th had been quelled, quiet supervened. It was suggested to us that during this interval an attack by Natives upon Indians to be delivered the following day (14th January) was deliberately planned; that the Police had been warned of the impending attack, but took no notice; that Natives were openly circulating pamphlets announcing the impending disorders. After the riots, allegations of such lethargy and obtuseness on the part of the Police appeared in certain sections of the Press.

The Natal Indian Organisation did everything in its power to prove the truth of these allegations. It had two months in which to gather evidence and present proof of its contention, yet failed utterly to do so. Mr. Pather, Secretary of the Natal Indian Organisation, and one of its spokesmen before us, alleged that even after the riots pamphlets heralding new outbreaks were in circulation. He undertook to produce a copy, but failed to do so. The person who is alleged to have given the Police a fruitless warning could not be produced or traced. It was seriously suggested that he failed to come forward because of his objection to giving evidence without being cross-examined. We have no doubt that Mr. Pather spoke what he thought to be the truth, but it is clear that he was misled into making his allegations by stories gained from irresponsible rumour-mongers.

These stories may have had their origin in a whispering-campaign started by the Natives. A Native witness, M. E. Masuku, alleged that "word went round

that there would be a united attack on the Indians on the Friday afternoon. Most compounds got this message. It is evident, therefore, that the Friday riots were planned."

We are satisfied that the truth lies somewhere between the two allegations. No inciting pamphlets were in circulation. In fact, evidence was tendered that during our sessions individual Indians attempted to bribe Natives who had access to a printing press into forging such pamphlets. We did not consider evidence as to the conduct of irresponsible individuals long after the riots relevant and rejected it. Nobody warned the Police, as no one expected a resurgence of the riots—not even the Indians themselves. If they had, they would not have been caught by the Natives, scattered and exposed. We do not believe that the orgies which ensued were planned by the Natives. We believe that the Natives discussed their grievances amongst themselves and determined to renew the fight against the Indians.

Nothing has been placed before us to show that the Police had, or should have had, reasonable grounds for believing that there was a likelihood of the Natives reverting to utter barbarism on the 14th. Experience of recent events in that area would not have justified such expectation.

*(d) Failure of the Police to use tear gas.*

This charge was levelled at the Police by Indians, Natives and the representatives of mixed Societies. In fact, tear gas was issued to the Police. It is obvious that tear gas may be effective in a confined space or upon a rabble locked in a struggle, and therefore more or less static. To use it effectively the user must be able to get at his objective. The Natives proved to be a very elusive target on the 14th. At the approach of the Police they scattered, only to reform somewhere in the rear. The terrain over which the Police had to operate in the peri-urban areas lent itself admirably to the Native tactics; undulating country covered with bush and plantations, intersected by winding and indifferent roads.

*(e) Failure of the Police to put down the renewed outbreak with vigour.*

The lot of the South African Policeman is not an enviable one. If he acts with circumspection in the face of a crisis, he is reproached with having been remiss in his duty. If he acts with vigour he is liable to be charged with murder or culpable homicide. Even in the case of riots in which there is killing and destruction of property it is enjoined by the Riotous Assemblies and Criminal Law Amendment Act, 1914 (Section 5 of Act No. 27 of 1914, as amended), that in order to disperse the rioters firearms or other weapons likely to cause serious bodily injury or death shall be used with all reasonable caution, without recklessness or negligence, "and so as to produce no further injury to any person than is necessary for the attainment of the object aforesaid". It is significant that the critics who now blame the Police for having been too gentle with the Native rioters are the very persons who, a couple of years ago, raised their hands in horror when the Police quelled incipient riots on the Rand by applying a modicum of force.

On the 14th of January the District Commandant of Police had at his disposal at Durban 11 officers, 460 European other ranks, and 504 non-European Police. Of these, 8 officers, 214 Europeans and 203 non-Europeans were engaged in the Central Area. It is to be remembered that the wild orgies to which we have referred occurred mainly in the peri-urban areas, where Indian houses are scattered over an enormous extent of country and where the terrain, as we have explained, renders Police operations extremely difficult, especially at night. If Major Bestford had employed his non-European Police actively in quelling the riots, they would in all probability have taken sides promptly and aggravated the disorders. He wisely determined to utilise these men only for guard duty on broken premises and for guarding shops in the shopping centre. In the circumstances the Police did what they could to protect property, but concentrated on saving life. They collected thousands of Indians and convoyed them through dangerous places to safety.

As one may readily understand, Indian witnesses in particular were bitter in their stressing of this complaint. Each observed the Police operations from his particular refuge and expected that at least a platoon should be posted on his

doorstep. To him it meant nothing that disorders and fires were breaking out all over the landscape and that the Police were hard-pressed. Mr. G. H. Calpin, the well-known author and journalist, who impressed us as a keen observer and who gave valuable evidence before us, stated in regard to the complaint that the Police were too few to deal with the looters:—

“ This last statement requires qualification. In every crisis of war, of famine, of plague, authority is always accused of failure. ‘ Too few and too late ’ is a common criticism. The men on the beaches of Dunkirk felt that the Air Force had failed them, despite the fact that every available machine was used in desperate defence of these men. In a word, in a crisis, the authority, be he the policeman or the doctor, is always too slow by the reckoning of the victim or the patient. The police in Durban in fact were too few and too late.”

Since none of the critics foresaw the riots, it is not remarkable that the Police were too few and too late.

The Mayor of Durban was, as far as this complaint is concerned, an impartial witness. He was in a position to survey the situation as a whole, and was an eye-witness to the successive stages of its development. He maintains that in the circumstances the Police did all that was possible, and we accept his evidence.

Often Indians themselves, as well as others, hampered the Police in putting the limited forces available to the best use. They panicked and frequently saw danger in situations which did not require Police attention. The result was that the Police were inundated with false alarms. These could not be ignored and each had to be investigated in force, often at great distances from the City. Consequently, the available forces were frittered away upon foolish quests.

*(f) Ruthlessness in putting down the riots.*

From other sources came the complaint that the Police and the auxiliary forces acted ruthlessly in quelling the disorders and took an unnecessary toll of life. This charge is hardly worth serious consideration. The Police, as we have said, acted with circumspection. In each case where the military or naval forces were called upon to act they were accompanied by experienced members of the Police Force who had knowledge of the requirements of the law relating to the suppression of riots. We are satisfied that no greater force was employed than the exigencies of the situation demanded.

*(g) Encouragement of the rioters by the Police.*

Allegations were freely made that the Police actively encouraged Native rioters to kill Indians or loot their property and that by adopting a passive attitude when crimes were being committed in their presence or when the commission of such crimes was brought to their knowledge, they exposed Indians and Indian property to the violence of the mob.

The Natal Indian Organisation was very anxious to establish these allegations and the Commission made every effort to probe them in order that the guilty persons, if traced, should be punished and discharged. The evidence adduced was either vague and unsatisfactory or direct and obviously perjured. One Indian witness swore that when he complained to the Police that his property had been looted, they refused to take a statement from him and did nothing. Upon investigation an affidavit furnished by the witness to the Police was produced. It was proved beyond reasonable doubt that the Police had acted with energy against the looters and had them prosecuted to conviction; that after the riots the Police had made every effort to assist the witness in recovering his property. Notwithstanding the fact that the witness took part in the proceedings, he was prepared, upon oath, to allege that the Police had remained supine. This instance is typical of the kind of evidence upon which these charges against the Police are based.

An English immigrant, who had been in the country seven months, swore that in the tumult of the riots and from a distance of 60 yards he heard a Policeman saying to Native rioters: “ Kill the Coolies ”. He heard too much. He heard and understood exchanges of words between Zulus during the disturbances—words which one Zulu would not use to another. He gave one version of the events to the Indian Press, and another in evidence. When, as a result of his communication to the Press, the Commission attempted to secure his evidence he proved a most elusive witness, alleging that he feared victimisation. Yet on the last day of the

hearing he was produced as a witness by the Indian Organisation, and gave his evidence in public without *sub-poena*. According to his statement to the press, he spoke to several Natives who had taken part in killing innocent men, women and children and who had burnt their houses. According to his own statement, he must have been aware of the identity of some of the Natives who had committed murder and arson. When interviewed by the Police, however, he refused to give any information, on the plea that the Police were prejudiced against the Indians. We have no hesitation in saying that the evidence of this witness was a tissue of lies.

The Natal Indian Organisation was hard put to it to produce proof of incitement by the Police. The following is a typical example. A press cutting was produced which, it was said, had appeared in a paper abroad. It contains a picture showing a ricksha boy with a startled expression on his face looking round at a policeman. In front of him on the ground lies a cash register. Beyond him there is a policeman with his back to us, but in the act of turning round and apparently shouting a command. The original caption in the newspaper read: "Embarrassed looter drops cash register as policeman swings." The Indian Organisation has supplied a new legend which reads: "This photograph illustrates the attitude of policeman to law-breaker and law-breaker to policeman. The expression on both faces is not one to easily convince people that the policeman is in serious determination to apprehend the looter, or that the looter really fears the policeman. It gives the impression that the affair is a great joke."

Our attention was directed to news items appearing in papers abroad and emanating from correspondents who remained nameless. These items evinced similar traits in their authors: irresponsibility and lack of sense of proportion. Indian witnesses sought to rely upon these items in support of their charges against the Police. We are satisfied that the allegations are without foundation.

(h) *Incitement by European civilians during the riots.*

We consider it as established that when the rioting was in progress certain Europeans actively incited the Natives to further acts of violence, while others encouraged them by their presence and attitude. It would appear that such conduct on the part of Europeans relates to the initial phase of the disorders, when the Natives contented themselves with assaulting Indians and breaking windows. We have no evidence of Europeans lending countenance to the Natives when they had recourse to murder, arson and rape.

Mr. Calpin, a reliable observer, describes the conduct of the Europeans during the first phase of the riots in these words:—

"There was a tragi-comedy atmosphere about the affair, with heavily uniformed policemen trying to disperse groups of brawlers, with the 'coons' chasing the 'coolies' and the 'cops' chasing the 'coons'. There was more laughter than terror, as a study of the full photographic record shows. Wittingly or unwittingly, the European as a spectator, a spectator who could do little else than be convulsed at the spectacle before him, was a direct incitement to the Native brawlers. Natives love a European audience."

Of the second phase, during which the riots increased in viciousness, this witness observes:—

"The majority of the Europeans took no active part in the incitement of Natives. Theirs was a passive rôle, but it was a passive rôle having the most powerful positive consequences. The feeling was, and still is, very strong and articulate that Indians deserved what they got, and this feeling at the same time, and more especially since, was translated to the Native mind."

Unfortunately there were Europeans who actively incited the Natives to deeds of violence against the Indians. One witness, Mrs. Singh, whom we believe, stated that at one point near her home a number of European women urged the Natives on to "hit the coolies!" Thereafter they went dancing up the street with the Natives. The pictorial record shows Europeans actively inciting the Natives, or evincing all the signs of enjoyment at their excesses. During times of civil commotion one sees the same kind of expression on the faces of spectators in Chicago, London or Paris. Most people love sensation and a spectacle; to impute racial antagonism to those who like to watch any commotion would be to lose perspective. We are satisfied, however, that the type of European who actively incited the Natives to violence were rare exceptions. To any one acquainted with social conventions in South Africa it must be clear that the women who went dancing up the street were degraded specimens of their race.

## VIII. ALLEGED ANTECEDENT CAUSES.

After dismissing friction arising out of contacts between Indians and Africans as a probable cause of the riots, Dr. Lowen, who represented the Joint Committee of the African National Congress and the South African Indian Congress, advanced the following contention:—

“ We want to prove that horrible slum conditions, for Indians and Africans alike, are at the bottom of this to a certain extent. We want to prove that racial antagonism, racial hostility, racial hatred, has been propagated for years by the Government which held office prior to the present Government, and has been continued by the present Government ever since this Government has been in power. . . . We want to prove that speeches made by Ministers of the present Government, by the Prime Minister, Dr. Malan, by Dr. Dönges, by Mr. Schoeman, by Mr. Swart and Mr. Jansen, those speeches had the effect of propagating hatred in the European and in the Native; and we want to show that with all this working up to hostility there was a great likelihood that explosion may take place, and there was a great probability that these things may occur.”

(a) *Statements made by politicians.*

Our attention was directed to news items appearing in the press during a number of years prior to the riots, reporting some lamentable speeches made by politicians. One Senator went so far as to state that, were it not for the danger of being prosecuted for murder, shooting would be a solution of the Indian problem. In a country with so many racial problems as South Africa public speakers should be moderate and cautious in their utterances. On the other hand, Indian spokesmen are inclined to regard all resistance to their demands, whether reasonable or unreasonable, as the propagation of racial animosity.

It is significant that the allegation that political speeches were the real causes of the disorders emanated from the intelligentsia; from intellectuals and from the representatives of Indian and mixed organisations. Their argument runs as follows: political speeches reported in the newspapers filter through to the Natives. The latter gained the impression that the authorities were hostile to the Indian and would like to be rid of him. Consequently they thought that in the extirpation of Indians the Europeans and the authorities would be their allies and that they could murder, loot and destroy with impunity. Superficially the inference seems plausible.

We think there is wisdom in the caution to which Mr. Calpin gave expression in his evidence:—

“ One of the great dangers every time a European enters the field of Native reactions is that he brings to it a European analysis. He projects European standards and European emotions into his study. He looks for causes that account for a strike among European workers. And he is apt to be led into all manner of considerations and ends by imposing his own causes upon a foreign situation. And when he is actively interested, and not merely a passive spectator, he imposes causes which suit his case. The Indian, as the victim of the riot, is constantly in danger of doing the same thing, arguing from his hurt that the causes are this and that outside himself.”

The Indians, in the hope of receiving compensation, were anxious to place responsibility for the riots squarely on the shoulders of the Government. The intellectuals and the representatives of the mixed and benevolent organizations merely theorized and rationalized. We made every attempt to elicit reliable evidence which could establish a causal connection between the public speeches complained of and the riots, but were unable to do so. We took a fair cross-section of Natives who have been convicted of offences during their participation in the riots; it was carefully explained to them that they were serving sentences for their misdeeds and that they had nothing to hope or fear from the investigations of the Commission. From their evidence it is clear that they were not motivated by outside influences; that they fully expected to be punished for their participation in the riots but were nevertheless prepared to accept the risk of punishment in order to settle their score with the Indians. Some said openly that the riots were merely payment on account and that they would welcome an opportunity in the future to liquidate the debt.

If the Native had thought that the European would be his ally or that the authorities would allow him to “ liquidate ” the Indian without being interfered

with, one would have expected disillusionment on his part and a sense of having been betrayed. There is no vestige of such a feeling among the convicted prisoners. The only ground for resentment we discovered was the naïve complaint that the authorities interfered when Natives had an opportunity by looting to recoup themselves for losses sustained at the hands of the Indians.

(b) *Slum conditions.*

There is some truth in the allegation that the slum conditions in which many Natives live have a bearing on the subject of our inquiry; but it bears from a different angle from that suggested by the organizations referred to. We deal with the question in the section relating to causal factors inherent in the situation.

(c) *A feeling of frustration on the part of the Natives.*

It was suggested to us by a number of individuals and organizations that the principal cause of the riots was a growing sense of frustration and despair in the Native. Mr. Somers, President of the Briardene Ratepayers' Association, called it "General frustration in the African mind caused by unemployment, bad housing, lack of amenities and disruption of family life". Mrs. Asher, on behalf of the National Council of Women, considered that "We feel that we Europeans have been very neglectful of our trusteeship" and continued:

"But the outstanding fact which we can see at a glance is that a sense of frustration and resentment has been simmering for years and that the majority of Natives live in a state of ignorance and hopelessness, poverty-stricken, diseased and exploited on every side."

It is significant, however, that this idea emanates from the intellectuals. It is surprising, that the type of Native who took part in the riots is in general quite satisfied with the housing available to him, with the amenities he can enjoy and with the "disruption" of his family life, for this last is in accordance with his tradition. The young Native issues from or is sent out of his sept in the reserve to earn wages and does not as a rule marry until he is about 30 years of age. If married, he would not want his wife to live near the urban area, and this for two reasons: first to retain his footing in the tribal area and organization and, secondly, in order not to expose his wife to the corrupting influences of the city. When this aspect of the case was pointed out to these organizations we received the reply that a frustrated child rarely knows why his conduct is anti-social. Our forefathers, less given to self-questioning than is fashionable in this age, would probably have called this "frustration"—in children as well as in Natives—lack of discipline and would have found a summary remedy. In our opinion many of these organizations confuse cause and effect; they are continually drumming it into the Native's ears that his is unhappy and suffers many grievances. It would be surprising if he does not become discontented and does not get out of hand.

There is an element of truth in the suggestion, however. The Native does suffer a sense of frustration, but it has different origins to those suggested and operates in a different manner.

## IX. THE CAUSES OF THE RIOTS.

"Concerning the materials of seditions, it is a thing well to be considered—for the surest way to prevent seditions (if the times do bear it) is to take away the matter of them; for if there be fuel prepared, it is hard to tell whence the spark shall come that shall set it on fire."—*Bacon*.

The assault committed by an adult Indian upon a Native child was the spark which started the conflagration, and the circulation of false rumours fanned the flames until they erupted with explosive force. But for the presence of all the combustible material, the initial spark would have expired harmlessly. The factors which rendered the situation dangerous were the following:—

- (a) Increasing lack of discipline on the part of the Native.
- (b) Bad precepts and bad examples.
- (c) The character of the parties to the riots.
- (d) Increasing tension between the Indians and the Natives.
- (e) Unsatisfactory local conditions.

*(a) Increasing lack of discipline on the part of the Native.*

It is apparent that urban Natives in the mass are increasingly given to lawlessness and are ready to take the law into their own hands. The Durban riots provide this, but instances were not lacking before the disorders. A tram-driver would stop his tram to remove a drunken Native lying on the tracks; a mob of Natives would jump to the conclusion that the Native had been run over and would proceed to stone the tram and assault the driver. If they dislike an increase in fares, even in Native-owned and Native-operated services, they readily resort to violence. With Natives a strike or a simple collision in the streets may easily develop into serious riots. If the disorders are put down with determination, there is always an outcry in this country and abroad, which reacts harmfully upon the Native mind and is calculated to unnerve those charged with the duty of preserving the public peace.

*(b) Bad precepts and bad examples.*

“ Libels and licentious discourses against the State, when they are frequent and open; and in like sort, false news often running up and down to the disadvantage of the State, and hastily embraced, are amongst the signs of troubles.”  
—*Bacon*.

Certain sections of the Indians have attempted to unite the Natives and the Indians into a united front against the Government, and have in doing so not scrupled to invoke assistance from abroad and there to disseminated distorted and malicious accounts of South African conditions and events. In the process they caused a feeling of unrest and dissatisfaction to stir amongst the Natives, always a dangerous course with a section of the community not yet ripe for responsibility. In the result the Indians were hoist with their own petard.

In the recent passive resistance movement in Durban the Indians ostentatiously contravened the law of the land, attracting as much attention as they could to the fact that they were flouting authority. The example did not escape the notice of the Natives. Responsible and moderate Indian witnesses admitted the causative connection of this example; others were inclined to resent the idea that their trespasses in the exercise of “ self-suffering ” and the use of “ soul-force ” should be compared with the bestial excesses of the Natives during the riots. No such comparison was intended, and no excuse for the conduct of the Natives. But contempt for the law increases like a vice, and the effects of a bad example are not limited by the proportion or heinousness of the precedent. By using these high-sounding terms some Indian witnesses attempted to sublimate their bad example into a virtue. It is not. It is a method of prevailing over others, not by reason of any virtue inherent in the person who practises it, but by reason of the virtues known to be possessed by the adversary. It is survival because of the virtues of others. The method proved successful elsewhere, but not because of its transcendental spirit. You could lie on the rails and stop all railway traffic, not because you were brave unto self-immolation, but because you knew that the Englishman is a gentleman and will not drive over human flesh. Shorn of its quasi-philosophical trappings, passive resistance in Durban was defiance of the law and of constituted authority; it set the Natives a bad example.

*(c) The character of the parties to the riots.*

It is not fashionable these days to speak of racial characteristics; the discernable differences are attributed to such factors as environment, especially economic conditions—to ghettos rather than to genes. Whatever their explanation, there are certain racial characteristics which played an important part in the riots. As on the whole the Native was the aggressor, we are more concerned with the traits which he exhibits. These characteristics, combined with the stage of development to which the Native has attained, induce in him certain habits of mind.

In so far as one may generalize, the Native of Natal has a better physique than the Indian. Since their arrival in the country the Indians have tended to gravitate from the more strenuous forms of unskilled labour and to make a living in less arduous employment. The Indian has nimbler wits than the Native. Consequently the Native is inclined to assess merit in terms of physical strength and is inclined to have recourse to physical suasion. In trade, in industry requiring skill and in other ways the Indian tries to prevail by using his wits.

The Zulu is by tradition a warrior. The veneer of civilization which has come to him during his urban existence is but a thin covering. When this breaks under the stress of emotion—especially the emotion of a mob—he again becomes one of the braves of Chaka. One Native witness bluntly admitted: “When we go on the warpath it is our tradition to destroy the enemy root and branch; to kill, to loot and to ravish.” The practice of civilized nations is not much different, but it is sugared in nicer forms.

The Native is hostile to strangers merely because they are different; even to-day in the kraals the presence at a wedding feast of members of different septs of the same clan may easily cause the festivities to turn into a shambles.

The Native is inclined to observe a kind of *lex talionis*, a phenomenon we find in ancient Roman as well as in Germanic laws: an eye for an eye, irrespective of the culpability of the person who causes the loss of that eye. Where a drunken Native is killed by a bus and is himself entirely to blame for the accident, his friends have difficulty in understanding why the Indian bus-driver is not prosecuted or, if he is prosecuted, why he is not punished.

It took our forefathers many centuries before they could break away from noxal deduction, the vendetta and feuds according to which, when an inquiry was done to an individual, his whole clan was entitled to exact retribution before atonement was effected, and could exact it from all the members of the wrongdoer's family. A Native witness who had taken part in the riots stated his reasons: some years ago his sister-in-law was robbed and ravished by an Indian taxi-driver and his friends. Later, when on a lonely road, he was assaulted by some Indians. “In every Indian”, he said, “I see my assailants”. This attitude explains the reasons why the Natives, incensed, among other things, by the profiteering of the merchants, wreaked their vengeance upon a class of Indian which suffered in the same way and was as poor as or poorer than they themselves.

(d) *Increasing tension between the Indians and the Natives.*

It became apparent to us that prior to the riots tension between the Indians and the Natives was gradually but surely building up. The causes of this feeling of strain are many.

- (i) The Native has always regarded the Indian as a stranger; the mere fact that he was different roused hostility.
- (ii) With the expansion of industries during and since the war there has been a large influx of Natives into the urban and peri-urban areas of Durban. It was impossible to provide accommodation for all these Natives in separate Native locations. The result was that the Natives settled upon Indian-owned land. Slum areas grew up of which Indians were landlords, and the dwellings of these two races became confused and intermingled. Actually the Native was the newcomer, but he regarded himself as the son of the soil and the Indian as the interloper. Xenobiosis is rarely a peaceful phenomenon, and when the Native feels the discomfort of the situation he is apt to blame the Indian.
- (iii) Events in India had repercussions here. A certain type of South African Indian began to ride the high horse. The native thinks on colour lines, and could not understand why a man of colour should exact himself above his fellowman. This was actually the line of reasoning: “The Indian was introduced into this country as a labourer. Now we find we have to serve two masters. Our ancestors fought the Europeans and lost. We accepted the European as our master—we will not tolerate this other black master.” They keenly resented the air of superiority adopted towards them by the younger generation of Indians. Their comment upon the riots was: “The Indians dièd cruelly; but, oh, they had become so arrogant!”
- (iv) The rather strident propaganda conducted by a section of the Indian community irritated the Native. He said: “The Indians claim this country as theirs.”
- (v) *Rackrenting*: It was suggested that Indian landowners had taken advantage of the influx of Natives into Durban and the resulting shortage of houses to charge extortionate rentals. It is clear that this is a rationalized complaint; it came from the intellectuals and the organizations, rarely from the tenants. We examined a number of such leases and found the allegations to be without substance. Considering the values of land, the

rentals compared favourably with those charged in other cities where similar circumstances prevail. In fact, very often the Native is himself the rackrenter. He hires a plot of land from an Indian at a reasonable rent, erects a number of shacks and lets these to others of his race at considerable profit to himself.

- (vi) *Population trends*: The Native is seriously perturbed by the explosive fecundity of the Indian in Natal. He sees that the youngest racial group in Natal is growing the most rapidly and he fears that, because of the competition we shall refer to, the Indian threatens the future of the Native. The Native's reasoning is based on what he sees—every Indian household teems with children.

The Department of Economics of the University of Natal has for some time been engaged in a demographic and economic survey of the Province under the guidance of Professor Burrows who gave valuable evidence. This witness said:

“ The average annual percent increase in the Union's population groups between 1936 and 1946 are as follows:

European 1.35,  
Native 1.61,  
Coloured 1.63,  
Asiatic 2.52.

The difference between the relative growths of racial groups is of particular significance in Durban. In Durban the crude birthrate in 1945 was 43.78 per 1,000 among Indians and 19.89 per 1,000 among Europeans. Taking into account the natural rate of increase the deathrate was 25.9 per 1,000 for Indians and 9.34 per 1,000 for Europeans. One result of this difference is that the proportion of Indians under 15 years of age is almost double that of Europeans. Moreover, any improvement in incomes, nutrition, health and hospital services is likely to increase the Indian survival rate more than the European, and thus the size of Indian families at any rate for some time to come. . . . Perhaps the Native with his smaller family may also be getting afraid of the rapid increase in the Indian population.”

The professor's surmise is correct; Native witnesses before us gave expression to this fear in no uncertain terms.

- (vii) *Miscegenation*: The Zulu is race-proud and when Indian males interfere with Native women it rouses keen resentment in the Native. The Native argues in this way: the Indians have motor-cars and money; we, on the other hand, are poor. With his blandishments, motor rides and offers of finery and money, the Indian seduces our women, who give birth to Indian children. The seducer usually denies paternity and the duty of maintaining the duped girl as well as the bastard falls upon her family.

Responsible Indian witnesses conceded that miscegenation was taking place between Indians and Natives, but contended that this was to a certain extent going on between all racial groups. Other Indians sought to refute the charge by adopting a number of different attitudes; that the allegation was entirely untrue; that it is an afterthought invented by the Natives to justify their conduct in the riots; that the allegation was a malicious reflection on the chastity of Bantu women; that bastards of European parentage are passed off as Indians.

The allegation is no afterthought. Senator Brookes stated that before the riots this complaint came second in the order of frequency with which it was put before him. Complaints were continually being made to Native Commissioners, and resolutions by Native bodies recording this grievance were passed long before the riots. Individual Natives appeared before us; one deposed to his sister-in-law having been seduced by an Indian, another related the fall of another member of his family.

We are satisfied that the allegation is in substance true, but that Native witnesses have exaggerated the incidence of the evil. The exaggeration was not due to malicious intent but is indicative of the gravity of the sense of shock experienced by the Natives.

We have found this grievance to be one of the most powerful motives of anti-Indian feeling on the part of the Natives. If the provisions of the Immorality Act could be extended to illicit carnal intercourse between Natives and Indians it would in some measure repress this evil.

The Indian refutation, though justified in respect of the incidence of the evil, is specious. In the urban area one of the main causes of this situation is flat-life. Housemaids cannot find accommodation except in unsatisfactory surroundings in which they are exposed to temptation. In the country the desire for finery and the brighter amenities of life tempt girls away from parental care. Generally the sanctions of Native tribal organization are breaking down.

- (viii) *Treatment of Native passengers in Indian-owned buses*: There is a widespread feeling among Natives that they are being badly treated in the Indian-owned buses; that Indian passengers are given preference in regard to seats; that Native passengers are robbed by conductors who withhold change; that Natives are bundled or thrown out of moving buses when they dare complain; that Natives are frequently assaulted by Indian officials on the buses.

The Indian bus services cater for poor passengers at exceedingly cheap rates. It would be unreasonable to demand a first-class service at fourth-class fares. We are satisfied that irregularities have on occasion occurred on these bus services, but that the Natives have, by repetition and narration, grossly exaggerated the extent of their incidence. In a large measure we think this grievance is kept alive by Natives who are anxious to compete with the Indians in running bus lines.

In judging the substance underlying this complaint, one has to reckon with the workings of the Native mind. The law makes it compulsory to carry an axe in every bus for use in a case of a collision or fire. The Native sees the axe and argues: "There are no trees in this bus, nor is there wood to be chopped. Why does the Indian carry a chopper? Obviously to hack away at poor Native passengers who object to being defrauded of their change." This line of reasoning was actually submitted to us in evidence.

Respectable Indian passengers have also complained of receiving rough or inconsiderate treatment in these vehicles, but deny that there is discrimination. Native witnesses, again, have come forward to testify to their entire satisfaction with the treatment received over a number of years. In most of these buses the Native passengers are numerically superior; in some the ratio may be half and half. We doubt if an Indian conductor would dare to assault a Native in such circumstances. In regard to the withholding of change, Major Bestford said in evidence:—

"From time to time information has been received from various individuals, practically invariably Natives, of the difficulties on the Indian buses. These complaints are in regard to wrong or no change being given to passengers when an amount greater than the required bus fare was tendered. In many cases the complainants were the worse for liquor and could not make a coherent statement, and it is doubtful whether any conviction has resulted from these complaints. The number of cases handled in this district range from 7,500 to 10,000 a month, and it is very difficult to obtain the figures of these particular complaints."

In the Native mind this grievance played an important rôle during the riots. At Cato Manor the Natives vented their spleen against the buses at an early stage in the disorders. The importance of their grievances as a motive is not lessened by the fact that to a large extent it had a purely subjective existence.

- (ix) *Exploitation of Natives by Indian shopkeepers*: A fixed idea is prevalent among the Natives in Natal that for years they have been ruthlessly exploited by Indian merchants, and, whether based on fact or misconception, this idea has roused in them an intense feeling of resentment against the Indian.

Here again racial characteristics come into play. To the average Indian trader commerce is not a remunerated public service, but high adventure and a contest of wits. Without bargaining, haggling and other forms of circumventing the adversary, a sale loses much of its savour. To the Native, on the other hand, commercial callidity is plain fraud. Moreover, he is inclined to hoard up and cherish his wrongs. If he is under the impression that an individual has cheated him out of a shilling

two years ago, and again out of sixpence three months ago, he broods on these injuries, and, upon the slightest provocation, is likely to take vengeance upon that person or upon his kind.

The Native prefers to make his purchases at the Indian store, where he feels more at home than in the European emporia. In the European shop he is crisply asked: "Yes, Jim, what do you want?" and forthwith a sale is concluded, or fails to materialize. The European shop assistant is frequently unaware that, or indifferent whether, he has given grave offence. On the other hand, the Native is courteously invited into the Indian store. He buys a bread and gravely sits down to consume it. After half an hour's deep cogitation he makes a purchase, and after much further reflection, another. It is offensive to his dignity to be called "Jim"—"the baptism of the counter" he terms it—or to be rushed. In consequence he has more frequent contact with Indian than with European shopkeepers.

His complaint, however, is that when he enters an Indian shop in which there are a number of Indians and he himself is unattended by friends or witnesses, he is apt to be overcharged, given the wrong change or no change at all, or subjected to conditional buying in order to obtain what he wants. If he protests he is liable to be assaulted; if he complains to the Police a prosecution rarely materializes because there is not proof of his allegations.

We believe that there is much truth in this allegation. A number of credible witnesses have appeared before us and recounted their personal experiences. Indians not connected with trade complained to us that they had received similar treatment at the hands of Indian shopkeepers, but they were loth to give evidence for fear of reprisals. From the very nature of this practice it is obvious that prosecutions must be rare and convictions even less frequent; yet the figures of such convictions are revealing. In the Durban area during the two years ending 31st December, 1948, the following number of persons were convicted under the Price Control Regulations: for selling at excessive prices, 64 Europeans; 162 Indians; 21 Natives and 3 Chinese; for exposing goods for sale on which the prices were not marked, 10 Europeans; 95 Indians; 6 Natives and 1 Chinese.

A number of Indian "Merchant Princes" appeared before us and denied that sharp practice in commerce was the prerogative of any particular race. Obviously, it is in their interest to keep on good terms with the Natives and for them honesty is no doubt the best policy. It must be obvious, however, that the hired shop assistant or the small trader is not equally impressed with the importance of long-range policies, but is prepared upon occasion to sacrifice future goodwill to present gain.

We are satisfied, however, that the factual basis of this grievance has been exaggerated by the Natives. This is due largely to the Native's habit of communicating his grievance to his fellows, who take them to heart as if they were personal experiences and so make out of them a racial issue. Moreover, the Native had difficulty in understanding why the cost-structure should wax after the war had come to an end. To him the explanation was simple, and he attributed world economic trends to the rapacity of the Indian. Then, too, our involved system of price controls during the war years sorely puzzled the Native. We find that on this score anti-Indian feeling on the part of the Native was due partly to imaginary grievances. Nevertheless, when the assault upon the Native child acted like a trigger, the Native vented his pent-up feelings upon the Indian with explosive force.

- (x) *Economic competition between Natives and Indians*: During the last decade an industrial revolution has occurred in Durban and elsewhere in the Union, and this brought serious consequences in its train, social as well as economic. The immediate effects of such a change are usually unsettling. When old orders give way to new, the period of transition is apt to appear chaotic to the casual observer. With the influx of Natives as industrial workers into the cities, they are subjected to potent forces, disruptive as well as evolutionary. Economic forces may civilize more rapidly and thoroughly than the work of missionaries.

Large numbers of Natives have become urbanized very rapidly and, no longer satisfied with unskilled labour, are looking round for new fields of

endeavour in which to improve their position. They see the wealth acquired by another coloured man, the Indian, in these fields and see no reason why they should not do likewise.

(a) *Commercial competition.*—The Indian was first in the field and has a commercial tradition behind him. On the other hand, as Senator Brookes put it, “It is only very recently that Natives have emerged with the capital and business experience to hope to compete with the Indian storekeeper.” When the Native applies for a trading licence the premises in which he desires to conduct his business are frequently unhygienic and unsatisfactory. When the Indian storekeeper—usually through counsel—very naturally, raises objections on this ground to the acquisition of trading rights by his potential competitor, the Native regards this as further evidence of the Indian’s callidity and obstructive tactics.

From the figures relating to trading licences granted within recent years it would appear that the Native has no real grounds for complaint. It is the policy of the Native Affairs Department to give Natives preference in their own areas. No Native is refused a licence merely on the ground of proximity to an Indian store. He wants more, however; he demands that requirements based on hygiene should be waived in his favour and that Indian stores, legally opened and properly conducted, should be closed so that Natives can deal entirely with Natives.

Aspirations rather than real grievances lie at the bottom of this complaint, yet it serves as a powerful motive for inter-racial trouble.

(b) *Transport.*—Again, in providing communications, the Indian was first in the field, but the Native is ambitious now to enter into competition and to acquire a monopoly in respect of Native traffic. During recent years more licences have been given to Natives, and there are some very successful Native bus-owners.

The Native is not interested in trends, however; he merely considers the refusal of applications for the grant of motor carrier certificates made by Natives and attributes every refusal to the machinations of the Indian. During the period 1st January, 1947, to 31st December, 1948, the following applications were made by Indians and Natives, respectively, for certificates entitling them to engage in road motor transportation: For Durban, applications made by Indians in respect of buses, 105; carriage of goods, 117; taxis, 61. Of these 31, 102 and 46, respectively, were granted. For rural areas the number of applications were: 69, 100 and 54, respectively, and those granted: 35, 80 and 42. Natives made application for 2, 4 and 3 certificates, in that order, in respect of the Durban area and 65, 16 and 27 in respect of the rural area. Of these 0, 4 and 3, respectively, were issued in respect of Durban and 48, 12 and 17 in respect of the rural area.

The principal object of the Motor Carrier Transportation Act was to protect the railways against competition by motor vehicles plying along the roads. If Britain had protected the canals in which millions of money had been invested from the competition of the railways, history might have taken a different course. In any event, in our legislation the principle of protection was extended to safeguard the interests also of the established operator against the competition of newcomers. Accordingly, section 13 of Act 39 of 1930 (as amended) provides that whenever any transportation facilities in existence within any area or over any route are in the opinion of the Board or of the Local Board concerned satisfactory and sufficient to meet at a reasonable charge the transportation requirements of the public within that area or along that route, the Board or such Local Board shall not grant any motor carrier certificate in respect of any motor carrier transportation within substantially the same area or over substantially the same route in competition with the said transportation facilities. Before granting any application for a motor carrier certificate, the Board or the Local Board concerned shall, if the transportation to which the application relates can be co-ordinated with an existing railway, tramway, trolley bus or motor bus service and the Board is of opinion that the introduction of such co-ordinated service would be in the public interest, ascertain whether the undertaking operating that railway, tramway, trolley bus or motor bus service desires to introduce such a co-ordinated service, and if that undertaking does so desire, afford it an

opportunity of applying for a motor carrier certificate for the introduction of such a co-ordinated service.

As we have seen, the Indians were first in the field. Their services operate at a very small margin of profit. Naturally, therefore, when a Native applicant desires to make an inroad into an area which is already served by an Indian-owned service, or where the Indian concerned wishes to co-ordinate the proposed service with his own, the Indian protects the rights vested in him by Statute by protesting to the Board concerned against the issue of a certificate to the Native applicant. The Native does not understand the policy of the law. All that he understands is that he is obstructed by the Indian, and his blood pressure goes up. His impression is that the Boards—or the Government—give the Indian preferential treatment, and that the Indian secures this by bribery and corruption and by obtaining the services of shrewd counsel whom he can afford “to buy”; that is, whose services he employs. This misconception is one of the most potent causes of anti-Indian feeling on the part of the Native. Not only the disappointed applicant feels resentment; other Natives share this animosity and demand transportation facilities operated by Natives for Natives. As one Native witness put it: “The time has come when Africans want to do things for themselves. They want to help and express themselves. They do not want Indians and Europeans to do things for them. They cry for the opportunity to serve themselves. They want to run their own businesses and manage their own affairs. Is that asking too much?”

(c) *Employment and social status.*—The Surveys conducted by Professor Burrows show clearly that in general the Indians in Natal have moved away from heavy manual work towards less physically arduous, but more skilled and remunerative, employment. Because of his greater strength and stamina the Native has practically gained a monopoly of unskilled labour. The Native is generally a migrant labourer, returning to his home after a period of work in the city. Professor Burrows describes the situation as follows:—

“In June, 1948, the total of registered male Natives in employment in Durban was 87,000. Thus the Native working class competes with Indians chiefly in the field of unskilled work. Indians in general are more experienced, more urbanized, and as a community are more settled than the migrant Native. Whereas the Indian can be classified into three almost equal groups of skilled, semi-skilled and unskilled, over 80 per cent. of Natives are unskilled and only some 4 per cent. skilled.”

The natural consequences of this situation is that the Native feels bitter resentment against the Indian. The Natives gave expression to this feeling on more or less the following lines: “I am employed by a certain concern. Then an Indian comes along and does the same work; but it does not take long before he is appointed a foreman over me at a greater salary.” In this the Native sees only favouritism practised to the advantage of the Indian. It is not only the economic aspect of this preferment which worries him; he regards it as a social stigma that he should work under the direction of an Indian.

- (xi) *Discriminating Legislation.*—Native witnesses who gave evidence before us frequently compared the Government to a father and the Indians and Natives to children. Save for the occasional intellectual or the revolutionary, Natives in the mass are quite reconciled to discrimination as between themselves and the Europeans. They accept it that many apparent anomalies were conceived in their protection. On the other hand, any discrimination as between themselves and the Indians which favours the latter fills them with violent resentment.

(a) *Obtaining Liquor:* Natives assert that they are as fond of “the Queen’s tears” (European liquor) as the Indians. Until recently the Indians could freely purchase liquor in bottle stores, and may still obtain it in bars, whereas it is an offence for the Native to be in possession of liquor.

(b) *Pass Laws:* The impression one gets is that in Durban and its peripheries the pass laws are honoured in the breach rather than in the observance. Yet the Native resents it that, in theory at least, he has

no freedom of movement, whereas the Indian may move at will within the confines of the Province.

(c) *Land Tenure*: The Native regards himself as the original owner of the land and the Indian as an interloper. The consequence is that Natives resent the fact that Indians are allowed to own property in large areas of Durban, while ownership of urban land is practically impossible for a Native. In this connection we may as well quote from the evidence of Senator Brookes. His statement as to the reaction of Natives to this facet of discriminatory legislation was borne out by the sentiments of many witnesses who complained bitterly:—

“ It may be mentioned that when the Asiatic Land Tenure and Representation Bill was passed, there was a widespread impression that Durban was divided into Asiatic and European areas, without any Native areas. As a matter of fact, the Bill divided Durban into closed and open areas. The open areas were not purely Asiatic. When the Bill was before the Senate I asked the responsible Minister whether it would make any difference to the rights of Natives as regards ownership or residence in Durban, and was given a quite categorical assurance that it would not. Shortly afterwards, however, an administrative ruling was given, with which I strongly disagreed, to the effect that no new Native location or village should be built in the open areas. This precluded the extension of Chester-ville location (otherwise known as Blackhurst), although an extension of that location would have been the simplest, quickest and best method of getting rid of the Cato Manor slum menace. . . .

Some colour was lent to the theory that Durban has been divided up between the Indians and Europeans to the exclusion of the Africans by the maps issued by the Natal Provincial Post-war Reconstruction Committee, which coloured European areas blue, Indian areas pink and Native areas brown, and allowed little in the way of Native areas except the Umlazi Mission Reserve, which has been a Native area from time immemorial, and certain areas to the north, some of which was already in the possession of the S.A. Native Trust.”

This was undoubtedly the impression gained by the Natives. They complain that Durban has been zoned between the Europeans and the Indians, while they or their interests were not consulted.

The Native feels that by having a footing in the City the Indian has gained many advantages in the form of commercial, educational and health facilities.

#### IX. CAUSATIVE FACTORS ARISING OUT OF THE SITUATION ITSELF.

With the enormous industrial development in Durban during the last decade, the usual urban services could not keep pace. The result is that Durban and its peri-urban areas are densely populated, but have very poor communications. No attempt seems to have been made to attack the problem of communications with vision and determination. This fact has a direct bearing on the course of the riots.

(i) *Transport facilities*: Virtually all transport services available to Natives and Indians debouch in one spot; traffic regulation in this congested area is primitive and ineffectual, and no provision is made for the protection of the passengers from the elements or for their convenience. At rush periods this locality presents the spectacle of a mass of struggling humanity. On the day when the riots broke out such masses of irritable human beings provided the fuel which readily took the spark. If various termini could be used simultaneously and if the workers could be cleared from and to their homes with greater expedition, dangerous concentrations of people in an irritable mood would be avoided. Conceivably fast trains, such as operate in the Cape Peninsula and on the Rand, could open up areas for the residence of workers which are now out of reach.

(ii) *Undesirable elements*: In Durban there are numbers of Native loafers. They are called “ Tsotse Boys ” or the “ I.W.W. ”, i.e. the “ I won't work ”. Eye-witnesses state that this unruly element took a leading part in the assaults upon Indians, in the destruction of property and in the looting. Because of the housing situation in Durban the law relating to the presence of undesirable

Natives in urban areas is to a large extent a dead letter and cannot be enforced. It is obviously undesirable that such unwanted elements should increase the congestion.

(iii) *Housing*: The slum areas on the fringes of Durban are a disgrace to any community which calls itself civilized. The fact that on the whole the shack-dwellers themselves seem to be quite content with their lot merely serves to stress the degrading influence of such environment. The feeling of frustration for which the average Native is alleged to suffer is, we consider, largely imaginary. European observers impute to Natives sensations which they themselves would experience if similarly situated.

From another angle, however, this state of affairs has a direct bearing on the riots. You cannot expect to get pure water from a cesspool. In these human rabbit-warrens something like 23,000 Natives live under most sordid conditions. The shack areas are difficult of access; roads are non-existent, bad or indifferent, and there is no lighting. Consequently it is difficult, if not impossible, properly to police these areas. They attract and harbour lawless elements. During week-ends Native workers from elsewhere go to these areas for an outing: to obtain illicit liquor, to gamble and to meet prostitutes. It is not remarkable, therefore, that during the riots the most shocking excesses were committed on the outskirts of these areas.

The fact that numbers of Native males are herded together in compounds also seems to have a bearing on the riots. Unnatural congregations of civilized men are apt to become turbulent when relieved from external pressure or the inhibitions of family life. We know that European soldiers were inclined to mutiny after the termination of hostilities and before repatriation. The migrant Native labourer, who has only attained to the initial stages of civilization, cannot be expected to possess a greater degree of self-restraint in such circumstances. Such congregations of men are ready tinder to any spark, and it is clear that the compound-dwellers took an important part in the excesses.

Other commissions have recently conducted inquiries into the question of Native housing and transport, and their reports are available. Save in so far as they have a bearing on the riots, we consider it unnecessary to elaborate on these matters. In the interests of perspective, however, we consider it expedient to draw attention to the following considerations.

Facile critics attribute the existing conditions to "criminal neglect" on the part of the Durban Corporation. One must bear in mind, however, that there was a rapid increase in the numbers of labourers who flocked into Durban during the war years. Moreover, about 1931 the city had been enlarged from about 11 square miles to about 70 square miles. By taking this step, the city took over areas upon which about 25,000 Natives were established who were then inadequately housed. The Municipality commenced housing schemes. Before it had overtaken the back-log the war intervened and building materials and skilled labour were in short supply, with the result that the Corporation was caught on the wrong foot. Then there is the serious difficulty of obtaining land served by transport facilities for the establishment or extension of locations. The good altruists who levy charges of criminal neglect against the Corporation would be the first to protest if the Corporation proposed to extend a location in the direction of their residential areas. For this purpose land can be acquired only at fantastic prices.

From what we have stated in this report it is obvious that we consider the provision made for the accommodation of Native labourers anything but ideal, or even satisfactory. But we do not agree that the Corporation has been guilty of criminal neglect. The Corporation has done much to alleviate the congestion and provide housing for Natives and Indians. From the nature of these undertakings they are sub-economic and charge the city revenues with an annual expenditure which the general ratepayer is inclined to consider out of all proportion to the indirect advantages which he derives from the expansion of industries.

## X. GENERAL.

Your Excellency has not asked us to submit recommendations upon the steps to be taken to remove stresses and strains from the body politic and so to avoid a recurrence of disorders. We refrain from offering advice, therefore, in the

conviction that once the underlying causes are diagnosed the remedies—in so far as the condition is capable of cure—will suggest themselves. Unfortunately South Africa is full of grave and exceedingly interesting problems, many of which are insoluble.

One of the most unsettling influences upon the Native mind is the fact that South Africa has a hostile press abroad. Ill-informed critics hasten to champion the Native against "racial intolerance" and "an administration which is determined to pursue a policy of segregation and racial disenfranchisement". These views are repeated in the South African press, and the cry is taken up by the so-called "leaders of Native thought", by Native intellectuals, entirely sequestered from the thoughts and aspirations of their people, quite incapable of independent thought, who merely repeat the precepts of their mentors. From all sides it is dunned into the heads of the Natives that they have grievances. It would be surprising if they did not become restive.

Contrary to the prevalent opinion abroad, the average Native is a keen supporter of segregation. He realizes that as yet he is ill-equipped in the fight for survival, which has become so sharp in modern times. Consequently he demands residential, racial and economic segregation. In how far that is feasible is another question—but those are his aspirations. The so-called Native leaders who speak in a different voice are motivated by political ambition and, it would appear, find it personally profitable to keep the fires alive.

There are two considerations which our foreign critics may well keep in mind. The first is this. Of all the colonies settled abroad by peoples from Western Europe—and by colonies we mean settlement colonies in contradistinction to exploitation colonies—South Africa was the only one which allowed a sufficient number of its aborigines to survive to create a Native problem. This historic fact gives those nations, whose forefathers solved the problem of indigenous populations by the simple process of liquidation, the right to point their fingers at South Africa and say "You do not treat your Natives properly."

The second consideration is that such abstract notions as a good form of government and a claim at natural law to exercise public rights exist only in the mind of the visionary. A form of government and the privilege (and obligation) of exercising public rights cannot be *per se* either good or bad. A form of government can be good only if it is in harmony with the mental outlook, character and moral fibre of the people concerned. Because it suits his temperament and moral fibre, the publicist, especially of British stock, is inclined to regard the vote as the *everriculum omnium malitiarum*, the panacea for all social and economic evils. In his altruism he regards this nostrum as an article of export. He has exported it to neighbouring nations infinitely closer to him in civilization, culture and moral fibre—closer to him in blood even—than the Bantu or the Indian. In those countries British institutions have thrown off the most startling sports of evolution, often malignant. Yet our publicist will have it that, politically, even traditionally vegetarian peoples would thrive on good red British beef and that, if they do not take to it kindly, they or their caterers should be taught some sense.

There is one recommendation, however, which we regard it our duty to make. We have described the situation in Durban and the undercurrents of strong feelings which exist. If everything is quiet on the surface it does not mean that the danger is past. Unless the position is carefully watched and all exhibitions of public violence firmly repressed the Natives may make another attack upon Indians. Native witnesses have openly expressed their intention of "squaring the account".

It is not only between Natives and Indians that tension exists. Surveys have shown that 70 per cent. of the Indians in Natal are desperately poor. Hitherto they have been inarticulate. They had no political ambitions and had no aspirations other than to be left alone and to live in peace. Now they are awakening. They were afraid to give evidence, even *in camera*, but they are organizing. They are arguing in this fashion: "The privileged 30 per cent. made all the noise and stirred sleeping forces. They exploit us like they exploit the Natives. They have the motor-cars and the wealth, consequently they can afford to, and do, bribe Native wenches. They spurn us like they spurn the Natives. Yet it is upon us that the brunt of Native vengeance fell while they looked on as interested spectators from their balconies. They fired revolvers at Natives from their motor-cars and further infuriated the mobs against us." These things are muttered by the less privileged Indians, and they are talking of lynching those of their race who overcharge or associate with Native women.

In a multi-racial country like South Africa greater responsibility weighs upon the individual than in more homogeneous societies. The sins of the fathers are visited not only upon the children but upon all others of their race.

The position in Durban requires constant vigilance.

(Signed) F. v. d. HEEVER,  
*Chairman.*

(Signed) RYLE MASSON.

(Signed) W. SCHUIZ,  
*Members.*

(Signed) B. C. v. d. MERWE,  
*Secretary.*

Bloemfontein,  
7th April, 1949.

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