



# PROBLEM TERRITORIES

---

*of Southern Africa*

*Basutoland, Bechuanaland Protectorate, Swaziland.*

by

SIR CHARLES DUNDAS AND Dr. HUGH ASHTON

Price 7s. 6d. Net.

THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

Cape Town

Durban

Johannesburg

Port Elizabeth

The South African Institute of International Affairs is an unofficial body founded in 1934 to promote through study, discussion, lectures, and public addresses an understanding of international questions and problems. The Institute, as such, is precluded by the terms of its Constitution from expressing an opinion on any aspect of international affairs. Any opinions expressed in this publication are not, therefore, those of the Institute.

*First Published 1952*

For further information consult

The General Secretary  
P.O. Box 9379  
Johannesburg  
South Africa

## Foreword

THE world today is in such a disturbed state that the study of international affairs on a global scale is of necessity extremely complex. While in its discussions the South African Institute of International Affairs is concerned with the problems of the world at large, its policy in recent years has been to limit its research to the "local" region of Africa south of the Sahara.

In dealing with the Union's relations with other African territories and particularly with its near neighbours, the Institute has found among South Africans surprising ignorance of the facts relating to these territories. It is obviously important to have factual information regarding the relations between one's country and other territories and in July, 1946, the Institute published a pamphlet on South-West Africa. At that time important discussions were taking place in UNO and the Institute received many expressions of appreciation of the value of that pamphlet in setting out the significant facts. The Institute has also found that the ignorance regarding our neighbours is so great that very few persons can be found in the Union who are both well qualified and willing to write about our neighbours. It has, therefore, been fortunate in obtaining the services of the present authors, Sir Charles Dundas and Dr. Hugh Ashton, to both of whom I have to extend the Institute's best thanks.

The Hon. Sir Charles Dundas, K.C.M.G., O.B.E., is a former Governor of the Bahamas and of the Uganda Protectorate. He now lives in retirement at the Cape.

Dr. Hugh Ashton, B.A. (Hons.) (Oxford), Ph.D. (Cape Town), was formerly District Commissioner, Bechuanaland Protectorate; later Senior Welfare Officer, Non-European Affairs Department, City Council of Johannesburg and is at present in charge of the Native Affairs Department of the City Council of Bulawayo.

Elsewhere in this pamphlet reference is made to the fact that the Institute as such is precluded by the terms of its constitution from expressing an opinion on any aspects of international affairs and that any opinions expressed are the views of the authors and not of the Institute. As words often mean different things to different readers it is possible that phrases or sentences used by the present authors may not find favour with all readers, but I would again emphasize that this pamphlet, written by qualified observers, is offered as a contribution to the study of a problem and is not intended as a contribution to controversy.

W. J. BUSSCHAU,  
Chairman of Council.

Johannesburg,  
30th April, 1952.

# CONTENTS

## PART ONE

*by Sir Charles Dundas, K.C.M.G., O.B.E.*

### Historical

I. The Period Before European Settlement	...	3
II. European Settlement	... ..	5
III. British Intervention		
Basutoland	... ..	10
Bechuanaland Protectorate	... ..	21
Swaziland	... ..	24
Political	... ..	28

## PART TWO

*by Dr. Hugh Ashton, Ph.D.*

### Population

I. The European Population	... ..	37
II. The Coloured Population	... ..	41
III. The African Population	... ..	43

### Administration

I. Government and Administration	... ..	46
II. European Administration	... ..	48
III. Native Administration	... ..	50
“Native Authorities”	... ..	55
Native Representation	... ..	63
The Ultimate Aim	... ..	67
Appendix “A”: Census Figures	... ..	78
Appendix “B”: Specimen Statement of Tribal Treasury’s Revenue and Expenditure	... ..	79

## PART ONE

### HISTORICAL

#### I. The Period before European Settlement.

**T**HOUGH widely separated and little in contact with each other, the three South African Territories, at the present day under direct rule by the Crown, had already in the time prior to European intrusion a certain common background that distinguished them from other native countries. All three are survivors of the terrible age of Zulu conquests with their fearful and widespread repercussions in the early years of the nineteenth century, and each was saved by the valour of its people aided by strategic advantages afforded by the mountainous or deserts nature of their lands. These distinctive features of the past doubtless account for the pronounced patriotism of the people, their loyalty to their chiefs, as descendants of warrior leaders in days of stress, and for that insistence on preserving their individuality which has precluded their absorption into larger political units.

The Swazi tribe, originally inhabiting a country adjacent to Zululand, was driven out and in turn conquered the land they now occupy, and there in mountain fastnesses successfully, if precariously, they maintained themselves against Chaka and Cetawayo.

The advance of the Zulus farther westward was checked for a time by the barrier of the Drakensberg, but it could not halt the headlong flight of those vanquished by them and these swarmed down upon the tribes inhabiting the country on the other side of the mountain range. They in turn fell upon their neighbours and like the ocean swell rolling forward from some

distant storm centre the devastating tide swept on and on over the whole region from the Drakensberg to the Kalahari. Entire populations were decimated or dispersed, the country was plundered and laid waste until the few surviving inhabitants, including even the invaders, were reduced to famine and lapsed into cannibalism. Alone in all this misery and confusion a young man, Moshesh by name, stood forth as a leader under whom the bolder spirits rallied for mutual protection and in due course became the nucleus of the Basuto nation. The renown gained by this young chief was not only of prowess in war. He was then already and to the end of his long life famed for his wisdom, his mild rule and just ways. His talent for diplomacy was shown early in 1826 when Chaka did finally cross the Drakensberg and Moshesh voluntarily acknowledged him as his overlord and so saved his people from the horrors of Zulu invasion.

In the succeeding five years Moshesh consolidated his position as ruler of all the country between the Drakensberg and the Caledon River and strengthened his defences in his mountain stronghold, Thaba Bosigo, making it virtually impregnable. Hardly had he accomplished that when Moselekatse, the rebel Zulu and founder of the Matabele tribe, invaded the land and in 1831 launched assault upon Thaba Bosigo. He was repulsed and for lack of food was forced to abandon the attempt, but Moshesh gauging, as he was to do again and again the power of a formidable foe, showed his instinctive sagacity when he sent a message of conciliation and with it also a supply of food to the starving Matabele, who went with songs in his praise and never again made war on the Basuto.

On his way northward Moselekatse occupied part of the Bechuana country, but the inhabitants scattered and the region was too vast for him to overrun entirely. The Bamangwato, the principal Bechuana tribe, reassembled under their Chief Sekome, save for a section that had fled to Lake Ngame and remained there. In due course Moselekatse sent to demand tribute of Sekome, but the grim reply of the latter was to slay the 40 Matabele bearers of their Chief's behest. During 20 years thereafter Sekome contrived to hold off the Matabele, but in that period the Bamangwato again became rich in cattle and once more in the year 1863 Moselekatse invaded the land. Sekome's son, Khama, met him boldly in the open but, being defeated, retired to the Shoshong Hills where he not only maintained himself but inflicted such severe losses on Moselekatse that the invader retreated. The Matabele never again launched attack on Khama in his mountain retreat, though they continued to harass the people whenever they ventured into the open lands and Moselekatse remained in occupation of a large, though undefined tract of Bechuanaland until he was finally routed by the Boers and moved northwards into the present day Southern Rhodesia.

## II. European Settlement

AS early as 1819 some white farmers had temporarily settled along the Caledon River. They found the lands there untenanted, but when in 1835 they came back to the same locality it was not only populated but also the site of a mission station. For in the interval the population of Basutoland had increased and spread through the repatriation of great numbers formerly dispersed and now returning under the safe shelter of the rule of Moshesh. Two years earlier there had also come French missionaries at the invitation of Moshesh, who, though he never embraced the new religion, was thenceforth and to his death a zealous friend and supporter of missions. At the close of 1835 there arrived Wesleyan missionaries with a mixed following of half castes and Natives, notably a section of the Barolong tribe under their leader Moroka who had fled from Moselekatse. To these Moshesh assigned a place for settlement around Thaba 'Nchu in the district of his sub-chief Mosema between the Leeuw tributary of the Caledon River and the Modder River.

White farmers, separating from the main body of the Great Trek, came in increasing numbers, settling along the Caledon River and in the angle between it and the Orange River. Moshesh gave them kindly welcome, but as passers by, and to safeguard himself against any claims to land they might seek to establish, he refused to take "pego"<sup>1)</sup> from them, saying that he "only lent them a cow to milk". Relations between Moshesh and the Boers were at first friendly, but their numbers increased and divergences of Native and Boer aims soon caused friction. On his side Moshesh would maintain his rule over the country, no matter who might enter, but the Boers would recognise the jurisdiction of no African.

True enough, the British Government regarded them as subjects, wherever they might be and had made a law whereunder offences committed south of the 25th parallel were triable in the Colony Courts, but who would hale them before those tribunals? The Governor himself admitted that the emigrants had placed themselves beyond reach of the Cape law, and though he said they had thus brought themselves under the jurisdiction of the native rulers, the Boers scoffed at such a notion and Moshesh was wise enough to perceive that any action he might take against any one of them would inevitably involve him in hostilities with all. A yet more grave issue was the land question. The Boers had gone forth into unknown hinterlands to found new homes; Basutoland was a fair country, particularly to be desired because of its excellence for horse breeding, much of it had been vacant owing to Matabele devastation, and the Boers considered they had a right to all unoccupied land. But at the same time this land was being rapidly re-occupied by Basuto. Boer and

---

<sup>1)</sup> The customary payment to the lord of the land.

Native settlements were becoming inextricably mixed and when the inevitable disputes ensued the Boers ignored the judgments of the Chief.

In these conditions Moshesh bethought himself of having recourse to the Power which still claimed the Boers as its subjects, namely Britain and the British Governor in the Cape. He was the more ready to solicit their intervention because from many of his own subjects, who in the former disturbed times had sought refuge in the Cape Colony, he had accounts of the justice and order prevailing there.

Beyond the borders of Basutoland the Boers drove out Moselekatsé and their leader Potgieter proclaimed all the region evacuated by the Matabele forfeited to themselves. This area comprised the present day Transvaal, half of the Orange Free State and a great part of Bechuanaland, and since in course of nine years most of the former inhabitants had been exterminated by Moselekatsé, the claim was not altogether unreasonable. The frontiers of Potgieter's annexation were, however, entirely undefined, particularly so on the western borders of the South African Republic, that is to say where it verged on the territories of the Bechuana tribes. The relationships between the Republic, as such, and the border chiefs were, however, not unfriendly; Chief Montsioa of the Barolong tribe, who had assisted the Boers in their struggle with Moselekatsé, spoke of Potgieter as a friendly and straightforward man and had accepted a boundary line drawn by him even though it did deprive the tribe of a tract of country they claimed as their own. Nevertheless when in 1852 the British recognised the independence of the Boers north of the Vaal River, Montsioa had warned them that the new Republic was too weak to exercise control over the numerous lawless elements in their midst, and so it proved.

Livingstone, who spent 12 years in Bechuanaland, gives a vivid account of what he describes as the infamous treatment of the Bechuana natives by the Boers. It is not always easy to discern, and possibly Livingstone himself was not sure, whether his strictures were directed to the Boers as a community or to those among them commonly known as the "freebooters". The generality of the Boers struck him as industrious, peaceful and most hospitable, but, be this as it may, not all acts of hostility undertaken against Natives from the Transvaal were the unauthorised doing of freebooters, but the tribesmen could hardly perceive the difference between the one form of raid and the other, especially since the Republic often undertook expeditions on reports of native rising or other disturbances falsely put about by the freebooters who sought an opportunity so afforded for loot. It was in fact their favourite practice to instigate tribal wars in which they took sides; it happened even that after protracted war between two chiefs peace terms were finally



concluded at the dictation of the freebooters and almost without mention of conditions other than of grants to themselves.

Notorious among these ruffians was a band known as Massouw's Volunteers, who took advantage of a revolt by David Massouw and certain other sub-chiefs against their superiors to join in inter-tribal warfare for their own nefarious ends. In January 1882 no fewer than 300 of these filibusters with two cannons and supported by 700 so-called native friendlies attacked the Barolong Chief. Not all the Whites were Boers. Among the Massouw Volunteers there were, besides 400 Boers, nearly 100 Englishmen, mostly deserters from the British Army and the Cape Mounted Police, and other fugitives from justice. All alike, however, were recruited in the Transvaal, the terms being £4 per day and promise of allotment of 3,000 morgen of land in Bechuanaland. They organised and armed themselves in the Transvaal and thither they returned to dispose of their loot or for safety when worsted, as occasionally happened.

The sordid story of the freebooting days relates mainly to the southern portion of Bechuanaland, later incorporated in the Cape Colony and now known as British Bechuanaland as distinct from the Bechuanaland Protectorate. According to Livingstone the freebooters were far from being heroes, wherefore they may have been wary of attacking the Bamangwato and their redoubtable Chief Khama, but the Bakwena were not spared. In 1852 Livingstone met Sechele, Chief of that tribe, on his way, as he said, to the Queen of England. Freebooters had burned and sacked his village, carried off all his cattle, captured two of his children and their mother; they had plundered Livingstone's own house and had killed 60 people. Livingstone endeavoured to dissuade Sechele from continuing on his way to the Queen, but the Chief was obsessed with the idea of going to her to seek justice and went on to Bloemfontein, where sympathetic British officers cared for him and subscribed money to help him on his journey, which, however, ended at Cape Town with an empty purse and a rebuff from the Queen's representative.

If the attitude of the Republic was one of complacence so was that of the British Government. Montsioa pleaded for one of three forms of relief: annexation by Britain; a British force to expel the Boers; or permission for himself and his allies to obtain arms and ammunition so that they might defend themselves. The sole comfort the Secretary of State vouchsafed in reply was that if Montsioa and his ally Mankoroane were driven out of their countries they might be given asylum in the Cape Colony and be granted a modest allowance for their maintenance. Yet these two chiefs had stood by Britain in her recent war with the Boers, they had passed British despatches through enemy held country, had given shelter to British refugees, and, when disaster befell the British arms at Majuba, Montsioa had at once offered to send 800 men to create a diversion for the relief of the

hard-pressed Red-coats. Well might he write: "My heart is sore, for I thought that I was one flesh with the English and we say there is nothing so well knit as flesh".

In Swaziland freebooting of another type was rife. The Boers were still minded to roam further afield and there remained unappropriated or unclaimed only Swaziland, to which they attached particular importance, partly for the winter grazing it afforded, but even more because it furnished the only outlet they might have to the sea. Moreover there was gold to be found in Swaziland and a hungry horde of fortune seekers was pouncing upon it.

In 1868 the South African Republic proclaimed Swaziland annexed, but took no steps to mark the establishment of its sovereignty until 1875, when a so-called Mission, comprising no less than 350 men, was despatched, ostensibly to signify the readiness of the Republic to protect the Swazis against the Zulu Cetawayo, at that time threatening to invade the land. It devolved on the British to save Boers and Swazis from Cetawayo's 40,000 warriors in hard-fought battles that cost them dearly. In that war the British were supported by a levy of Swazis readily furnished by their King Umbandine, and the latter, continuing to regard himself as their ally, likewise assembled and offered his army to aid them after the disaster of Majuba in 1881. This offer, like others made by native tribes for assistance in hostilities between the two European nations of South Africa, was very properly rejected, but it was then that Umbandine when dismissing his impis said to his warriors: "You are to go home to your kraals, but you are to sleep upon your shields, for whenever the Inkosagazi (Queen) of England needs your assistance you are to give it"<sup>2</sup>.

Despite these evidences of attachment to Britain on the part of the Swazis, they were left to their own devices and meanwhile Umbandine, beset by a host of adventurers of all nationalities, was persuaded, cajoled and coerced into granting concessions for grazing and mining until presently he found that he had in this wise parted with virtually the whole of his country. He had by then become dissolute, addicted to drink with which the concession hunters eagerly plied him, and he had not the strength of mind to resist the importunities of the white men nor to forego the trifling rewards he received from them. Incapable of understanding the transactions proposed and set out in elaborate deeds presented to him for acceptance, he assented to all and there was little he could do when the concession holders overstepped the terms of his grants. Thus in 1876 he had granted a tract of land to two Boers with the express and written condition that he had not parted with his sovereign rights therein; yet, in a few years, the land was parcelled out and occupied by so many Boers that it came to be known as the Little Free State and was eventually incorporated in the Transvaal Republic. With

not the most elementary method of keeping record of his grants, Umbandine in the end knew not what he had granted; concessions overlapped; one and the same holding might be given to different parties, mining rights were given when grazing concessions had been previously awarded, bounds were ill defined or not specified at all, the duration of concessions was vague, and with all this confusion quarrels ensued among the concession claimants.<sup>1)</sup>

Finding himself at length hopelessly involved and incapable of transacting affairs which he did not understand, Umbandine at last appointed T. Shepstone to be his agent and representative for the handling of European affairs in his country. But it was made specifically clear to him that Shepstone in no way represented the High Commissioner and by consequence his presence in Swaziland constituted no protection against European encroachments. There were not wanting either other intruders of the type of the Bechuana freebooters. At the close of the year 1886 Shepstone referring to repeated complaints by Umbandine concerning mistreatment of Natives, seizure of land and capture of cattle, stated that the Swazis were being oppressed, they had repeatedly furnished the names of raiders and even given the dates of the occurrence but the Transvaal Government had taken no notice of their protests. A traveller writing to a paper reported that there was famine in the land and raids created a disturbed state.

Long before these events Umbandine had been admonished by his father never to fight white men and all his life he strictly observed that injunction, but the Swazis were a brave people, they could muster 15,000 men, a third of them armed with guns, and they were becoming restless. At any time they might fly to arms and retaliate against their despoilers. Umbandine would not countenance that, but he did look for salvation to the British to whom, as he declared, he had long considered himself subject, and he appealed to them for protection. His plea went unheeded, notwithstanding the fact that by Conventions of 1881 and 1884, which Britain concluded with the South African Republic, the independence of Swaziland was guaranteed. It was the policy of the Government of the day in London to restrict enlargements of their responsibilities in Africa. The High Commissioner, Sir Hercules Robinson, held that Britain was under no obligation to intervene. He suspected Umbandine of trying to force the issue and to entangle Britain with the Boers. Swaziland he regarded as too remote and inaccessible; a British force could enter the country only through Boer Territory and permission for that was not likely to be obtained. Moreover, because of the large European population already settled there, it would in his opinion not be practicable to make of Swaziland a British Protectorate. Finally Sir Hercules believed that continued encroachments were inevitable and in these conditions he thought

---

<sup>1)</sup> Concessions were given for gambling.

Umbandine should be advised to seek annexation to the South African Republic.

### III. British Intervention

#### *Basutoland*

IN 1842 Moshesh saw that his sovereignty and his country were endangered and made his first direct approach to the Governor of the Cape Colony with request for treaty relationship and protection, and in the following year a Treaty of Agreement was concluded between him and the Governor, Sir George Napier. As an instrument for protection of the Basuto it was quite ineffective, but it was of consequence in that it placed on record the limits of the territory of Moshesh as recognised by Napier, namely, all the country between the Orange and Caledon Rivers from their sources, and beyond the Caledon to a distance 25 to 30 miles, exclusive of the country of the Batlokoa to the north and the small tract known as Bethuli, also on the north side of the same river near its junction with the Orange River.

There followed a period of vague relationship between Basuto, Boers and British, but in December 1847 with the arrival of Sir Harry Smith as Governor of the Cape and High Commissioner, a radical change of policy was introduced. Sir Harry Smith was an extremely gallant soldier, imbued with unbounded energy and possessed of much personal charm, but he was hasty and volatile to the point of eccentricity. Within a month he had travelled on horseback the length of the Cape Colony and at Winburg met by appointment Moshesh to whom he abruptly announced that he was about to proclaim the Queen's sovereignty over all the region between the Orange and Vaal Rivers. He was in such haste that he would not take time to explain his project, excepting to assure Moshesh that he did not intend to interfere in tribal affairs, and before dawn next day was galloping off to the Tugela where he met the Boers. A few exchanges of words with them sufficed to convince Sir Harry that his proposals were entirely acceptable, even heartily welcome to all Boers, and there and then he issued his proclamation of the sovereignty.

The immediate consequences of this ill-considered and hastily-executed measure were calamitous. A large section of the Boers revolted and, when defeated in a lightning assault by the dynamic Sir Harry, moved across the Vaal River and there established the South African Republic. Moshesh, at the bidding of the High Commissioner, had kept aloof from these hostilities and in general his conduct earned him the most fulsome praise of Sir Harry Smith. At a meeting with the Boers the High Commissioner, holding him by the hand, presented him as the man to whom they were indebted for peace: "let no man presume to encroach upon Moshesh", he declared. Yet his agent in

Basutoland, Major Warden, was encroaching upon the Chief with a vengeance. In the extreme north of the country old animosities between the Basuto and Batlokoa flared up, and Warden, assuming the office of arbiter, awarded to the Batlokoa a tract of land south of the Caledon River. At the same time he took up the cause of tributary chiefs across that river and drew frontiers between them and the Basuto. Lastly he established a boundary between the Boers and Natives in the Orange-Caledon angle. These demarcations may have been desirable, but they were in flagrant violation of the Napier Treaty and deprived Moshesh of more than a third of the territory acknowledged by that agreement as belonging to him. The truth was that at this time Warden was violently prejudiced against Moshesh and sought to break his power; he even designed to set up as Paramount, Moroka, the refugee to whom 15 years earlier Moshesh had granted asylum. Unfortunately Warden persuaded the High Commissioner to his views and the quixotic Sir Harry Smith, with astonishing volte-face, decided that his erstwhile "Respected Friend and Chief", his "Worthy and Valued Friend Moshesh" must be humbled. An alliance of rival chiefs must be formed against him and, if necessary, shells must be hurled on Thaba Bosigo.

Armed with this authority Major Warden served on Moshesh an ultimatum calculated to humble him if it was accepted, and quickly followed it by an attack with a force of 162 Boers and 1,500 Natives. Warden had, however, formed an altogether fallacious opinion of both the strength and the worth of the Basuto, whom he quite mistakenly rated much below any other tribe in fighting quality. His attack was repulsed with such severe losses that he had to fall back and retired to Bloemfontein. The situation was now most critical, for the so-called paramount power of South Africa had at one blow lost its reputation not only for strength but also for wisdom and justice. To the British Government it was embarrassing. Sir Harry Smith was recalled, Major Warden was dismissed, but it was imperative to take measures to restore the shaken prestige of Britain, and in November 1852 General Cathcart crossed the Orange River with a force of 500 cavalry and 2,000 infantry, and after a futile parley with Moshesh, from whom he demanded delivery within three days of 10,000 head of cattle and 1,000 horses, he launched an assault in three divisions on Thaba Bosigo.

The plan of the attack was ill executed, two of the divisions becoming so encumbered with huge herds of captured cattle that they immobilised themselves, so that when Cathcart reached the rendezvous he found himself unsupported and faced with some 6,000 mounted Basuto. Only nightfall and the last minute arrival of one of the divisions saved him from disaster and enabled him to retire for the night to a defensive position. General Cathcart had seen enough to convince him that much greater force would be needed to defeat Moshesh and in disgust he retreated to the

Caledon River. Moshesh, on his side, realised that, though he had signally defeated the British, sooner or later he must be overwhelmed and that they would muster whatever strength was required to that end. Moreover, the last thing he desired was to be at war with Britain. Now Moshesh acted with masterly diplomacy, for while Cathcart was yet pondering how to extricate himself, he received a letter: "This day", it read, "you have fought against my people and taken much cattle . . . I beg you will be satisfied with what you have taken. I entreat peace from you—you have shown your power—you have chastised—let it be enough, I pray you; and let me be considered no longer an enemy of the Queen". And the General, having taken more than he had demanded of Moshesh, was relieved to be able to cry quits and declare himself ready to conclude peace.

Already prior to these unfortunate events, the British Government had long contemplated abandoning the sovereignty, which they had never embarked on with real willingness, and they now decided to surrender it. In April 1853 they sent out Sir George Clark as Special Commissioner to wind up the tangle of affairs, and in the following year the Orange Free State Republic was established as an independent state. At the same time Britain declared that she had no alliances with any Natives north of the Orange River.

The abandonment of the sovereignty was justified in London on the ground that Her Majesty's Government had assumed it only on the presumption that it had been desired by all parties concerned. Doubtless the exuberant Sir Harry Smith had unconsciously misled them on that point, but apart from the fact that it had been done and confirmed by the Queen's Order, the assumption of British sovereignty was the sole means by which peace could be maintained between the Boers, whom Britain had all along claimed as subjects, and the Basuto with whom she stood in treaty relationship. Its abandonment was a base desertion of both, and the manner in which it was carried out was precipitate scuttling without regard for consequences. There were left, on the one side, a weak and inexperienced Boer republic; on the other a bellicose and triumphant Basuto nation, capable of putting 12 men into the field for every Burgher, in whose eyes also the Boers had done them grievous wrong in the past. Worst of all, between these two potential antagonists there existed no recognisable boundary, for the Boers adhered to the line drawn by Warden, and when Moshesh, who had never really accepted it, had asked Sir George Clark how that matter stood, he was told that it was "dead", since "war ends all treaties". Moshesh was therefore entitled to suppose that the position was to be as under his treaty with Napier. But he behaved with moderation, and on their side the Boers were so anxious to placate him that they chose as their first President J. H. Hoffman, who was on most friendly terms with the Chief. Neither of these

two leaders was, however, able to restrain the more unruly elements among their people, the border lands were in constant state of disturbance, and when Hoffman was displaced, as being in the eyes of his fellow citizens too compliant towards the Basuto, the situation became so dangerous that the High Commissioner, Sir George Grey, deemed it imperative to try to bring about some accord. He succeeded in obtaining an agreement between the Boers and Basuto designed to prevent trespass from either side, but without the demarcation of a boundary there could be no hope of peace. Moshesh had assented to this ineffectual pact only to retain the good will of Sir George Grey, for whom he had profound respect, but there is little doubt that he foresaw that war with the Republic was inevitable and that he prepared for it.

Early in 1858 President Boshof of the Orange Free State presented demands to Moshesh, in particular, acceptance of the Warden line, but the Chief declined to acknowledge this boundary, asserting it had been imposed upon him by force and was an arbitrary award since cancelled. Thereupon the Republic issued its ultimatum and the Commandos invaded Basutoland, but after some initial success they saw to their consternation their own country invaded by strong Basuto forces and hastily withdrew in confusion. Failing to obtain aid from the Transvaal, which he had solicited, and realising that unaided he could not contend against Moshesh, President Boshof now appealed to the High Commissioner for intervention on grounds of humanity and, after some hesitation, both sides accepted terms framed by Sir George Grey.

It may be doubted if Moshesh reposed faith in this agreement as effectual for the maintenance of peace, or if he even took it seriously, but what followed was calculated to shatter all hope of enduring peace. Unruly elements on both sides perpetuated a state of disorder in the border lands and fresh open disagreement arose over the boundary line in the north, which had never been clearly defined. In the Winburg district, which by the Grey arbitration had been awarded to the Orange Free State, the Basuto, who had previously taken possession of lands, remained and Moshesh either could not or would not remove them. In August 1862 President Pretorius made urgent requests to the new High Commissioner, Sir Philip Wodehouse, to settle the dispute, and Wodehouse consented to appoint a Commission for that purpose, provided both sides assented. But he took no steps to obtain their consent to this course, and when, after delay of over 18 months, he finally gave his award it was more vaguely framed than any of its forerunners. At the same time he made it expressly clear that he had neither the intention nor the authority to enforce his award.

In these conditions it was hardly to be expected that the Basuto would readily vacate the Winburg district, and, as Sir

Philip Wodehouse himself acknowledged to Moshesh in an appreciative letter, acceptance of his award put the Chief in sore dilemma with his own people, who were becoming more and more resentful of his seeming compliance with Boer demands. The Boers on their side, and in despite of the High Commissioner's advice, acted hastily, requiring instant evacuation, even before crops could be reaped, and after making formal demands proceeded to invade Basutoland in June 1865, laying siege to Thaba Bosigo with intent to starve the defenders of that impregnable fortress into submission.

The course of this war ran very differently to that of 1858. The population of the Orange Free State had increased substantially in the interval and the tactics adopted by the leaders of the Burghers were more skilful and effective. Knowing that frontal attack on Thaba Bosigo was futile, they contented themselves with investing the fortress in sufficient strength to contain it while they launched sporadic attacks in various directions and devastated the land in order to reduce the Natives to a state of famine. For a time also they were joined in the field by the Transvaal Republic and, finally, by a bold penetration over the Drakensberg they were able to take the Basuto strongholds from the rear. Moshesh on his side was in ill case, hemmed in and his strong defensive position made nigh untenable, not only by dearth of warriors but also by the thousands of dying cattle and putrifying carcasses. He himself was now enfeebled by age and the virility of his tribe was impaired by dissensions between his sons who, though brave and able, were intensely jealous of each other. He knew that the power of the tribe was waning while that of the Boers was waxing and must in the end prevail, that ultimately the resistance of the Basuto would wear down under the strain of contending against a higher civilisation, for as he had said some years before: "I am not unable to defend my country, but this I am not able to do—to preserve it from constant threat of attack".

He had been at pains to retain the goodwill of Britain. In 1860, though ailing, he had made the 300 mile journey to Aliwal North to pay his respects to the Duke of Edinburgh to whom he delivered a letter for Queen Victoria expressing unswerving loyalty. He averred that ever since his first contact with the British he had regarded himself as the Queen's subject and he would in no wise agree that this allegiance had ever been severed. But his relations with the British authorities were at this time far from cordial, his confidence in white men had been shaken, he was no doubt becoming difficult and mistrustful and, in turn, he was mistrusted by Europeans, even by those who stood closest to him. More serious than such causes of misunderstanding was an open dispute over compensation demanded by the High Commissioner on account of damages caused in a raid which his unruly nephew Ramenella had made into Natal, when,



pursuing some Boers, he had seized cattle indiscriminately. Moshesh had disowned Ramenella on this account and had agreed to make amends but, after protracted delay, had paid only part of the compensation demanded (much in excess of what was due, as it later transpired).

In these circumstances Moshesh met only with rebuff when the Boers having refused his proposal to submit their quarrel to the judgment of the High Commissioner, he appealed to Sir Philip Wodehouse for intervention. The Basuto were already in sore straits when a fatal blow befell them. Molapo, a nephew of Moshesh and sub-chief of the Leribe district, being taken in the rear by the Boers advancing from the Drakensberg, capitulated and thus the flank of the Basuto position was left undefended. Moshesh, deeming his position hopeless, summoned his council and, although the Basuto knew well that submission meant no less than the obliteration of their nation, seeing no alternative but utter extermination, resigned themselves to suing for peace at all costs. So on April 3rd Moshesh subscribed to a Treaty of Peace whereby he ceded to the Orange Free State the whole of upper and central Basutoland.

This done, the Boers proceeded to expel all missionaries from Basutoland, they parcelled out Molapo's district to the Burghers for farms, and enacted legislation for the disarming of all Natives. Moshesh protested that he had not surrendered his country, but it soon became apparent that the Republic was about to incorporate the whole of Basutoland into the Orange Free State. Seeing this the people of Moshesh now urged Letsie, his eldest son, to assume the Paramount Chiefship and to petition once more the Queen's protection. When this was again refused the Basuto determined to resist to the last and in March 1867 hostilities were resumed. The Boers now laid waste the country until Letsie, in utter despair, submitted unconditionally and Basutoland was incorporated in the Free State. Two months later, however, the President, declaring that Letsie had not fulfilled the peace conditions, launched punitive expeditions upon the hapless Basuto, so completing the havoc of war.

Had Sir Philip Wodehouse gone only so far as to appoint an Agent of the British Government, as Moshesh had requested, as Sir George Grey intended, and as the Secretary of State had approved, all these calamities might have been averted, but he was over-meticulous in observance of his instructions to avoid committing the Imperial Government, which, as he said, had an intense horror of enlarging its obligations in Africa. Now, however, his conscience was stirred and he was also disturbed over the acquisition of Basutoland entire by the Boers, for on the one hand it might lead them to seek further expansion and ultimately access to the coast, and on the other he apprehended that so long as the Basuto were penned into the unfertile remnant

of their country the Boers had left to them, there would be no peace and the Boers were not strong enough to hold such a valiant tribe in perpetual subjection.

With a warning to the Orange Free State that such a great change of the political position warranted Britain's reconsideration of the 1854 Convention, under which she had disavowed all alliances with Natives north of the Orange River, the High Commissioner wrote to the Secretary of State imploring sanction to intervene between the Boers and Basuto. At the same time he intimated to the Basuto that he had made this recommendation, hoping that they might thereby be encouraged to stand fast, so to avert complete absorption of their country. The Secretary of State was singularly tardy where speed of action was imperative but, eventually, in December 1867, he authorised the annexation of Basutoland and, in March of the next year, the High Commissioner issued a Proclamation declaring the tribe of Basuto to be British subjects and their country British territory.

Hostilities now ceased and the Boers perforce, though not without strong protest, accepted the situation, but once again there remained unsettled the question of a boundary between Basutoland and the Orange Free State Republic, and it remained in dispute for a full year, that is to say until February 1869, when agreement was reached by a Convention signed at Aliwal North. By this Convention Basutoland was shorn of much that had been recognised by the Napier Treaty as belonging to Moshesh but retained all that was genuine Basuto territory between the Drakensberg and the Caledon River, with exclusion of the Boer occupied lands in the angle between the latter and the Orange River, which had long ago been irretrievably lost to Moshesh.

Moshesh, decrepit, neglected to the point of privation and wandering in mind, rejoiced exceedingly that at last his people were "sheltered in the large folds of the British Flag" and become "lice in the Queen's Blanket". Within a month of the signing of the Convention that finally set the seal upon this happy outcome of his life's work he died at the age of approximately 80 years.

Moshesh was undoubtedly one of the most remarkable Africans of his time. Other chiefs there were more powerful and conquering, but Moshesh alone created a nation by wisdom and winning the loyalty of his people, and held them, while for over half a century he defended their land against incessant assaults. He was praised by all Europeans who knew him in his earlier years for his just rule and his love of peace; "the Chief who never made war", who, when giving a gun to a young man, said: "this is to hunt game with, but never to kill men". He befriended white men and gave asylum to native refugees and was ill requited for such kindnesses. He was singularly devoid of vengeful spirit and was moderate in triumph, and he

possessed to uncommon degree the qualities of statecraft. He was dauntless too, a born leader, and faithful to those who kept faith with him.

In his later years he was harshly criticised by Europeans who had opportunity to judge him, even missionaries to whom he had always given strongest support, notwithstanding he never became a Christian. But by then he had lost faith in white men and explicably so. Moshesh had in full measure the failings of his race. He was no paragon, but largely his sins were induced by outside influences: "For all men know my only sin is that I possess a good and fertile land", he once said, and there was much truth in the remark. What he thought of his own demerits was perhaps revealed in one of his last recorded utterances, when near his end Madame Mabile, whom he had known since childhood, commended to him the prayer: "God forgive me, a sinner", and angrily he turned upon her: "Little girl," he said, "who told you that I am a sinner?". Whatever his defects, Moshesh was in one respect more than the equal of the best brains against which he was matched, for he was more prescient than the most intelligent of Europeans with whom he had to deal. Indeed very often, because they could not see as far ahead as he, they misjudged his actions. He foresaw clearly from the start that the day would come when the white race would dominate Africa and he judged that the British would be the most acceptable white masters for his people. That was his life's creed and through all vicissitudes and repeated disappointments he clung to that faith.

When Moshesh offered his allegiance to the Queen he tendered it to her and to none else. He was averse to being placed under her subordinate governments. This wish of his was temporarily fulfilled when at first Basutoland was placed under direct Crown rule exercised through the High Commissioner. But a parsimonious Government in London, perceiving the possibility that Basutoland might become a financial liability, decided that the country must as soon as possible be annexed to either Natal or the Cape, and Sir Henry Barkly, who succeeded in 1871, proceeded to carry out this policy at once, and without much reference to the wishes of either the Basuto or the Colony. Accordingly Basutoland was annexed by Act of the Cape Parliament in August 1871 and regulations were issued by the Governor for its administration and division into four magisterial districts under a Chief Magistrate and Governor's Agent. These new measures, more particularly the right assumed by the Governor to allot land for occupation, were resented by the Basuto, but they submitted to the new order and there was peace and prosperity during the ensuing years, save for an insurrection by Chief Moorosi of the Daphuthi, whose country was thereupon expropriated and surveyed into lots for farms, notwithstanding it had always been accepted

as an integral part of Basutoland, having originally been assigned to Moorosi by Moshesh. It was sufficiently exasperating to them that by order of the Cape Government they were about to be disarmed. On top of all this the hut tax, which in agreement with the Basuto had been fixed at 10s., was suddenly raised to one pound. Among these causes of grievance it was disarmament that was most provocative. Sir Garnet Wolsey, the General Commanding in South Africa, described it as dangerous, the Basuto Chiefs petitioned against it, the Governor's Agent in Basutoland spoke of it as putting excessive strain on the loyalties of the Basuto, especially when taken in conjunction with the deprivation of Moorosi's country and the doubling of the hut tax.

The Secretary of State advised great caution since it appeared that disarmament would lead to trouble. The Governor likewise was at heart not in favour of the measure but allowed himself to be persuaded by his Prime Minister, and in any case considered that it was not justifiable to disallow enactments made by the Government of the Cape which had been granted responsible government. He expressed the view, however, that they must take the consequences of their actions without reliance on aid from the Imperial Government if war ensued. The Prime Minister, Sir Gordon Sprigg, confided that he could persuade the Basuto by his personal influence to agree to disarmament, held conference with the chiefs but found them unresponsive. "To take away our arms would be to tear our hearts . . . you are breaking our hearts", said Tsekelo, son of Moshesh; "My gun belongs to the Queen and I will follow the Queen about with this gun wherever she goes and I will keep it", said Lerotholi, son of Letsie; "I recall the abandonment of the Sovereignty. Now suppose the Government were to abandon us again where would we be without our guns?", remarked Sofonia Moshesh, and George Moshesh said: "I am to be disarmed without any battle, just as if I had been fighting the Queen; this is treatment given to conquered enemies". It was all of no avail. On April 6th, 1880, proclamation was issued requiring the surrender of all arms.

Letsie, who had succeeded Moshesh, rendered obedience to the Government, but he had not the influence of his father; the hotheads of the tribe rallied under his brother Masupha, declaring that Letsie had betrayed the tribe. The ensuing contest strained the resources of the Colony to the utmost and, after three years of continuous and at times large scale fighting, the rebellious Basuto were still unsubdued and the Governor estimated that to bring them to submission would require at least 10,000 troops and an expenditure of several million pounds. In January 1881, however, the rebels petitioned the Governor's intercession and declared their readiness to place themselves completely in his hands. The Governor, Sir Hercules Robinson, was ready enough to respond, but he

was in a dilemma, for as Governor of a self-governing Colony he could only negotiate on terms laid down by his ministers and these he knew to be unacceptable to the Basuto, including as they did immediate submission, surrender of arms, and punishment of the leaders of the rebellion. Subsequently the Cape Government, seeing no prospect of bringing the rebellious party in Basutoland to submission on their terms, agreed to abide by an award of the Governor and the conditions they had stipulated were then modified to registration of arms, a fine of 5,000 head of cattle, complete amnesty and no confiscation of property. Masupha, nevertheless, remained obdurate and declined to treat on any terms. In this attitude he was no doubt encouraged by the intervention of General Gordon, who having been appointed Commandant General, visited Basutoland and, in face of strong protest by the civil authorities, insisted on having personal discussions with Masupha. In a memorandum setting out his opinion on the situation Gordon took the stand that the Basuto had been grossly wronged in several ways: they had made binding treaties with the British Government; in defiance of these treaties they had been deprived of land; despite treaties and without consultation or safeguards for their rights they had been handed over to the Cape Colony; the Cape Colony had imposed disarmament, which could be forced upon a servile race only and must be resisted by any people of worth. Finally Gordon laid the blame for all this on the British Government.

It may have been mistaken policy on the part of Gordon when he treated with Masupha personally, but in his final conclusion he was certainly right; the root cause of all the trouble lay in Britain's desertion of the Basuto in disregard of the known wishes of Moshesh. And despite acrimonious exchanges with Gordon, the Cape Government were seemingly coming to much the same conclusion. Finding themselves unable to cope with the situation they turned to Britain with request that she would undertake the restoration of order in Basutoland but, meeting with rebuff and a reminder that they had brought trouble on themselves by their own imprudence, the colonial ministers next gave consideration to abandonment of the country. The British Government were not inclined to relieve the Colony of its responsibility, but now there came a new development that was to force the issue. For towards the end of the year 1882 interne-cine strife broke out among the Basuto and grew so violent and widespread that the Orange Free State became apprehensive of dangerous disorders on their borders. In these conditions President Brand urged immediate intervention by the British Government, alleging at the same time that the Republic had subscribed to the Convention of Aliwal North under promise that order would be maintained in Basutoland. The Secretary of State did not accept this contention and held that it was for the Republic to guard its own borders. In fact he repudiated all responsibility and at most would assume it if the Basuto so

desired, if the Orange Free State made provision for preventing incursions into Basutoland, and if the Cape Parliament would bear the expenses of transfer, relinquish receipts from customs duties on goods imported for Basutoland, and meet deficits on a Basuto budget. It was a thoroughly mercenary deal and much haggling ensued, but accord was finally reached, the Cape Colony agreeing to make a yearly payment of £20,000; and Letsie with a majority of chiefs, having declared their desire for British rule, an Order in Council was promulgated in March 1884 whereby Britain assumed control of Basutoland.

Masupha, while he offered no open resistance, held aloof and the newly appointed Resident Commissioner, acting under the superior authority of the High Commissioner, wisely made no attempt to coerce him, trusting to time and recovery of confidence to win him over, even though it did prolong a state of some disorder in the land. In time Masupha himself came to feel his isolation from the rest of the tribe and finally in 1886 he voluntarily placed himself under British administration. Nevertheless causes of friction remained and Letsie, now old and feeble, was little able to impose order. On his death in 1893 he was succeeded by his son Lerotholi, a man of much stronger character, who had already given proof that he would uphold his authority against all opposition. Towards the end of 1897 he became involved against Masupha on account of a son of the latter whom the old Chief refused to give up for trial on a charge of crime committed in the Orange Free State. The matter became less one of surrender of a criminal than a trial of strength between Lerotholi as Paramount Chief and Masupha as leader of a dissident faction, and the clans gathered in such force that some 20,000 men, divided into two armies of about equal strength, faced each other on either side of the Putsiana River. For some reason Masupha had not taken up position in the stronghold of Thaba Bosigo, which years earlier had fallen to him, and in this more open position, although the river was in flood, Lerotholi succeeded in encircling and quickly bringing him to surrender. Masupha was fined and deprived of his chiefship and the historic fortress Thaba Bosigo was demilitarised by an order of the Courts. The blow proved too much for the old warrior and, crushed by the mortification of defeat, Masupha died soon after these events. Lerotholi had conducted these operations with great skill and gallantry and thus by his own effort he gained for himself a position of undisputed authority, so restoring the Paramountcy established by his grandfather.

In the war between Britain and the Boers at the close of the century the Basuto were admonished to refrain from taking part on either side. Lerotholi remained unswervingly loyal and the dominant sentiment of his people was undoubtedly loyalty to Britain. Yet they could hardly be unmindful of what had happened in another war between the two European nations

nor fail to ask whether, if there was to be another Majuba, it would be followed by another British desertion of Basutoland. Doubts such as these were reinforced by a series of British reverses in the opening stages of this war and not a few inclined to waver. Joel, the son of Molapo, whose father in years gone by had capitulated to the Boers, declared himself their ally and it was impossible for either Resident or Paramount Chief to proceed against him, for they did not know what support they would find in the tribe, and ill success in such an adventure must have been calamitous to themselves and highly embarrassing to the British command. Yet when there was threat of Boer invasion large forces of Basuto rallied to Lerotholi's call, awaiting only orders to take the field. On one occasion when Boers attempted to gain position within Basuto territory in order to enfilade an isolated British force, Lerotholi and several thousand men stood to arms and the gallant Chief was with difficulty dissuaded from going to the relief of the hard-pressed British. Notwithstanding its isolated situation Basutoland was, however, preserved from involvement in the war and both British and Boers respected the unwritten rule of that time, that Natives should never be enlisted by white men against white men.

In 1905 Lerotholi died and was succeeded by his son, who took the name of his grandfather Letsie. Lerotholi has been described by one who knew him well as a man possessed of all the attributes of a Chief such as Natives love and revere. He was bold in battle, always gallant, arbitrary in rule, passionate when defied, but never revengeful or cruel. He shared with his grandfather the conviction that the salvation of his people lay in British protection and he never failed to support the British even though such might at times make him unpopular with his own subjects, but neither did he ever consent to abdicate his position or forego his privileges as ruler of the tribe. He was in short a worthy descendant of the great Moshesh.

#### *Bechuanaland*

TO all protests lodged on account of the lawless state of affairs obtaining in the border lands between Bechuanaland and the South African Republic the President replied disclaiming responsibility and asserting that such a situation would not exist were the country annexed to the Republic. The High Commissioner, Sir Hercules Robinson, himself expressed the view that the only solution was annexation and he advocated it should be conceded to the Republic. When, therefore, President Kruger travelled to England in 1884 to negotiate a new convention he hoped for this concession, but found that, on the contrary, the Government in London was opposed to Boer expansion in any direction. The policy of Her Majesty's Government was at this time strongly influenced by a new factor that intruded itself on the scene, namely German penetration

into South-West Africa, which, if extended indefinitely eastward, might jeopardise Britain's position in the northern regions where Cecil Rhodes had ambitious plans. The route to those regions lay through Bechuanaland and it was expedient to secure it by establishing without further delay Britain's claims there. Accordingly the South African Republic was bound by the new Convention not to extend its frontiers, save for inclusion of the areas of Chiefs Moshette and Massouw, who were believed to desire to come under Boer rule, and who in any case had already forfeited most of their lands to Boers. The rest of Southern Bechuanaland up to the 22nd parallel was proclaimed to be under the Queen's authority and, at the end of the year 1884, Major-General Sir Charles Warren was sent out from England as a Special Commissioner to undertake with a military force the pacification of the country and expulsion of freebooters therefrom. The northern limit of this new British territory was subsequently withdrawn to Molopo River and the Bechuana country to the south thereof was incorporated in the Cape Colony, as it still is, under the name of British Bechuanaland.

It was still desirable to gain a foothold for Britain northward of the Molopo River in order to secure passage to the farther north and to this end Sir Charles Warren was instructed to make contact with the chiefs beyond the river. The times were disturbed, the Matabele were still a menace, there were frequent rumours of impending forays from the Transvaal, and there was said to be gold at Tati, which place both Khama and Lobengula claimed but, as likely as not, would be acquired by Europeans. In these conditions the chiefs were explicably disposed to seek the protection of a stronger power and General Warren found them very ready to treat with him. The outcome of discussions he had with them was that, subject to the reservation that they desired to retain their own rule over their people, they were ready to accept British protection and, moreover, to give large portions of their countries for settlement by English subjects of the Queen. Khama's offer seemed to Warren positively magnificent; the area he proposed to place at disposal for settlement was some 80,000 square miles in extent, country which Warren deemed to compare favourably with South Australia. He emphasized, however, that the offers of the chiefs were to the Queen, not to the Government of the Cape Colony, whose acquisition of southern Bechuanaland Warren strongly resisted, believing, as he did, that it would mean that the country would become a pawn in Cape politics.

In offering British protection Sir Charles Warren did somewhat exceed his instructions and Sir Hercules Robinson did not share his enthusiasm for the project he envisioned. He held that Britain had no interest in the country north of the Molopo, excepting as it afforded access to the regions beyond; Khama had been, for years, and still was, in a state of war with



the Matabele and, by making alliance with him, Britain might be involved therein and so jeopardise her future relations with Lobengula. Moreover, the frontiers between these two tribes were greatly in dispute and it appeared that much of the land so generously offered by Khama was claimed by Lobengula to be his territory. Finally the High Commissioner was dubious as to the precise meaning of Khama's offer; for the land he would give for settlement was to be occupied by Englishmen only. It was even stipulated that they were never to be sold lest they pass into Boer possession, but agreement on such terms would introduce a most undesirable departure from the long accepted principle of Cape Colony policy which made no distinction between British and Dutch. In taking view of the matter the High Commissioner was, of course, contemplating only incorporation of the whole of Bechuanaland into the Cape Colony. Meanwhile the Government in Cape Town evinced no positive desire to take over the country and would consider it only if satisfied that the inhabitants desired annexation to the Cape, whereas they were said to be hotly opposed to having any relations with that Colony.

In these circumstances the British Government rejected Khama's offer and directed that in the trans-Molopo territories the aim should be to place matters on such a footing that there would be no obstacle to ultimate transfer to the Cape Colony, while at the same time Her Majesty's Government would not be committed to any specific policy, save that protection, as might be deemed necessary, would be given by the newly established Bechuanaland Police Force. The need for some such safeguard was, as a matter of fact, very soon made manifest, for in October 1885 a party of Europeans, as delegates for a larger group, approached Khama with a view to obtaining land grants north of the 22nd parallel in return for which they offered armed assistance against Lobengula. The party was intercepted, but the High Commissioner had not a doubt that the so-called "Khama Deputation" was but the advance party of a considerable body of filibusters who designed to foment war between Khama and Lobengula, so as to repeat on a larger scale the predatory warfare formerly waged in southern Bechuanaland.

The British South Africa Chartered Company, created by Cecil Rhodes in 1889, occupied the northern country known as Mashonaland in the following year, having concluded a treaty with Lobengula, Chief of the Matabele in 1888. Following this the whole region up to the Zambesi River and between German South-West and Portuguese East Africa was made a British Protectorate which it was proposed to place under the administration of the Chartered Company. No date was set for transfer of Bechuanaland. According to a record of discussion between Khama and the High Commissioner, Sir Hercules Robinson, ultimate transfer was promised, but for the time being the Chief was at liberty to reject its immediate application.

Alarmed at this prospect the Bechuana decided to make personal representations in London and in August 1895 Chiefs Khama, Sebele and Bathoen travelled to London for an interview with the Secretary of State, Mr. Joseph Chamberlain. In a written statement they expressed their ardent desire to remain under the Queen's rule and their fears of the possible effects of Company administration, notwithstanding they were assured that their countries would not be handed over without conditions in the framing of which their wishes and interests would be consulted, and, moreover, that as the Company derived its authority from the Queen it would always be open to them to appeal against its actions to the Queen's Government. Mr. Chamberlain, who was absent from the Colonial Office at the time of their arrival, informed them by letter that he was bound by promise to the Company and advised them to enter into discussions with the latter with a view to arriving at some satisfactory arrangement, but such discussion having taken place, proved so far from reassuring to them that the Chiefs once more submitted in writing their objections and thereupon the Secretary of State himself met them and gave his decision. It was very much more pleasing to the chiefs than they had expected, because, as it transpired, the Secretary of State appeared to be intent only on securing a passage through Bechuanaland for a railway to the North. Emphasising the absolute need for this he informed the chiefs that it would be necessary for them to give up a strip of country six to ten miles in width along the Transvaal border, which should be under the administration of the Company, but the rest of Bechuanaland was to remain under the protection of the Queen and each chief should have his own country and retain the rulership of his people subject to the control of a Commissioner under the High Commissioner.

Whether or not this arrangement was intended to be final, it was made so as a consequence of the Jameson Raid a month later, for thereafter there was no more talk of handing over Bechuanaland to the Chartered Company.

#### *Swaziland*

AS already related, the independence of Swaziland was guaranteed by conventions concluded between Britain and the South African Republic in 1881 and 1884. The Republic, nevertheless, believed itself entitled to acquire the country by virtue of the interests held there, not only by numerous of its citizens, but by the Government itself, namely concessions for railways, surveys and post and telegraph services. Moreover the Republic had allegedly played a part in the pacification of the country at the time when Umbandine succeeded to the rulership (prior to the aforementioned conventions it had annexed the whole country) and now the Swazi King was willing to make over to them the "Little Free State" because, as he openly

declared, none of his subjects any longer lived there and he was no longer desirous of attempting to rule over the many Europeans in occupation of the land. The President now proposed a friendly settlement of outstanding affairs in South Africa by which the Republic would withdraw all claims to the northern territories and support British influence in Bechuana and Matabele lands, while Britain would give the Republic a free hand in Swaziland and also in the chiefships of Zambane and Umbegesa, with whom, as it transpired, the Republic had concluded agreements, though they were said to be tributary to the Swazi King. At the same time the President wished to acquire Tongaland, including Kosi Bay, thus to gain access to the sea. The Secretary of State considered that in view of the vested interests the Republic held in Swaziland it would be difficult to reject altogether her demand for annexation, but he wished to take the opportunity of these proposals to set up a joint commission for study of the whole situation with a view to revision of the Convention of 1884.

Accordingly a Commission was appointed in 1889 and on its recommendation, as a temporary measure, a joint British-Boer-Swazi Standing Commission was set up for the government of the Whites in Swaziland with the assent of King Umbandine. As might be expected, such a system of government proved unworkable, and on the outbreak of certain disturbances, arising from ritual killings in connection with an illness of the King, the South African Republic once again urged that they be allowed to annex the country as the only means of establishing order. To this the British Government would not agree. They were in fact at that time beset by petitions and protests from various quarters urging opposition to Boer aspirations in Swaziland, but when in the midst of these discussions Umbandine suddenly died and was succeeded by his son Ubonu, a boy of seven years of age, it was apparent that some final settlement must be undertaken. Moreover, the three-year period of the provisional arrangement was drawing to a close. It had in fact been extended and furthermore, at the time of its inauguration, the Republic had been given an assurance that Britain would thereafter be prepared to "consider such questions as the South African Government might bring before His Majesty's Government, with a desire to meet the wishes of the South African Republic as far as possible, with due regard to European and Native rights". In other words Britain would be willing to consider the annexation of Swaziland to the Republic. The view of the High Commissioner, previously expressed, namely that annexation by one or the other of the European nations was inescapable, was thus adopted, but since the Republic held all the assets of the country, the whole cost of administration would fall on Britain if she took over Swaziland. Furthermore Swaziland was surrounded on three sides by territory of the Republic so that it would be extremely difficult to maintain British forces there, as might be necessitated to prevent freebooter encroach-

ments. Another consideration that influenced the attitude of the British Government at that time was that they wished to show recognition of the accommodating spirit in which the Republic had prevented another Boer Trek, which could otherwise have been stopped only by recourse to armed force. This was the so-called Adendorff Trek of 1891, a formidable movement that, but for the vigorous action of President Kruger might have endangered the position of the British South Africa Company in Mashonaland, where it had just started white settlement.

It was in these circumstances that a new Convention between Britain and the South African Republic was negotiated in 1893 and concluded in the following year. By its terms Britain agreed that the Republic was to be at liberty to enter into negotiation with the Queen Regent and the Council of Swaziland to obtain a so-called *Organic Proclamation conferring upon the Republic rights and powers of jurisdiction and administration, though without incorporation of the country into the Republic, and subject to safeguard to the natives for management of the own internal affairs.* Other conditions stipulated were that no railway was to be constructed eastward from Swaziland without the consent of the British Government, and the Republic undertook to withdraw all claims to extend its territory north or northwestward of its existing boundaries and to support by its influence the British South Africa Company. Her Majesty's Government gave consent to the inclusion of the Little Free State in the South African Republic, but the destiny of the chiefships of Zambane and Umbegezi, as also of Tongaland, was not alluded to, it being understood that these were matters to be considered in connection with a further convention to be negotiated later.

Thus Britain bartered Swaziland for a free hand elsewhere and the two European states could pursue their larger aims. But there was a third party without whose concurrence their pact was ineffectual. For the vital condition to the whole agreement was the issue of an *Organic Proclamation* by the Queen Regent and Council of Swaziland conferring on the Republic the necessary authority to govern their country. A model proclamation was drafted, but when it was submitted for the Regent's acceptance she flatly declared herself unable to unite in any way with the South African Republic. In no circumstance she averred, would they cut themselves off from the Queen of England. What wrong had the Swazis done that they should be thrown over by England? Was Queen Victoria angry with them? She demanded that the Swazis themselves should be allowed to lay their case before the Queen of England, for as she said, "We are not satisfied to be told things, we wish to hear them with our own ears". All persuasion proved unavailing, and it soon became apparent that the only way to soothe the outraged feelings of the Swazis and to avert a dangerous outburst was to accede to their request for despatch of a mission to the Queen

of England. Accordingly in October 1894 a deputation of six Swazis travelled to London bearing a message from the one Queen to the other. The answer of the Queen of England was that she was precluded by treaty engagements from accepting the allegiance of the Swazis. Her High Commissioner was doing his best for them in the circumstances then existing, and it was Her Majesty's wish that they should be guided by him. Meanwhile the British Government was prepared for the eventuality that the Swazis declined to comply with the Queen's wishes. In such case the tribe would in theory become independent, but at the same time they would be destitute of the attributes of sovereignty, since they had given all their resources in concessions. In any case it was considered essential that some provision be made for governance of the numerous Europeans in Swaziland, otherwise serious disorders might arise and the South African Republic would in such case be justified in occupying the country. Another convention was therefore concluded in 1894, by which the Republic was "deemed" to have the rights contemplated in the previous convention. Britain was to be represented by the appointment of a consul in Swaziland.

After the conclusion of the Boer War Swaziland was taken over by Britain, being administered by the Governor of the Transvaal. The country was in great confusion on account of the multitude of concessions still vaguely defined. But a commission was set up to create order and succeeded in saving a third of the the country for the Natives. The rest of the territory was found to belong to 500 concessionaires, of whom only 60 per cent lived in the land. Finally when responsible government was granted to the Transvaal Colony in 1906, Swaziland was brought under rule of the High Commissioner.

## POLITICAL

IT will be recalled that in 1868 Basutoland was proclaimed to be British Territory and was subsequently annexed to the Cape Colony. When, therefore, Great Britain resumed control in 1884 she did so with complete sovereignty and by consequence Basutoland is not a protectorate but a British "territory". Swaziland was acquired by the South African Republic without defined status, the Republic being "deemed" to have all rights therein, but when after the South African War Britain took over the country she did so on the terms formerly sought by the native inhabitants, that is to say as a protectorate. Likewise the Bechuana chiefs from the start desired British protection with certain reservations, which was granted and their country remains to this day a protectorate.

Where a country is annexed, sovereignty and jurisdiction are absolute and the inhabitants are subjects of the annexing State. In a protectorate the position is less definite, the inhabitants are not full, but protected, subjects and in some cases the jurisdiction of the protecting power may be restricted by treaty or agreement. In 1936 a test case in point was carried to Court by Chiefs Bathoen and Tshekedi with which the validity of certain proclamations issued by the High Commissioner for return of native courts was challenged. The case for the claimants was that the Crown had never acquired complete internal sovereignty and in support thereof was cited the agreement concluded in 1895 which resulted from discussions between Bechuana chiefs and the Secretary of State for the Colonies (*Joseph Chamberlain*). In a letter confirming that agreement it had been stated that "each of the Chiefs (Khama, Sebele and Bathoen) shall have a country within which they live as hitherto under the protection of the Queen. . . . The Chiefs will rule their own people much as at present". The Court, finding that prior to 1881 the extent of His Majesty's jurisdiction had not been accurately defined and that the aforementioned agreement was inconclusive, proceeded under the Foreign Jurisdiction Act which provides

that in any question arising as to the existence or extent of His Majesty's jurisdiction in a foreign country the Secretary of State shall, on application by a Court, furnish his decision, which shall be final. The question put to the Secretary of State was: "What is the nature and extent of His Majesty's jurisdiction within the Bechuanaland Protectorate?", to which the answer of the Secretary of State was: "I am of the opinion that the words 'full internal Sovereignty' are apt to describe His Majesty's power in a Protectorate, but His Majesty has unfettered and unlimited power to legislate for the government and administration of justice among the native tribes in the Bechuanaland Protectorate and his power is not limited by treaty or agreement".

The legal status of these countries is in each case historic in origin and cannot be arbitrarily changed with entire disregard for past history. The exact position may be of small consequence now, but it will be of some importance in the event of any future transfer to another power because, in the first place Britain's right of disposal could be questioned, and secondly it would become a matter for consideration whether upon transfer the hitherto existing status would be retained.

Unlike other non-self governing units of the British colonial Empire the administration of the three Territories comes under the control, not of the Colonial Office, but of the Dominions Office or Commonwealth Relations Office, and the functions of Governor for each are vested in the United Kingdom High Commissioner in the Union. This unique and somewhat awkward arrangement has its significance in as much as it betokens the special relationship in which the Territories stand to the Union of South Africa. The preceding section of this study reveals how closely interwoven were events of the past between these Territories, the Boer Republics and the Cape Colony. Those events failed to breed intimate national relationship but they created conditions in which close association in practical concerns is established. Undeniably from a geographical and ethnographical point of view the High Commission Territories belong to the sphere of the Union of South Africa. Their main outlets are through the Union, where also their principal export markets and their sources of supply are situated; there also their native inhabitants find employment and the means of earning which they would otherwise almost wholly lack. Economically speaking they can hardly be considered as assets to Britain, whereas, effectively developed, they could be of no mean value to the Union, while at the same time, and given Union policy is so shaped, they could greatly benefit in the growing economic wealth of the Union. They are for the most part so encircled by the Union as to be strategically inseparable therefrom and it is more than likely that if ever their security is threatened their defence will devolve on the Union. For reasons such as these the administration of the Territories must be conducted in close

association with the Government of the Union, wherefore it is convenient to entrust it to the High Commissioner, though inevitably that officer must at times experience difficulty in the discharge of his dual responsibilities.

On almost all practical grounds then it would seem logical that these territories should form an integral part of the Union of South Africa. It may be conceded too that the Union can claim an old established lien which Britain has never refuted, nor even desired to dispute. The destiny of these countries was considered a necessary item in discussions preparatory to the Peace of Vereeniging in 1902 and there might have been final disposition there and then but for divergent attitudes towards native races. It was then agreed that the matter should stand over pending the introduction of self government in the colonies formed from the old Boer Republics. When that stage was reached in 1906 it was made known that the Transvaal declined to accord any political rights to Natives and thereupon the Imperial Government announced that "pending any grant of representation to natives, no native territory now administered by the Governor or High Commissioner will be placed under the control of the new Responsible Governments". Later at the Convention called for discussions for the formation of a South African Union the question of political rights for Natives was again raised. The South African delegates were warned that "if the franchise question was regarded (by Britain) as unsatisfactory the Protectorates would not be handed over, the native peoples must find in the constitution such provision for their protection and for their interests that they would be induced of their own free will to be included in the new State about to be created". Furthermore Lord Selborne, the High Commissioner, wrote to the Chairman of the Convention:

"The obligations of His Majesty's Government to the tribes inhabiting Basutoland and the Bechuanaland Protectorate are obligations of the greatest possible weight. These tribes surrendered themselves under the dominion of Queen Victoria of their own free will and they have been loyal subjects . . . ever since. The history and connexion of Swaziland is different but the obligations are different only in degree."

Lord Selborne expressed himself even more emphatically in a final letter in which he stated:

"It is no question of policy we are discussing; it is a question of honour and one to which every section of public opinion in the United Kingdom, Government and Opposition alike, is keenly sensitive".

Nevertheless Britain has never adopted a non-possumus attitude towards the project for transfer of these territories to the Union. Even in 1908, that is to say after the abortive



discussions preceding the introduction of self-government in the colonies, when the people of Basutoland petitioned King Edward VII that their country should not be included in any Union of the South African Colonies, they were informed in the name of the King that "if South Africa is united it will be desirable as well as necessary for the Basuto to be prepared some day to come under the same Government as the rest of South Africa". It will be observed that ultimate transfer of Basutoland was at that time regarded as necessary and that the only issue in dispute was the political or constitutional rights of Africans within the Union. While agreement on this issue was not reached express provision for transfer was made under specific conditions to safeguard native interests. Article 151 of the South Africa Act provides that:

"The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union, transfer to the Union the Government of any territories, other than territories administered by the South Africa Company, belonging to or under the Protection of His Majesty and inhabited wholly or in part by Natives, and upon such transfer the Governor-General-in-Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act".

The Schedule referred to in this Article provides that any Bill amending the same shall be reserved for signification of His Majesty's pleasure. It vests all legislative power in the Governor-General-in-Council, whose acts may, however, be disallowed by the King; administration is entrusted to the Prime Minister of the Union advised by a Commission, the members of which are to be appointed by the Governor-General, and in case of disagreement matters in dispute are to be submitted to the Governor-General, whose decision shall be final. Other clauses of the Schedule provide that no land shall be alienated in Basutoland nor in the native reserves of the other two Territories; the sale of intoxicants to Natives is prohibited. Furthermore, differential duties on the produce of the territories may not be imposed and customs duties collected on imports for the territories are to be expended on their administration; all revenues derived from any such territory are to be expended for and on its behalf, subject to certain deductions for specific purposes, as, for instance, defence; and deficits on the budgets of each territory are to be covered by advances from the Union Treasury. Finally, free intercourse for the inhabitants with the rest of South Africa is to be allowed and customary Native Assemblies ("Pitsos") are to be maintained.

The Act does not stipulate that the inhabitants of the Territories shall be consulted respecting transfer, nor has Great Britain ever gone so far as to say that they will not be transferred

unless they consent, but neither has the British Government committed itself to automatic transfer upon the mere request of the Union Parliament. On the other hand, in course of debate at Westminster at the time of the passing of the South Africa Act, assurance was given, and since has been repeated, that the wishes of the Natives will be most carefully considered before any transfer takes place. At the same time—and this was a point to which particular importance was attached—it was emphasized that the Cabinet before tendering advice to His Majesty, as provided under Article 151, would necessarily have to be assured of the concurrence of Parliament. Speaking on the Bill Mr. Asquith said:

“As regards the Protectorates or Territories—I assert this most strongly—we stand in the position of trustees . . . but the important point is that you cannot bring any one of the Protectorates or Territories into a state of subordination to the Union Government and Parliament, as Clause 151 shows, unless the King with the advice of the Privy Council agrees. That is a most proper recognition . . . that the Imperial Parliament has a voice, and an ultimate voice, in relation to this matter”.

Thus, legally speaking, the ultimate arbiter on the question of transfer is the Parliament of the United Kingdom. If the transfer had taken place at the time of the passing of the South Africa Act that Parliament would still have been in a position to control or at least to exert strong influence in the affairs of the Territories, because the King's powers of disallowance (set out in the Schedule to the Act) would have been exercised by and with the advices of the British Cabinet which is responsible to Parliament, but since then, and in consequence of the promulgation of the Statute of Westminster, the Cabinet of the United Kingdom has become debarred from any interference or even expression of opinion in Dominion concerns, so that transfer at the present time would mean that the British Parliament could thenceforth no longer intervene and would be in no position to ensure by its own authority that its pledges to the Natives would be honoured. In these circumstances it would be understandable if Parliament hesitated to agree to transfer unless guarantees were furnished for securing the objects of the reservations contained in the schedule to the Act, that is to say protection of native rights and interest.

The position was set out in a memorandum handed by the Secretary of State for the Dominions to General Smuts in July 1933. It commenced with the observation that “In any suggestion for the transfer of any of the South African High Commission Territories to the Union account must be taken of pledges given to Parliament and to the inhabitants of the Territories, the conditions prescribed in the Schedule to the South Africa Act and lastly the wishes of the inhabitants”. The memorandum then

went on to cite the aforesaid pledges on various occasions from the passing of the Act down to 1925. It then went on to allude to the altered position consequent upon the passage of the Statute of Westminster and stated that "before any question of transfer could be considered it would be necessary to ascertain:—

"(a) What the Union Government would propose to substitute for the provision relating to the power of disallowance (this at the time when the South Africa Act was passed, meant disallowance on the advice of His Majesty's Government in the United Kingdom), and

"(b) What alternative form of security could be provided in place of the provision as regards reservation." (At the time of the South Africa Act His Majesty would have been advised as to the Bills in question by His Majesty's Government in the United Kingdom.)

Finally the memorandum referred to the pledges given to the inhabitants of the Territories and the necessity for consulting their wishes. "In this connection account would have to be taken of the fact that the native policy in the Union is still the subject of discussion (this evidently in allusion to Native Bills then under consideration by a select committee) and will, it is understood, form the subject of future legislation. The Natives of the Territories would naturally require to know how their interests were likely to be affected by any developments of native policy in the Union".

In 1935 the question of transfer was taken up by the Prime Minister of the Union to whom an aide-mémoire was handed by the Secretary of State for Dominion Affairs. It recalled again the pledges given to Parliament and to the inhabitants of the Territories and expressed the view that the time was not ripe for consulting the Natives, and added: "All our information goes to show that at present native opinion in the Territories is very strongly opposed to transfer. In these circumstances it appears to us that the results of such consultation would be embarrassing and undesirable from every point of view". The conclusion drawn from the foregoing was that in the ensuing years the policy of both Governments "should be directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned. . . ." One other important point touched on in this aide-mémoire was that the establishment of Southern Rhodesia as a self-governing colony had bearing on the future of at any rate part of the Bechuanaland Protectorate. It will be recalled in this connection that the original intention was that Northern Bechuanaland should be administered by the British South Africa Company, so that if

Britain were to relinquish that territory the older claim of Southern Rhodesia (as heir to the Company) would call for consideration.

In 1938 the subject was once more discussed between the Secretary of State for Dominion Affairs and General Hertzog and a joint statement was issued. In this pronouncement His Majesty's Government endorsed the view expressed by General Hertzog that the section of the South Africa Act relating to transfer of the Territories "has meaning and intention. His Majesty's Government in the United Kingdom fully recognises the significance of the section and does not seek to minimise it". At the same time it is reiterated that the United Kingdom Government is bound by pledges to both Parliament and the Natives. After outlining proposals for closer co-operation for development and improvement of conditions in the Territories the statement concludes with this passage:

"It has also seemed to us desirable that the peoples of the Territories should have before them a clear picture of the terms on which the transfer of the government would take place if decided upon. Such terms would naturally follow closely the provisions of the Schedule to the South Africa Act of 1909, but it seems to us important that His Majesty's Government in the Union should set them out in more convenient and more complete form, so that the peoples of the Territories may appreciate the conditions under which the Territories would be governed, the position in regard to the maintenance of the tribal institutions of the Natives, the economic advantages which the Union Government anticipates would accrue to the peoples of the Territories and any other relevant matters. It has accordingly been arranged that memoranda should be prepared by the Union Government setting forth the terms which they would propose and that these memoranda should be made available for the information of the Native and European inhabitants of the Territories. We feel that this step will be very helpful in clarifying the whole question".

The writer is not aware if the above proposal has ever been acted upon, but one would suppose that until the promised memoranda are available there can hardly be further fruitful discussion on the subject. However that be, the Prime Minister, Dr. Malan, has of late made known that he intends to take the matter up once more with the United Kingdom Government, whether informally, as did Generals Smuts and Hertzog, or in formal parliamentary petition to the King, we have not yet been told. Whichever way it is done, certain it is only that the two cardinal conditions for transfer will still stand, namely, consultation of the wishes of the inhabitants and submission to Parliament in the United Kingdom, and before either of these can be approached there must be made quite clear the terms and condi-

tions under which the Territories would be governed by the Union.

Among those terms and conditions must presumably be some definition of the proposed status of the Territories. This is a point which seems not to have been elucidated either in the Act or in subsequent pronouncements. The transaction has been alluded to only as a transfer and in so far as consent thereto lies within Britain, she cannot transfer greater right than she herself holds, which in the case of Bechuanaland Protectorate and Swaziland is that of Protectorate, which is not the same thing as ownership. The case of Basutoland is different, for this is a British Territory and the Basuto are by consequence British subjects. It is true that under existing conditions these people would still be subjects of the King, but when transferred they would become citizens of the Union, and, of course, in the event of establishment of a South African Republic they would altogether lose the nationality they have enjoyed for nigh a century. The aide-mémoire of 1935 recalled that 10 years earlier General Hertzog had declared in the Union Parliament: "Our position has always been as a party that we are not prepared to incorporate in the Union any Territory unless the inhabitants of the Territory are prepared to come in". From this and the general character of discussions on the subject it would seem that transfer of the Territories has been conceived only as complete integration in the Union.

Whether transfer in this sense was originally intended is open to question. When in 1908 the Basutos petitioned that they should not be included in the Union they were told that they must expect some day to come under the same *Government* as the rest of South Africa. Article 151 of the South Africa Act 1909 provides for "transfer to the Union the *Government* of any territories" and goes on to say that "upon such transfer the Governor-General-in-Council may undertake the *Government* of such territory". It is to be noted that up to this stage transfer of *Government* only, not of territory or possession, was mentioned. The phrase cannot have been loose but must have been carefully chosen to indicate the nature of transfer then contemplated. It is true that since then there have been repeated allusions on both sides to transfer of territories, but in a memorandum handed to General Smuts by the Secretary of State in 1933 it is reiterated that the Act provides for transfer of the *Government* and in a joint statement by General Hertzog and the Secretary of State in 1938 the same wording is repeated in the heading and in the text. From this it is reasonably to be inferred that in 1909 no outright transfer and incorporation of the territories was intended and in view of the change of territorial and national status such would entail it may even then have been regarded impracticable to effect transfer of that nature. If that was the position in 1909 the obstacles to complete transfer are today much less surmountable and of wider range.

And here account must also be taken of a new party to the issue, namely the United Nations. It is to be remembered that the Charter of that international body includes a chapter called the Colonial Charter (adopted on the initiative of the United Kingdom) whereby the signatories bound themselves to assist territories under their rule "In the progressive development of their free political institutions". It would be difficult to reconcile this undertaking with transfer of Britain's territories unless fulfilment of this condition of the Charter were guaranteed to the satisfaction of the United Nations. It would be out of place here to discuss the racial policy of the Union of South Africa; suffice it to say that it is held in disfavour in U.N. circles. Native policy was the rock on which unification of the Territories foundered in 1909 and today it is of far greater consequence than it was over 42 years ago. It must be recognised that in the intervening years South African racial policy has not been such as to overcome the difficulty then encountered nor has it shaped in the manner suggested by the 1935 aide-mémoire. On the contrary it has been calculated to repel the native inhabitants of the Territories.

It will be seen from the foregoing that the question of the future of the British High Commission Territories, so far from being simplified with the passage of time, has become more problematic. Conditions as they were when their inclusion in the Union was first contemplated no longer obtain. The Statute of Westminster, the trend of native policy in the Union, the ideologies of the age, the influence of international opinion, all these are new factors to be taken into account and they are not favourable to transfer of these British dependencies to the Union of South Africa. One fact that does emerge most clearly is that the solution to the problem rests primarily with the Union Government. It depends upon her to create conditions and to offer terms that will make transfer acceptable to the native inhabitants and to place the British Government in position to consent to transfer while yet keeping faith with tribes who have so long clung loyally and trustfully to their British allegiance.

## PART TWO

### POPULATION

#### I. The European Population.

THE population of the High Commission Territories is very mixed and comprises Europeans, Asiatics, Coloureds and Natives. The tables given in Appendix "A" show the numbers of each group and the population trends over the past 40 years.

The European population of each territory is fairly small but is composed of different elements in different proportions. In Basutoland the majority of Europeans is English-speaking (in 1936 70%).<sup>1</sup> About one-fifth of them come from the British Isles or are descended from persons who came from there, and most of the balance come in from the various provinces of the Union of South Africa, mainly from the Cape and Orange Free State. A little over 20% were born in the territory: this proportion is probably higher now. In 1936 about 80 out of the 600 adult European males were Basutoland Government officials, including doctors; about 25 were South African government officials, seconded for duty in Basutoland (*i.e.*, postal officials, railway employees), 270 were engaged in trade and commerce, 80 were missionaries and the rest artisans and semi- or unskilled labourers. Few women were employed outside their household duties except as nurses, teachers and missionaries. The proportions between the various groups probably still hold today, except that there are perhaps more Government officials and a few more traders.

In the Bechuanaland Protectorate and Swaziland the position is a little different. There are more Europeans there, both absolutely and in proportion to the Non-European population, and their ethnic composition and their occupations are more varied. In Basutoland there is one European to 346 Natives;

---

<sup>1</sup> The latest census figures became available at the time of going to press and, as a result, new tables have been substituted in Appendix "A" for those supplied by the author some time ago. However, his analysis (based on 1936 census figures) has not been touched.

in the Bechuanaland Protectorate and Swaziland the proportion is one to 108 and one to 66 respectively. Both the latter territories contain an appreciable proportion of Afrikaans-speaking people<sup>2</sup> and a few Jewish people; both have a large proportion of farmers and some miners. The Afrikaans-speaking people comprise the majority of farmers, of the lower grades of the Government service, of artisans and of semi- and unskilled labourers. The Jewish people are mainly traders and cattle dealers. In the Bechuanaland Protectorate most of the Afrikaans-speaking people were born in the Union of South Africa and came to the territory since 1910—many only during the last 10 or 15 years, but in Swaziland, most of them are descended from the early settlers. In both territories there is also a fairly large floating population of Afrikaans-speaking people, who are Union government employees, seconded for duties on the railways or the railway-operated road motor services. The Jewish people are mostly fairly recent arrivals, and in Swaziland, include a number of German refugees, who were admitted just before the war.

In Basutoland the land is national property and cannot be alienated to Europeans or members of other racial groups, unless by *their mode of life, they become tribesmen and acknowledge* the authority of the Paramount Chief. Small areas have been reserved for Government use, where Government offices and business premises are situated and where the European community *connected therewith reside*. Outside of these reserves, sites for mission or trading stations may be granted by the Paramount Chief, with the concurrence of the Government. There are thus no European farms or farmers.<sup>3</sup> Mining and industrial operations *could theoretically be carried out within the framework of the* existing laws of land tenure but no exploitable minerals have yet been discovered and no industries established.

As shown in the preceding section, the position is quite different in the other two territories where there are large Crown lands and large farming concessions in the hands of Europeans. Bechuanaland is divided into three sections—Native Reserves (103,250 square miles), European areas (7,500 square miles) and Crown land (165,000 square miles). The Native Reserves consist of those areas that are statutorily recognised as belonging to the Bechuana tribes and set aside for their sole use. Land may be occupied by non-Natives in the same way as in Basutoland. European areas are those ceded to European companies in the early days of the Protectorate. They comprise the Lobatsi, Gaborones and Tuli Blocks, which were originally acquired by

<sup>2</sup> In Swaziland 46% spoke English and Afrikaans, 19% English only, 29% Afrikaans only. In Basutoland the percentages were 1%, 70%, 14% respectively. (1936 census).

<sup>3</sup> The Basutoland census of 1936 recorded the existence of ten farmers. These people either had the use of small agricultural plots in the Government Reserves, and mis-called themselves farmers, or had farms elsewhere and were residing in Basutoland at the time of the census.



the British South Africa Company from various chiefs as related earlier, and the Tati or Francistown district, obtained from Lobengula. These "blocks" were originally ceded to form a railway strip and the railway does in fact run through them, except for the Tuli Block which is the largest of them all. This area lies to the east of the best and straightest route, so the railway has been carried direct through the Bamangwato Reserve.

The whole of the three blocks and part of the Tati district are divided into farms, leased or sold to Europeans by the company concerned, and held under restrictive title; debarring owners from selling to non-Europeans. Before the war many farms were vacant, but during the past few years there has been an influx of settlers. Some are genuine farmers, others merely slaughter the game to be found there, for the sake of biltong (dried meat). Part of the Francistown area has been leased in perpetuity to the Government as a Native reserve, and one small farm on the Gaberones Block was bought by the Government for the tiny Baklokoa tribe.

Crown land is all land which is neither Native Reserve nor European area. It consists mostly of the arid and waterless regions of the Kalahari, but contains large tracts of country both west of Southern Rhodesia and north of the Molopo River (in the south) which are potentially good ranching and agricultural areas. By far the greatest part of it is unoccupied save by a handful of wandering Bushmen; there are small native settlements in the north-eastern area, at a few points in the central Kalahari and along the Molopo River, which forms the Protectorate's southern boundary. There are a few European farmers at Ghanzi, on the west, where the pioneers were settled in 1898 by Cecil Rhodes as a barrier to German expansion from South-West Africa. A few farmers, both from the Protectorate and the Union, have been given permits to graze their cattle on Crown land, north of the Molopo River, but none of them reside there. The Colonial Development Corporation has recently become interested in these areas and is to establish immense ranches there. A timber concession in the north-eastern area is being exploited by a European company, employing a handful of Europeans.

Although mineral concessions have been given out from time to time very little mining has ever been done in any of the Native Reserves and there is none at the moment except for a small asbestos mine in the Bangwaketse Reserve that has been reopened as a Native Administration enterprise. Some gold mining is done in the Tati district but, since the closing of the Monarch mine which employed about 100 Europeans, this has become a negligible activity, carried on by a handful of operators. Swaziland also contains a large number of farmers (about half the European population in 1936) and there is also an appreciable mining group. The great majority of the latter are employed on the Havelock asbestos mine which employs about 120 European

men and houses them and their families in a little self-contained community on mine property. Their remote position cuts them off almost entirely from the general social and political life of Swaziland and they tend to look towards Barberton (their nearest large town) and the Union. Apart from them there are a handful of lone gold-diggers, similarly placed, and a small number of tin miners. The latter, living more in the centre of Swaziland, play a fuller part in the country's ordinary activities.

Classes of persons found in Swaziland<sup>1</sup> but not in the other territories are absentee landlords and "weekenders". The former are farmers who live in the Transvaal. They either own or hire from other absentees large tracts of land in the territory which they use as winter grazing for sheep from their Transvaal highveld farms. They make no contribution at all to the country's social, economic or political life; nevertheless they have a direct personal interest in the country's position and future and, in the past, have been treated with tenderness in deference to their supposed influence with the South African Government.

The "weekenders" are a new phenomenon. They are wealthy (mostly business) men from Johannesburg and other Union centres, who have bought property in the country, some of which they farm and some of which they have turned into attractive country estates which they can visit for "weekends" and holidays and where some intend to retire. It is too early to say what sort of contribution they will make to the country's life and affairs but there is little doubt that their potential influence is disproportionate to their numbers. Like the absentee farmers their interest in the country is likely to differ fundamentally from that of the local inhabitants, especially the Natives.

Analogous to the absentee farmer is the absentee shareholder. This type of person is practically non-existent in Basutoland as most of the large business concerns there have grown up in the country and are controlled by people on the spot. The same applies in the Bechuanaland Protectorate as far as business firms are concerned, but not as regards most of the land. The British South Africa Company still has interests in the Lobatsi, Gaberones and Tuli Blocks and the Tati Company still holds practically the whole of the Francistown district. Both have wide interests in Southern Rhodesia and elsewhere, and both have their head offices in London. The same applied to the Monarch mine which belonged to the Tati Goldfields Ltd. The position

---

<sup>1</sup> Recently too, a British bank, Barclay's Bank, has acquired many thousands of acres of land for afforestation through its Development Corporation. There are also a few smaller concerns in the country having mainly South African interest. Finally there is one large organisation common to the three Territories, namely the Native Recruiting Corporation (with its tropical counterpart, the Witwatersrand Native Labour Association, operating north of 22° South in Bechuanaland), which is a subsidiary of the Transvaal Chamber of Mines, set up to control recruiting for the Witwatersrand and latterly the Orange Free State gold mines.

is similar in Swaziland. The Havelock asbestos mine is owned by the New Amianthus which is connected with kindred mining operations in Southern Rhodesia and is a subsidiary of a British concern.

It is difficult to say how the interests of all these and other business enterprises lie in relation to the question of transfer. At present most of them are probably neutral but should their interests be threatened by economic pressure from the Union they could indubitably bring considerable influence to bear on the British Government in favour of transfer. As has happened so often before the flag would follow trade.

The most vocal demand for transfer has, in the past, come from non-officials and non-missions, whereas most officials and missionaries oppose it. Most of those in favour of transfer have various links with the Union, kinship ties, political sympathies and, above all, economic interests, and not a few of them consider that under the Union, with its white domination policy, their position as Europeans will be bettered. Most officials would dislike being transferred to the Union service, which insists on bilingualism (English and Afrikaans), is reputed to favour Afrikaners and to be governed by political favouritism; but as their position is adequately safeguarded by the Schedule to the Act (which provides for generous terms of retirement to those who wish) and as many could undoubtedly get transferred elsewhere in the Colonial service, their approach to the problem may be regarded as fairly unbiased by personal considerations.

The missionaries would be least affected of all European sections by transfer and, as a body, are probably the most impartial judges of the position, although some sects may be influenced by personal factors. The Dutch Reformed Church, which is active in Bechuanaland and Swaziland, would probably stand to gain by transfer and would certainly be biased in its favour by political and possibly economic reasons. The French missionaries, who have done so much for Basutoland, mindful of the harm done them in the past, might well be opposed for historical reasons. Most of the others, such as the London Mission Society, the Roman Catholics and the English Church have wide interests in the Union as well as in the territories and so should be free of personal bias.

This rather detailed account of the composition of the European population has been given in order to indicate its varied character and the somewhat divergent interests of the different groups.

## II. The Coloured Population.

THE census figures given earlier include Indians and Eur-Africans (i.e., people of mixed descent). Almost all of the Indians are engaged in trade as storekeepers or hawkers and many

are very prosperous. In Bechuanaland they are specially active in the Kalahari, as they are far better able to withstand the trying climatic desert conditions and the corroding effects of social isolation there than Europeans; the local Natives have not yet advanced sufficiently to enable them to trade there themselves. Many Indians still keep in touch with India which they visit periodically and where several keep their wives. They also maintain close contact with Indians living in the Transvaal and Natal. Their numbers are increasing slowly and would do so far more rapidly, were their immigration not strictly limited by the Government.

The Coloured people are mostly of mixed European and Native blood although some are the offspring of Indians and Natives. The great majority were born in the Territories but a few, mainly in Bechuanaland, originated in the Union. They are chiefly employed as artisans (mechanics, builders, etc.) or on semi- and unskilled work, and some struggle along as blacksmiths. Their position generally is parlous and pathetic and, as shown by comparative census figures, their numbers decreased substantially between 1936 and 1946. The main reason for this is their absorption into either the European or the Native community. Those whose skins are light enough "pass over" into the European group, and this process has been accelerated by the war, as many youths were accepted into European units of the Union Defence Force and on discharge managed to retain their newly won racial and social status. The others have been absorbed into the native community in either of two ways. Isolated individuals, who are the illegitimate offspring of some white man, become imperceptibly—and usually completely—absorbed. They freely intermarry with the Natives and their children are regarded as Africans and as full members of the local tribe; but when they form separate communities of their own, either by reason of their numbers or their descent from some pioneer immigrant group, they may voluntarily and deliberately elect to be regarded as Natives—they then place themselves under the direct authority of the local chief, pay Native tax instead of European poll tax, and are entitled to full tribal rights, such as to land, grazing facilities and having their cases tried in the Native courts. Sometimes their absorption is complete and their identity is submerged in that of the tribe; but where they formed a fairly large and compact group their tribal affiliation remains somewhat artificial for they still tend to follow a European rather than an African way of life, to speak English or Afrikaans and to intermarry amongst themselves. Occasionally some may even try to revert to non-Native status but the Government usually discourages such attempts and rightly so, for with the bitter racialisms of Southern Africa, which the three Territories share in varying degrees with their neighbours, the future of the Coloureds is gloomier than that of any other group. Their only hope of peace and happiness lies in complete absorption with either Europeans or Africans and where the

colour of their skin betrays them, their best hope lies with the African.

Numerically and economically the Coloured people are an unimportant factor in the Territories and have no political rights or influence. It is unlikely that their views, even if solicited, would have any influence on the question of transfer. The Indian community is economically more important but, being numerically so small, it too has little political influence.

### III. The African Population.

WITH minor exceptions, the African population of each Territory is ethnically homogeneous. The Natives of Basutoland are almost entirely of Sotho stock. A few are descended from Zulus (Ngoni stock) who attached themselves to different Basuto tribes during and after the Zulu wars of a century ago, but they have been almost completely absorbed. There are also some Tembus and Fingos, also of Ngoni origin, most of whom came into the country from the Union about a generation ago and have largely retained their language, customs and tribal identity. But they number less than 10% of the total African population and, as they have fully accepted the authority of the Basuto chiefs and have severed their connection with their fellow tribesmen in the Union, this ethnic distinction has no political significance. There are many Basuto living outside Basutoland, both on the European farms along the border and in small tribal reserves to the north and south of Basutoland. The former are mostly detribalised and there is no political contact and very little social intercourse between them and the people of the territory.

The position in Swaziland is similar. All but 1.5% of the population are Swazis. This tiny minority consists mostly of migrant labourers from Portuguese East Africa and Nyasaland but a few of them have married, settled down in the country and become absorbed into the local tribal and political system. Outside the territory, there are some thousands of Swazi living in the Transvaal. Some are so detribalised or live so far from Swaziland that they have ceased to take an interest in the affairs of the Swazi nation but others still continue to be visited by emissaries of the Paramount Chief and pay tribute to him. Others again, particularly those living near the Swaziland border, especially in the Barberton district, might, from the Native point of view, almost be regarded as an integral part of the nation.<sup>1</sup>

The Bechuanaland Protectorate differs from the other Territories in that its Native population is far from homogeneous and is made up of many different elements. One element is that

<sup>1</sup> J. van Warmelo: *A Preliminary Survey of the Bantu Tribes of South Africa: Pretoria, 1935*, p. 86, and H. Kuper: *The Uniform of Colour: Johannesburg, 1948*, pp. 1/2.

of the Bushmen but from every point of view they are so insignificant that they need not be considered further. The main group is that of the Bechuana themselves. They are by far the most numerous and are the dominant group, politically and economically. Most of them originally came from the Transvaal during the first half of the eighteenth century, *i.e.*, long before the Voortrekkers crossed the Vaal, but some emigrated from there during the nineteenth century, mainly as a result of Boer pressure. They are divided up into eight main tribal groups plus a few minor separate communities. Except for the Batawana who live in the north-western district of Ngamiland, the main tribes are to be found in the eastern part of the country, bordering the Union. Two of them the Baralong and the Bakgatla, have sections in both territories. The headquarters of the former are actually at Mafeking, in the Cape Province a few miles from the Bechuanaland border, and most of them live in the Union. The two sections of the tribe have a common chief, who is recognised by both the Union Government and the Protectorate Administration and there is a great deal of coming and going across the border. The Bakgatla on the other hand are divided: one section lives in the Protectorate under its chief and the other in the Transvaal under a separate chief. There is still some coming and going between the two, but they are tending to grow apart and are far less closely linked than the Barolong. Some years ago the head of the Bechuanaland group, Regent Isang, alone of the Bechuanaland chiefs favoured "transfer" but it is not at all certain that his successor would do so today.

Other Bantu groups include the Koba and Mpukushu who came originally from what is now Northern Rhodesia; Damara, who are the descendants of refugees from what was then German South-West Africa; Kalaka, Birwa and Tswapong who are allied to the peoples of Southern Rhodesia and Northern Transvaal and originally came from those areas; and, finally Kgalagadi, widespread throughout the Kalahari and resident there for centuries. Except for a few isolated communities, all these Bantu groups are subject to the authority of the Tswana chiefs; some of them were formerly serfs of the dominant community and all of them still have a fairly lowly status in the tribe. Most of them accept this position but those who possess a strong tribal organisation and culture of their own, such as the Damara and some of the Kalaka, resent it and periodically attempt to escape from Tswana overlordship. Recently (1947), one Kalaka group attempted, unsuccessfully, to resist the domination of the Bamangwato under Chief Tshekedi and had to flee to Southern Rhodesia.

The foregoing differences between the Territories are relevant to the question of transfer. The homogeneity of the Basuto and Swazi facilitates the formation of a strong national consciousness and reinforces the unifying effects of their history,

geographical position and centralised tribal organisation. The Basuto and Swazi are thus able to speak with one official voice. In Bechuanaland, on the other hand, the historical and ethnic differences between the various tribes and peoples retard the development of a similar national sentiment and permit the development and expression of divergent views and interests.

There is a considerable labour migration from each Territory to the Union. The vast bulk of the migrants are men and the rest women in the proportion of about one woman to eight men from Bechuanaland (the only Territory for which adequate recent figures are available). The migration itself is on a huge scale and involves at any one time about 60% of the able-bodied tax-payers.<sup>1</sup> Until recently the great majority of these labour migrants spent only a year or two away and then returned home. Latterly and especially since the war, large numbers have settled in the Union, mainly in the urban areas, with their wives and children and apparently intend to stay there. The extent of this emigration may be gauged from the census figures given in this section, e.g., Basutoland, instead of showing an increase in population as might have been expected, actually shows a total decrease of nearly 36,000 people. For the most part these emigrants settle in the urban areas of the Union and, as they gradually lose contact with their homeland, they slowly become detribalised and lose their title to any say in the management of its affairs.

---

<sup>1</sup> I. Schapera: *Migrant Labour and Tribal Life*: Oxford, 1947, pp. 34 *et seq.* gives detailed figures of the numbers involved for Bechuanaland in 1943. The position is still much the same there today, and is similar in Basutoland and Swaziland.

## ADMINISTRATION

### I. Government and Administration.

THE overall government of the Territories through the High Commissioner was briefly described in the first section. Attention may now be given to the details of local administration.

Each Territory is administered by a Resident Commissioner, responsible to the High Commissioner. It is his duty to advise the latter on all matters affecting the Territory, to make recommendations regarding policy and legislation and to execute the policies approved and orders given by the High Commissioner. To enable him to carry out these duties he has a secretariat and various technical departments such as Police, Medical, Agricultural, Veterinary, Treasury and Education. He is, in fact, a minor Governor and each Territory is a separate administrative unit. There is very little contact between the three Territories and each pursues its way independent of the others and, to a large extent, ignorant of or indifferent to the others' achievements, difficulties and failures. The general policy of each is prevented from diverging too far from that of the others by the High Commissioner. The only contact between officials is through the Resident Commissioners' conference, which meets annually (and sometimes between times when urgent matters of common interest arise) under the aegis of the High Commissioner, and an annual inter-territorial conference of education officers. The desirability of inter-change of officials and of treating the Service as one unified whole has often been stressed but nothing has been done to implement this except for the transfer of a few Treasury officials, the occasional inter-change of a few junior administrative officers and the translation on promotion of the last two Resident Commissioners of Bechuanaland to Basutoland and in 1950 of the Resident Commissioner of Swaziland to Bechuanaland. There are a number of disadvantages in this separateness, of which stagnation is not the least.

The administrative capitals of the respective Territories are Maseru, Mafeking and Mbabane. The centres of Native administration in Basutoland and Swaziland are some miles from



the official capital. In Bechuanaland, where there are a number of Native administrations their centres are usually also the seat of the local district administration. That country also has another peculiarity, namely that its capital, Mafeking, lies outside its boundary and is situated in the Union. This is a relic of the old days when both British Bechuanaland and the Protectorate came under one government. It is most inconvenient and unsatisfactory: the obvious remedy is discussed from time to time and a possible site within the territory is selected but at the critical moment action is always withheld on the grounds of expense and the possibility of "transfer"; another set of offices is then built in Mafeking and adds yet another obstacle to rebuilding in the Protectorate.

For administrative purposes each Territory is divided into districts in charge of a District Commissioner. In some cases he is alone, in others he may have one or more District Officers to help him. On him falls the detailed and routine administration. He is responsible to the Resident Commissioner for the order, progress and good government of his district, and he combines the functions of magistrate, accountant, revenue officer and tax collector with those of political officer and general co-ordinator. He is expected to assist and co-ordinate the work of the different technical departments operating in his district and, above all, he is liaison officer between the Government and the local residents of all races. He has to inform them of Government policy and instructions, discuss with them Government proposals and advise the Resident Commissioner of their views and encourage their co-operation and active participation in the various aspects and processes of government. His approach to the Native population is through the Native Authorities, who are an integral part of the Government machinery. His is a position of great responsibility and its execution is profoundly different from that scathingly described 20 years ago: "the magistrate neither administers his district himself nor does he supervise the administration".<sup>1</sup>

Powers, functions and duties vary somewhat from one territory to another. They are greatest in the Bechuanaland Protectorate, where each Native tribe has its own organisation, independent of the others and each district is coterminous with one or more tribal areas. As a result, the District Commissioner is the one and only recognised link between the Native Authorities and the Government (the Resident Commissioner, Central Secretariat and Heads of Departments). In Basutoland and Swaziland there is a single, centralised, Native administration under the Paramount Chief, which covers the whole country and in many ways parallels the governmental administration. The Resident Commissioner and the Paramount Chief deal directly with one

---

<sup>1</sup> Hodgson, M. L. and Ballinger, W. L.: Britain in South Africa, No. 2. Bechuanaland Protectorate: Lovedale, 1931, p. 65.

another in matters which in Bechuanaland are dealt with by the District Commissioners and their Native Authorities. The Paramount Chiefs of Basutoland and Swaziland are the main channels of communication between the Government and the local subordinate Native Authorities and the latter tend to look to them for authority and advice rather than to the District Commissioners. Similarly the local Native Authorities' position and influence are over-shadowed by the Paramount Chiefs and, except in the case where the Paramount Chief concerned is a weakling, they have far less power and independence than the Native Authorities of the Bechuanaland Protectorate.

Each of these two systems has its advantages and disadvantages. The centralisation of Basutoland and Swaziland puts a premium on the calibre of the Resident Commissioners and Paramount Chiefs, and the nature of the relations between them. Where they are both strong and efficient and get on well together rapid progress can be made throughout the Territory; but where this is not the case the whole process of administration is correspondingly handicapped and retarded. The decentralisation of Bechuanaland avoids these extremes and puts a greater premium on district administration. With the great variety of chiefs and district officers it is not possible to achieve such spectacular successes or failures as have marked the recent history of Basutoland and Swaziland, but it is easier to reach a higher general standard of development and administration. It also facilitates experimentation and the testing of innovations, which is important when dealing with a primitive and conservative people who prefer proved facts to theoretical possibilities.

Another important difference between the two systems has already been mentioned, namely that the Paramount Chief is the official voice of the Native peoples under him. Consequently only one official Native view point can be expressed in Basutoland and Swaziland, whereas in the Bechuanaland Protectorate each chief or Native authority can express his separate opinion; so that the Bechuana may speak officially with divided voices.<sup>1</sup>

In neither case is there any guarantee that the official voice is the voice of the people, though it very likely is.

## II. European Administration.

**T**HERE are no legislative bodies in any of the Territories and, as mentioned in the previous chapter, the sole legislative authority is the High Commissioner by virtue of his statutory

---

<sup>1</sup> In 1935-37 when the question of "transfer" to the Union was being actively discussed, Chief Tshekedi and others were strongly opposed to it, whereas, Isang, Chief of the Bakgatla (who, as mentioned earlier, have a branch in the Union) was in favour. Similarly in 1946, six Bechuana Chiefs sent a memorandum to the High Commissioner opposing the incorporation of South-West Africa into the Union; two other chiefs did not associate themselves with this.

authority derived from the British Government. The European and Coloured populations of each Territory come under the direct administration of the Resident Commissioner through the District Commissioner of each district. In the absence of any elected Government, the administration may easily become a pure bureaucracy and so it is in relation to Indians and Coloureds. They can lay their complaints, grievances and requests before the various officials concerned and they have the right to have their views forwarded to the High Commissioner or Secretary of State, but they can bring little pressure to bear on any of them.

The European residents are in a better position as there is a good deal of social contact between them and the officials and even some inter-relationship through blood or marriage. They have ample opportunity of putting their views forward. Such representations are unofficial but none the less effective. The heads of the various churches and missionary societies also have direct access to the Administration. Then there are a number of semi-official representative bodies such as local chambers of commerce, farmers' associations, and school committees, which are officially consulted by the Administration on matters affecting their interests. In Bechuanaland and Swaziland there are also official European Advisory Councils.

The European Advisory Council for Bechuanaland was first established in 1932 and that for Swaziland in 1921, but until recently neither had been accorded statutory recognition. There are seven elected members of the former and nine of the latter. The Resident Commissioner is president and the Government Secretary or Deputy Resident Commissioner and certain departmental heads are *ex-officio* members; none of them have any right to vote. Elections are held triennially and all Europeans over the age of 21 who comply with certain residential or property qualifications are eligible for election and are entitled to vote. Sessions are held twice a year. As the title of these bodies indicates their function is purely advisory. Their discussions range over a wide variety of subjects and are often sharply critical of the British Government and the local Administration.

There is no contact between these Councils and the Native Councils of a similar nature. On the face of it this seems to be pure segregation on the Union model and inherently that is exactly what it is. It may be argued that the interests and the state of development of the Europeans and Natives are so different that it leads to smoother and more efficient administration to keep them apart. Up to a point this is true, but it ignores the main fact that many interests of White and Black are inextricably mixed and could and should be considered jointly. There would doubtless be difficulties in carrying out such a policy but how real they are and to what extent they could be overcome no one can say until the problem has been squarely faced and something tried on the

lines of the legislative councils of Northern Rhodesia and Kenya. In 1951, however, a joint European and African Council was formed in Bechuanaland to discuss matters of common interest.

### III. Native Administration.

THE form and content of present day Native Administration is the product of modern conceptions of trusteeship combined with the *laissez faire* doctrines which accompanied the original granting of protection.

When the Territories first came under British rule, the internal administration of the Native peoples was left almost entirely in the hands of the traditional tribal authorities. This accorded very well with the desires both of the Native Authorities and the British Government. The former were only too glad to be freed from the ever-present fear of European penetration and subjugation and to be left to look after themselves. The small annual hut tax which the British authorities demanded to offset the cost of administration was a small price to pay for the advantage of protection and the chiefs were not unwilling to get their people to pay it and to see to its collection themselves. The British Government for its part was well content to meet the demands of the humanitarians at home, and, in the case of Bechuanaland, to further the bold designs of imperialists such as Rhodes, and to achieve both these objects at no cost and very little trouble to itself.

The result of this policy was that the chiefs were left to administer the internal affairs of the tribes according to traditional Native law and custom. In Basutoland, which was rent by civil discord, they were positively encouraged to settle inter-tribal disputes themselves. At first the British Government tried to stand aside and merely keep the ring for the contending factions, but after years of watching their endless quarrels it decided to build up a single authority and to give its support to the principal heir of Moshesh in his efforts to bring his juniors to heel. The crisis came in 1896 when Lerotholi, grandson of Moshesh, was requested by the Resident Commissioner to bring to book the son of his strongest rival for having raided some European farms in the Free State. He took the field with a force of over 10,000 men to seize the delinquent who was being protected by his father with an equal force. After an action in which 75 men were killed and many others wounded, the boy was surrendered and handed over to the Resident Commissioner. This victory placed Lerotholi's position beyond serious dispute. Thereafter he and his heirs were able to consolidate their position and build up the power of the paramount chieftainship to formidable proportions. The course of events was similar in the other two Territories. In Swaziland the paramountcy of Bunu was fostered and supported. Unlike the Swazi and Basuto the

Bechuana tribes had never been united under one head. Their tradition of mutual independence and their geographical isolation made a policy of unification, such as that followed in Swaziland and Basutoland, unwarranted and unnecessary. Nevertheless the same basic policy was applied to each individual tribe. All contained fragments of other tribes of varying size and strength. Whenever these tribal groups tried to revolt against the ruling chief, Government support was (and still is) forthcoming, thus enabling him to consolidate his position firmly within his own area, in precisely the same way as was done by the successors of Moshesh in Basutoland.<sup>1</sup>

However much the the Imperial Government wished and tried to leave the internal administration of the Territories to the tribal authorities, in the long run it became impossible to do so. This was early recognised in the case of Bechuanaland. The Order in Council of June 1891, which empowered the High Commissioner to appoint a Resident Commissioner to the territory, provided that, in issuing any proclamation under that Order, he should "respect any Native laws and customs by which the civil relations of any Native chiefs, tribes or populations under Her Majesty's protection were at the date of the Order regulated, *except (italics mine)* in so far as the same might be incompatible with the due exercise of Her Majesty's powers and jurisdiction". One of the first acts of Government was to remove from the jurisdiction of the chiefs all cases involving Europeans and later, cases involving the death penalty and cases involving Natives of different reserves. As time went on, other changes were introduced, some directly, such as the introduction of taxation,<sup>2</sup> the granting to magistrates of appellate jurisdiction over the chiefs' courts and the removal from chiefs' jurisdiction of divorces and matters arising from marriages contracted under European law, and others indirectly, such as the introduction of education, livestock and agricultural improvements, and labour migration.

These developments were both the cause and effect of the assumption by the British Government of still greater powers which inevitably reduced and controlled the chiefs' powers to an ever increasing extent. At the same time the chiefs were given considerable latitude in exercising the appreciable powers they retained. There was a great deal of give and take and the whole constitutional position became increasingly obscure and ambiguous; whether this was the result of a policy of "drift"

<sup>1</sup> In Basutoland the Government supported the Paramount Chief in breaking up the Batlokoa tribe of Makhotlong, and in the Bechuanaland Protectorate it gave similar support to Chief Tshekedi in suppressing the "self-determination" of the Kalaka under Mswazi.

<sup>2</sup> 1870 in Basutoland, 1899 in the Bechuanaland Protectorate, 1894 in Swaziland, with various subsequent changes and additions in all Territories in the shape of education and, in some cases, other levies, and various alterations in the tax rate.

or was deliberately intended,<sup>1</sup> is really immaterial; the net effect was that no one quite knew where he was and when Great Britain really began to bestir herself after the Pim reports and the scathing criticism of Hodgson, Ballinger and Barnes<sup>2</sup> and started to encourage the Territories' economic and social development, the administrative machinery proved quite unworkable. Development plans had to be carried out through the chiefs as they were the recognised authorities, but they did not have the education, ability, understanding, drive or even will to put these plans into effect. The Government, through its administrative officers, had therefore to assume greater control and initiative than ever. Understandably this was strongly resented and opposed by the tribal authorities who feared the loss of their own position, even if they did not fear the various innovations and development schemes for their own sake. Reform was essential and it was necessary both to clarify the constitutional position of the Government and the Native administration, and to reorganise the Native administration itself.

There is no need to describe in detail the history of this reform, but some of the highlights are worth mentioning as they indicate the strength of the chiefs and the scrupulousness with which their views were treated by the Government.

The first efforts at reform were made in Basutoland in 1927 but after two or three years of discussion, the proposals were so resolutely opposed by the Paramount Chief, chiefs and people, that they were abandoned. In the Bechuanaland Protectorate the scathing comments of the Privy Council in the appeal of Khama vs. Ratshosa (No. 4 of 1930) gave the Government a valuable point of departure. The disunity of the Native Authorities enabled it to make better progress and to promulgate the Bechuanaland Native Administration and Courts Proclamations,<sup>3</sup> on 4th January, 1935. Some of the chiefs accepted them and attempted with varying sincerity to put them into operation. Several opposed them, notably Tshekedi and Bathoen II, the two ablest chiefs in the territory. Their opposition was partly due to fear that their position, powers and prerogatives would be curtailed but mainly to their desire to safeguard the "sovereignty"

---

<sup>1</sup> "Britain as a matter of policy attempted to disguise the change in her position. She has preferred to leave the administration in the hands of the chiefs and encourage the idea that she cannot do otherwise without a change in the legal status of the territory." Hodgson and Ballinger: Bechuanaland Protectorate, p. 31.

<sup>2</sup> Pim reports: Financial and Economic Position of Swaziland: Cmd. 4114, 1932; ditto Bechuanaland Protectorate: Cmd. 4368, 1933; ditto Basutoland: Cmd. 4907, 1935. Hodgson, M. L., and Ballinger, W. G., Britain in Southern Africa, No. 1, Basutoland, No. 2, Bechuanaland Protectorate. 1. Barnes: The New Boer War, 1932.

<sup>3</sup> Proclamations Nos. 74 and 75 of 1934.

and constitutional integrity of their tribes, for they believed that if these could be kept unimpaired they would, in the event of transfer, be able to avoid the disruption that had come to the Native tribes in the Union. They repeatedly raised this point in discussions with the Government and asked that the constitutional position be examined and explained. When these requests were refused and the proclamations pushed through, clearly making the protected tribes subordinate to the Protecting Power, they had no alternative but to test the matter in a court of law. They pleaded that the proclamations were *ultra vires* as the Crown had never acquired internal sovereignty. As related in the previous section, although it was given against them, the judgment fully explained the position. They accepted the decision with good grace and loyally tried to carry out the proclamations.

Meanwhile the matter had been reopened in Basutoland. After years of skilful negotiation, the Resident Commissioner persuaded the Paramount Chief to accept the fact that reform was both essential and inevitable. The Government's proposals were modified considerably during the negotiations both to meet the Paramount Chief's views and to avoid the rigidity of the Bechuanaland proclamations, and their final form was promulgated as the Basutoland Native Administration and Courts Proclamations on 15th December, 1938. (Nos. 61 and 62 of 1938.) These proclamations, like their Bechuanaland counterparts, were based on similar enactments in Tanganyika Territory and other British African Dependencies, where they had ushered in the system known as "indirect rule". In 1940 the Bechuanaland Government proposed a number of amendments to the 1934 proclamations. These were exhaustively discussed with the Native Authorities, many of whom had valuable comments and suggestions to offer, notably Chief Tshekedi who, with the help of his legal adviser, Mr. Douglas Buchanan, produced the drafts of almost entirely new proclamations. The final results of these joint deliberations were the Proclamations Nos. 32 and 34 of 1943, which repealed and superseded the old ones. So much had the Native Authorities contributed, that the High Commissioner in addressing them some months later appreciatively referred to this legislation as "your proclamations".

Progress on the financial side was a little slower, but being freed from the wider constitutional issues was surer. In Bechuanaland, native treasuries were established by Proclamation No. 35 in 1938, and in Basutoland a National Treasury was established by Proclamation No. 11 in 1946. The greater delay in Basutoland was due in part to the war and in part to the far greater direct personal consequences for the chiefs themselves, which made wooing and winning them to the idea a slower and more protracted process.

Swaziland has been the most backward. Although proposals for similar reforms there have been discussed almost as long as

in Basutoland, the Paramount Chief and his advisers have obstinately refused to accept them.

In the absence of a negotiator as skilled as the Resident Commissioners of the other two Territories and a succession of High Commissioners who had no desire to push the matter through by force, there was no alternative but to leave things as they were. In 1944, as the climax to protracted negotiations, a Native Administration Proclamation was promulgated which dealt *inter alia* with the appointment of the chiefs. It was still-born, largely because it was not genuinely supported by the Paramount Chief and his people and, as was publicly admitted in 1949, had apparently been promulgated by mistake.<sup>1</sup> In 1949, draft proposals for its revision were made and are still under discussion.

The history of these negotiations has been described in some detail because it illustrates the attitude of the Government towards the Native Authorities and people, the consideration it shows to their susceptibilities, opinions and prejudices, the patience of its negotiations and the sincerity of its efforts made to reach a reasonable, acceptable and workable solution for a difficult and controversial problem. The original negotiations in the Bechuanaland Protectorate undoubtedly left much to be desired, but the tone and course of the later ones, which culminated in the revised proclamations of 1943 could not have been bettered. It is worth comparing them with the negotiations that have been proceeding for the past few years in the Union of South Africa between the Government, both in General Smuts's time and now under Dr. Malan, and the Native Representative Council, as this clearly shows the essential differences between the social and political position of Natives in the Union and in the Protectorates, between the attitudes of the Union and British Governments towards their Native subjects. In the Protectorates, Native interests, if not always paramount, are at any rate always given serious consideration; in the Union, even if they are sometimes given serious consideration, they are never paramount. Similarly in the Union, scant attention is paid to the claim that Native leaders are capable of and should be allowed to play any responsible part in local government, and ultimately in the government of the country as a whole.

---

<sup>1</sup> Marwick, B. S. MSS.



## “NATIVE AUTHORITIES”

THE various proclamations mentioned above statutorily recognised the Native Authorities, *i.e.*, chiefs, sub-chiefs and headmen “as an integral part of the Government of the Territory.”<sup>1</sup> Their powers have been defined and they themselves have been vested with legal authority. The proclamations lay down in detail the rules governing the appointment of the various grades of Native Authority, succession to, suspension from and reinstatement to these positions. They describe in both general and specific terms the duties and powers of the authorities and they define their spheres of influence and authority and their relationship to the Government, from the High Commissioner down to the District Officer. In essence they provide that the Native Authorities continue to function in accordance with traditional Native law and custom, modified here and there to conform to modern conceptions of good administration, and subject to the control and supervision of the British Administration; they also provide that the Native Authorities should constitute the principal link between the British Administration and the native people. As one of them puts it: “It shall be the duty of every Native Authority to perform the obligations of the Proclamation imposed and generally to assist the Government to maintain law, order and good government among the Natives residing or being in the area over which its authority extends, and for the fulfilment of this duty it shall have and exercise over such natives, the powers under this Proclamation conferred, in addition to any powers that may have been vested in it by virtue of any Native law and custom for the time being in force.” (Proc. No. 33 of 1943, Section 19.)

The Native Authorities are responsible for much of the administrative work of the Territories and actively participate in the process of government. One of the most important governmental functions, namely the collection of taxes, is almost entirely in their hands. They appoint the tax-collectors and supervise the collection of tax and other public monies, check and keep the registers up to date, bring pressure to bear on defaulters

---

<sup>1</sup> Basutoland: the official Memorandum of Development Plans, 1946, p. 6.

(whom they have power to prosecute), make recommendations to the local District Officer for the total or partial exemption of the infirm and poverty-stricken, and finally see to it that the collections are paid in to the District Officers at regular intervals.

They have carried out these functions so successfully that nowadays convictions for failure to pay tax have fallen to negligible proportions. It is of interest to compare this with the Union where tax collection is still principally done directly by Government and where annually thousands of defaulters are prosecuted and imprisoned.

The only place where tax is collected directly by Government officials is in non-tribal areas, and in large Union towns where the Union Government has allowed the Territories to establish a tax-collecting and quasi-consular agency, staffed by officials seconded from the Territories. Even there it has sometimes been necessary to send representatives of the Native Authorities to exhort their subjects to pay.

The Native Authorities are responsible for supervising the exploitation of the natural resources of the Native areas. All land is tribally owned and they control its distribution and allocation for pastoral and agricultural purposes, set aside areas for residential purposes, and for timber required for domestic and industrial purposes (a matter of great importance in the Bechuanaland Protectorate and Swaziland), control both surface and underground water supplies (e.g., they must approve applications to sink wells and boreholes), allocate sites to outside organisations such as missions, trading stores, recruiting corporations and airways and grant concessions for the exploitation of timber resources or for mineral prospecting. Whether these functions are executed well or ill depends on many factors, but the main point is that they are and have to be done by or through the Native Authority. Without control the system can be dangerous, yet where sound and sympathetic control and guidance are forthcoming—or where the problem involved is one within the mental grasp of the authority concerned—it works admirably. Both defects and advantages can be illustrated from Basutoland. There, for instance, the lands and the pastures were often badly and corruptly administered—favourites were given more than their fair share, steep mountain slopes which should never have been cultivated were ploughed, pastures were over-grazed without protest and fires were allowed to ravage vast areas annually. Soil erosion reached devastating proportions. As the Government itself was blind or indifferent to these abuses, it would be unfair to criticise the Native Authorities themselves too severely. When the Government eventually awoke to the situation and made ambitious reclamation schemes, the official Jeremiahs gloomily foretold that they would fail completely in the face of the opposition and conservatism of the Native Authorities.

Persuasive argument and the spectacular success of demonstration works conducted on the outskirts of his own village convinced the Paramount Chief of their soundness and thereafter he gave invaluable support by issuing the necessary administrative orders—such as forbidding up-and-down ploughing or the grazing of contour strips or leys, and by punishing those who wilfully ploughed or damaged the contour banks or who in other ways attempted to thwart the operations. The administration of these orders by the subordinate Native Authorities achieved more and worked more smoothly than direct governmental action would have done.

The orders Native Authorities are empowered to issue have been specified in the relevant legislation<sup>1</sup> and include the following matters: intoxicating liquor, gambling, arms, disorderly conduct, crime, prostitution, noxious plants and drugs, migration, vital statistics, census and tax, communications, markets, health and nutrition, natural resources, livestock industry, game and vermin, enforcement of orders issued by Administrative Officers, Native law and customs, and “other purposes” sanctioned by the High Commissioner. In other words they cover the whole range of tribal affairs. There is no need to labour the point—the Native Authorities are responsible for the administration of their districts, subject to the advice and control of the Government, exercised through the local District Officer.

This responsibility is not an empty legalism. It is real and vital. Practically nothing is done without the Native Authority and he has real power to say whether it should be done or not. If stock sales are to be held he must be consulted and authorise them; if a missionary wants to start a new school, his permission and grant of a site must be obtained. The operation of voluntary registration of births and deaths (this is compulsory only for Europeans) depends largely on his interest, or on his exhorting his people and on the clerical work of his own administrative officials. If traders want to trek their cattle through a tribal area, they must get his consent. Examples could be cited indefinitely but the essence of the matter is that the Native Authority is the local executive and has unlimited opportunity of exercising the powers that derive from his traditional position and have been conferred on him by the Government. The extent to which he exercises them of his own volition or is compelled to do so or is restrained from doing so, either by the Government or by his people, depends on various factors. The chief of these are the nature of the point at issue and the character of the people involved. In matters of purely local interest the Government rarely, if ever, compels the Native Authority to act; it is up to him to decide whether he will follow Government advice (and if necessary invoke assistance) in matters such as

<sup>1</sup> Section 24 of Proclamation 32 of 1943 (Bechuanaland Protectorate), Section 8 of Proclamation 61 of 1938 (Basutoland).

the sinking of boreholes, assistance to schools or registration of births and deaths.

In matters of national policy the Government might give orders which it would be prepared, if necessary, to enforce by direct action, e.g., measures necessary to combat an outbreak of infectious disease, human or animal, a general census, collection and determination of tax. Even in such matters the Government acts through the Native Authorities and only takes direct action in the last resort. Thus in the case of a smallpox epidemic the requisite measures are explained to and discussed by the District Officer and medical authorities with the Native Authority and, once the best ways of carrying them out have been settled, he issues the necessary orders such as that the people shall present themselves for vaccination at specified points on stated days, that schools should close or the movements of people cease between different places, and he assists in enforcing them.

On the other hand, the importance of the personal factor should not be overlooked. Where there is a keen and active District Commissioner with a lazy chief, the former will continuously try to "discreetly impel" the latter to take action in the innumerable administrative matters that need attention, but he will rarely, if ever, take action himself, for, even if not *ultra vires*, that would not be in keeping with the administrative tradition of the Territories. In the opposite case, an energetic and progressive Native Authority will need little or no impulsion; if anything, he may occasionally have to be restrained.

Apart from the Native Authority's administrative functions there are two other functions that deserve special mention, namely the judicial and the financial. The former are traditional functions, recently clarified and redefined in the same way as the administrative. The latter are new and reflect the trend of modern government.

One of the many characteristics of Southern Bantu culture is its developed legal system possessing well defined courts and court procedure and comprehensive criminal and civil law. This system was left intact when the British took over the countries, except for the modifications mentioned earlier. In 1907 the Swazi courts were further restricted to civil cases and forbidden to hear all criminal cases. Apart from these changes the courts continued to function as before and in course of time grew to handle an immense amount of litigation. From time to time the Native Authorities themselves introduced minor changes and innovations, e.g., about 1900 Chief Khama of the Bamangwato, Bechuanaland, allowed women to appear for themselves at the Chief's court instead of acting through a male guardian as was previously necessary (and still is in most tribes),<sup>1</sup>

<sup>1</sup> Schapera, L.: *Tribal Legislation among the Tswana of the Bechuanaland Protectorate.* (London 1943.) Pp. 33 and 85.

and some of the leading courts began to keep written records of their cases and copies of their judgements. On the whole these courts worked well and dispensed a reasonable degree of justice, but, as time passed, the proliferation of chiefs, sub-chiefs and headmen, each with his own court led to such a multiplicity of courts and so deep a hierarchy, especially in Basutoland, that great delays and injustices began to occur. Moreover, with the development of the people, some of the traditional methods of punishment became inappropriate. When the administrative reforms referred to earlier were introduced, the judicial system was similarly overhauled. The constitution, powers and functions of the courts were now formally defined, the keeping of written records was made compulsory and various other safeguards for the proper administration of justice were introduced.<sup>1</sup> There is no need to deal with these in detail since they have been fully described elsewhere,<sup>2</sup> but the extent of the jurisdiction of these courts should be mentioned to show the importance of their full functions. The most junior are those of minor authorities and have somewhat limited jurisdiction. The senior ones are those of the Paramount Chief in Basutoland and the principal chiefs, namely Tshekedi, who resigned the regency in 1950, and Bathoen, in the Bechuanaland Protectorate. These senior courts have power to deal with all cases except those involving the death penalty or imprisonment for life (i.e., murder, treason, etc.), marital cases where the marriage was contracted under European law, and cases where native law is inapplicable, such as insolvency or testamentary disposition of property or cases under European law except where specially placed within the court's jurisdiction. They have jurisdiction only over Natives so that cases involving Europeans and other non-Natives are automatically excluded.

The punishments they may inflict vary widely. Native courts may impose fines up to a maximum of £500, imprisonment up to one year with or without the option of a fine and whipping up to eight strokes (except on women). They may also impose any other punishment authorised under Native law and custom (such as confiscation of property, compulsory removal from one area to another) provided such punishment is not "repugnant to natural justice and humanity" (such as burning of huts). Sentences of imprisonment may be served only in authorised prisons. There is no reason why the Native Authorities should not eventually have their own prisons but so far all prisons are run by the Government. Where the sentence imposed by a Native court involves imprisonment or whipping of more than four strokes the case is subject to automatic review by the local District Officer. He is also supposed to check all records

<sup>1</sup> Basutoland: Proclamation 62 of 1938, Bechuanaland Protectorate: Proclamation 33 of 1943 which revised No. 75 of 1934.

<sup>2</sup> Handbook on Race Relations in South Africa (1949).

periodically and has power to alter any sentence or order a retrial. The Native courts do most of the judicial work of the Territories. In Basutoland and the Bechuanaland Protectorate they handle practically all the criminal cases involving Natives, except in the European areas such as Government reserves in Basutoland and the European "blocks" in the Bechuanaland Protectorate. These cases involve crimes ranging from petty theft to serious assault, slander, witchcraft and veld-burning. There is close co-operation between the Government Police, tribal police and Native Authorities and cases investigated by the former are frequently handed over to the latter courts for trial.

All cases are tried in public according to traditional procedure. The judge is the local chief or Native Authority or a person delegated by him to act as judge. He is assisted by a number of more or less official assessors, who help him to cross-examine the witnesses and finally express their views on the case. The administration of justice is thus, for the most part, not conducted in the obscurity of a distant magistrate's court, according to alien procedure and under an alien judicial officer, but openly and as an integral part of everyday life. The people and their authorities are thus closely concerned with and participate in the maintenance of law and order.

On the financial side, the people are not yet as closely connected with public affairs but the first steps towards such participation have been taken by the institution of tribal treasuries. The first of these were established in the Bechuanaland Protectorate in 1938,<sup>1</sup> when a tribal treasury was set up in each tribal area. Basutoland did not acquire a treasury till 1946, when a single national treasury for the whole country was established. The Swazi have not yet got a treasury of their own as the necessary preliminary development of the Native Authorities and Native Courts has not been completed.

These treasuries handle the finances of the tribe or nation, as the case may be. They are responsible for financing the local native administration and for carrying out various capital and development works. The services provided by the Basutoland treasury are still very limited and are restricted to paying the salaries of the Native Authorities and other administrative and judicial officials. There is every reason to suppose that it will soon expand considerably and embrace many other activities, as do the Bechuanaland treasuries and the Native treasuries of other African dependencies. In the Bechuanaland Protectorate, for instance, they are responsible for all primary education, for livestock improvement centres, irrigation schemes, stock and village water supplies, grain storage and a certain amount of agricultural production. One Native administration until recently employed a European agricultural adviser and now has a secondary

---

<sup>1</sup> Bechuanaland Protectorate Proclamation 35 of 1938.

and trades school, with a European principal. Two other Native administrations employ European mechanics to look after their pumps, transport and a small mill, and one employs a European miner to run its asbestos mine.

The revenue of these treasuries consists mainly of taxes, fines and fees. The first item includes 35% of the hut tax collections remitted by the Government and the proceeds of a special tax levied on each tribe by its Native Authority with the High Commissioner's sanction. The fines are those imposed by the Native courts. Fees include stand rents paid by traders and other commercial enterprises, mineral or forest concessions, grazing fees paid by Europeans trekking through the district or hiring grazing, fees paid for watering stock, school fees, dipping fees, sale of the produce of tribal lands, irrigation schemes or livestock centres, interest on fixed deposits, etc., etc. (A specimen statement of a treasury's revenue and expenditure is given in Appendix "B.")

The treasuries are to a large extent dependent on their own resources and this is somewhat of a handicap. The greater part of their revenue comes from taxation, direct or indirect, and in view of the general poverty of the Territories and the absence of any significant productive enterprises in the Native areas, other than rather chancy farming, this bears hardly on them and stifles developmental work. The Government, however, gives some relief in the case of the smaller treasuries in the form of direct subventions and the provision of certain free services, e.g., supervision of water supplies, but it must be remembered that the Government itself is handicapped by the poverty of the Territories. Much of the assistance given to the countries by the British Colonial Development and Welfare Fund is passed on to the Native treasuries. Boreholes sunk at the expense of the Government or the Fund are handed over to the Native Administration to use and look after, likewise the two irrigation schemes operating in the Protectorate. In the last few years cash grants towards teachers' salaries have also been made to the treasuries from Government monies or from the Fund.

The tribal estimates are drawn up in the first instance by the tribal "Finance Committee", appointed by the Native Authority, and are then discussed with him (if he was not present at the original drafting) and sometimes with the tribe at a public meeting. They are then submitted to the Government through the District Commissioner and are finally approved by the High Commissioner, with or without modification. In the case of the more ignorant and ineffective Native Administrations the District Commissioner does most of the work himself, but in the other cases, real responsibility is exercised by the Finance Committee and the Native Authority. The treasury itself is run entirely by a Native staff, subject to occasional inspection by

the District Commissioner and an annual or biennial audit by Government Treasury officials. In other words the collecting and spending of treasury finances is done almost entirely by Africans. It would not be necessary to labour this point, which is taken for granted in the Territories, were it not for the widespread belief among Europeans in Southern Africa that "Natives cannot be trusted with money".

The establishment of Native treasuries has a twofold aim. On the one hand they are intended to remedy various abuses and malpractices which had crept into the tribal administrations, such as the pocketing of fines by the Native Authorities and the lack of control over the collection and spending of tribal levies. On the other hand it aims at educating the Native Authorities in the elements of public finance and at giving them experience and responsibility in this important aspect of government. There is little doubt that both aims are being achieved. The people themselves appreciate that their monies—taxes, fines and fees paid are being used for the benefit of the public and not private gain and the Native Authorities are learning the remorseless necessities of balancing the budget.



## NATIVE REPRESENTATION

ONE final aspect of native political organisation remains to be considered, namely the representation of Native interests. There are two ways in which this is done, the formal and the informal. Informal representation takes place through the Native Authority and the District Commissioner, the formal through various official councils and committees.

The Native Authority is officially regarded as the representative and mouthpiece of the people living in the district over which he has jurisdiction. He is expected to ascertain their views and needs in the traditional way through tribal councils, public meetings, discussion with subordinate authorities and other influential people. The extent to which he does so varies widely according to the individual concerned and the nature of the question at issue. In the Bechuanaland Protectorate and, to a lesser extent, in Swaziland, the traditional practices are still closely observed and are effective. In Basutoland, these practices have largely fallen into disuse, and the Native Authorities have drifted away from their people.<sup>1</sup>

The normal procedure is that the Government sends its proposals or views on any matter on which action may be contemplated to the District Commissioner, for discussion with the Native Authority. The latter's views are subsequently reported back to the Government by the District Commissioner together with his own comments. It is usually left to the Native Authority to consult the tribe or not, and it is the District Commissioner's duty to judge and report whether the answer received expresses the views of the people or those of the Native Authority himself. The Native Authority may also initiate matters, in which case his views and proposals are sent to the Government through the District Commissioner. In important matters, after preliminary discussions have been conducted as outlined above, special committees consisting of senior officials and the Native Authorities are formed to consider them more

---

<sup>1</sup> For a full discussion of this question see my article "Democracy and Indirect Rule": *Africa*, 1946, pp. 235-251.

deeply and advise the Government according to the results of their discussions. If the matter is an urgent one or is not of first importance the Government may then take appropriate action immediately; otherwise it will be referred back for further discussion with the people or for consideration by the Advisory Council.

In Basutoland there are two forms of Advisory Council, the Basutoland Council, often referred to as the National Council, and the District Councils. The former, which dates back to 1903, consists of 100 members, comprising the Paramount Chief, ninety-four members nominated by him and five nominated by the Government—all Basuto. In 1943 the Paramount Chief accepted the Council's recommendation that he should widen the nature of the Council which until then had tended to be representative of the chiefs rather than the people, by including among his nominees representatives elected by the District Councils and more representatives of special groups such as teachers, ex-servicemen, business men, lepers at the Government leper hospital and agricultural associations. Thanks to changes promulgated in 1948 and 1950,<sup>1</sup> six associations have been recognised, each with one representative, and the representation of each District Council has been increased to four.

In 1944, District Councils were established as an advisory and consultative body in each district. There are three kinds of members—those elected by the tax-payers (one to every 1,000 tax-payers, giving a membership of from ten to forty, depending on the size of the district), sectional representatives, elected by the special troupes referred to above, and from two to five members of the Basutoland Council resident in the district, nominated by the Paramount Chief. All these councils normally meet once a year under the chairmanship of the Resident Commissioner or District Commissioner as the case may be. Their formation is a signal advance in the development of democratic institutions, although having no power to make decisions renders them somewhat irresponsible and ineffective.

A Council similar to that of Basutoland was established in the Bechuanaland Protectorate in 1919, called the African Advisory Council. It has thirty-five members, consisting of the chiefs and representatives of the eight tribes (varying from two to seven per tribe according to its size) and four sub-chiefs who represent the small tribal units living outside the reserves. It meets annually under the chairmanship of the Resident Commissioner and is attended by all heads of departments and District Commissioners. The latter do not take part in the discussions but simply look on and keep in touch with the proceedings.

---

<sup>1</sup> Proclamations 48 of 1948 and 39 of 1950.

Swaziland has no such innovations as these. The only consultative body there is the traditional "inner council" which consists of certain clan or particular family representatives whose approval is necessary before the Paramount Chief can take any action. This council obviously suffers from the same defects as the original Basutoland Council in that it is representative of the chiefs rather than the people. So far as the Native Authority is concerned it has more power than the Basutoland Council and the Paramount Chief cannot act without its consent.

As indicated earlier there is no legislative body in the Territories and all legislation is done by the High Commissioner or delegated in minor matters to the Resident Commissioners. The High Commissioner is answerable only to the Secretary of State in London and this is thus subject indirectly only to the British Parliament. All the foregoing councils are purely advisory and technically can only advise the Resident Commissioners of the territory in which they are situated. There is no legal provision making it incumbent on the High Commissioner or the Resident Commissioner to listen to them. Nevertheless, they are advisory in a real sense in that their views are heeded and this makes them an active and valuable part of the political organisation of the Territories.

That this is so is the product of both deliberate policy and practical politics. From the very beginning the government of the Territories has been based on the principle of letting the native people govern themselves so far as possible. The essence of this policy has remained essentially unaltered throughout the years although its method has changed from *laissez faire* to positive tutelage, from letting the people muddle along through the profound changes that Protection and a money economy have wrought, to trying to guide, equip and train them to tackle the complexities of modern government. Both then and now this has meant that the Native Authorities should be responsible administrative authorities. That being so, it was and still is politic to heed their advice for they are the people who ultimately have to carry out whatever is decided. Moreover, it is a theory of tutelary government that people learn best from their own mistakes and experience; if they do not want to listen to Government warning they should not be forced to take what is considered the correct course but should be permitted to follow their own opinion, in the belief and hope that experience will put them right.

So much for policy. The practical side of the matter is equally important. As has often been pointed out in relation to East and West Africa, indirect rule is not only right but is also expedient. It is far easier, cheaper and more effective to govern through the indigenous political authorities than to govern directly but this can only be done if Government heeds the

advice of those who have the local knowledge and can judge what local reactions government proposals are likely to have.

On the whole this works well and the British Administration and the Native Authorities form complementary and co-operative partners in government. The former has the wide experience, technical knowledge and financial resources necessary for the formulation of general policy and development programmes. The latter has more local experience and knowledge and is in a better position to judge what modifications such policies or programmes require to make them workable and effective in the local context. Success depends on their being accepted by the people and by the Native Authorities, who have to carry them out. Government therefore must know—and wants to know—what Native Authorities and people think about them. On the other hand they must have—and they to some extent want to have—Government's general advice and guidance. As the Government is generally and genuinely interested in the people's welfare, and is generally believed to be so, there is little or no fundamental conflict between them.

The administration of the Territories may be criticised on many scores. It is still true to say that too much reliance is placed on chiefs, that many of them have not the ability, education or temperament to justify such reliance, that the Territories are still backwaters of feudalism where less attention is paid to the interests of the common people than to the susceptibilities and perquisites of the aristocracy, and that little place is found in the political and economic life of the countries for what the French call "les évolués", that the economic development of the Territories—apart from the efforts to combat soil erosion in Basutoland and the recent Swaziland afforestation scheme—has been half-hearted and inadequate, and that a policy that leads to dependence on the labour migration of 50-60% of able-bodied men and leads, as in Basutoland, to the permanent emigration of over 10% of the whole population is scarcely a policy to be proud of. These things are true or partly true. Nevertheless it is also true—and this is the best test of good government—that the Government is aware of these defects and is trying to deal with them. But little can be done unless effective administrative machinery is available; nor, without the use of force, which is repugnant to the British way of life, can administrative machinery be effective unless it has the support and goodwill of the people. In both these desiderata, the Government has achieved a praiseworthy measure of success.

## THE ULTIMATE AIM

THE Territories are following the path which all other African —and many non-African dependencies—are treading, although they have not gone very far along it yet and it is far from certain that it will take them to the same destination. For her dependencies, Great Britain has made her ultimate policy and intention clear: “a series of pronouncements carrying an authority as complete as any which our constitution affords, have held out to the dependencies the prospect of a progressive development of self-government.”<sup>1</sup>

This aim is to be achieved by building up a sound measure of local government in the first instance and, thereafter, by establishing a local legislature with ever greater authority and independence, until finally the British Parliament relinquishes its right to override its decisions. Recent colonial history is one of remarkably rapid development of this policy. India, Burma and Ceylon have followed one another in quick succession from dependency to independence. Although the process has gone further and quicker there than in Africa—largely because they had previously reached a higher level of political and economic development than any African dependency—the latter appear to be rapidly catching up. In East Africa, the modern system of local government (formerly known as Indirect Rule) was introduced in 1925, first in Tanganyika. Later Africans were given seats (their numbers were recently increased) in the Legislative Councils of Tanganyika, Kenya and Zanzibar, and in 1944, the traditional Council of the Baganda, the Lukiko, was reorganised to provide direct popular representation. In 1948 the East African Assembly was reorganised, with fifteen official and twenty-two unofficial members, the latter comprising eleven Europeans, five Indians, two Arabs and four Africans.

The same sort of development has occurred in Central Africa—local government (i.e., Native Authorities, Courts and Treasuries) was introduced between 1929 and 1936 in Northern

---

<sup>1</sup> Hailey: “Britain and her Dependencies.” Longmans Green & Co.: London 1913 and 1939.

Rhodesia, and was followed by the creation of Provincial Councils representing Native Authorities, certain areas and other interests, and finally by an African General Council, advisory to the Governor. In 1948, for the representation of African interests, two Europeans and two Africans were elected to the Legislative Council. In West Africa, Native Authorities and courts were first recognised in 1900 in Nigeria's Northern Province and re-constituted in 1933; and Native Treasuries were recognised in 1911 and were fully developed just before the last war. After this came the direct representation of African interests in the Legislative Council and, in 1947, its African members were in the majority, with an equal number nominated and elected. The Gold Coast has gone even further—and in fact is the furthest advanced—and the first general elections in this African colony have recently been held for the Legislative Assembly which has a majority not only of Africans, but also of elected members.

Although one may pause to wonder whether the pace set by the British Government has not been too hot and whether, in view of the social and economic under-development of Africa, such disproportionate political advance will not discredit democratic institutions and harm the very people it was expected to help, this is not the place to examine the problems presented by these political developments. They are nevertheless relevant to the question of transfer, for they indicate a trend in Africa which contrasts strongly with recent trends in the Union and which influences African opinion, both in the High Commission Territories and the Union of South Africa, as well as throughout British African colonies.

The High Commission Territories are still politically backward and are from twenty to forty years behind the times as compared with other African territories. Only two have achieved the full triune of local government, to use Lord Harlech's phrase,<sup>1</sup> and the third has not even reached this stage. None has yet a Legislative Council, although all have advisory councils of one kind or another, to whose views considerable weight is given. It is unlikely, in view of their geographical position and of the ever present "schedule to the Act", that as full-blooded political development would take place in the foreseeable future, as has self-government. But read in the light of British colonial policy elsewhere it would be reasonable to suppose that the present developments in local government are not merely an end in themselves but could also be regarded as preliminary to participation in government at some higher level.

The following pronouncement was made by the Resident Commissioner to a Bechuanaland African Advisory Council in

---

<sup>1</sup> "Chieftainship in Bantu Africa and Indirect Rule in British African Dependencies: with special reference to the High Commission Territories", Morija, 1942.

1946 in an address urging the Native Authorities and tribes to play a more active and vital part in administering their local affairs:

“You will remember that Hailey said in ‘the Future of the Colonial People’, when talking about the demand for liberation, ‘it must imply the grant of self-government to areas which are already fitted for it and the active promotion in others of a graded political education which will enable them eventually to manage their own affairs without external control, but on terms consistent with modern ideas of civilised rule’. And it has been said else-where that today the declared objective of Colonial Policy is that dependencies ‘should advance progressively along the road to self-government within the British Commonwealth of Nations’.

“The position of the High Commission Territories is peculiar but, taking these quotations as a guide, it seems to me that it follows that in our Protectorate the local people, as they become fit to perform the functions, should be used to an increasing degree for local public services.”) And, a little further on, he continued) “Thus we see that the emphasis has shifted through the years from simply managing a people through existing native systems to the political and administrative training through the co-operation of the people, in order that they may eventually manage their own affairs, using existing institutions wherever practicable but discarding them when they no longer adequately serve their purpose.”

### Comparison with the Union

On 20th June, 1935, Mr. J. H. Thomas announced to the House of Commons the terms of an agreement made with General Hertzog.

“The policy of both governments for the next ten years should be directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned.”

The policy pursued by the British Government has been briefly described; it is time to turn to that followed by the Union of South Africa.

At the time of Union, the political rights of Natives varied in the different provinces. The Cape had pursued a policy of according “equal rights to all civilised men”. No distinction was made as regards race or colour, and the franchise, confined to male adults, was granted to all who conformed to simple educational and property qualifications—namely, an ability to sign one’s name and write one’s occupation and address, and the

receipt of a salary of not less than £50 per annum, or occupation of premises valued at not less than £75. So backward were the Natives at that time that the majority were unable to qualify, but no artificial barriers were placed in the way of those who could. In Natal Natives who possessed the necessary qualifications were enfranchised only on being granted a certificate by the Governor and, in practice, this was so difficult to get that in 1919, only four Natives were enfranchised. In the Transvaal and Orange Free State the franchise was confined to Europeans.

Prior to Union, Natives and other non-Europeans who qualified for the vote were entitled to sit in Parliament but this right was surrendered by the Cape delegates at the time of Union in face of the strenuous opposition of the other delegates to the National Convention and in the hope that in time the more liberal Cape spirit would spread northwards and modify the policies of the other provinces.

“I hope’ said Sauer, one of the Cape delegates, ‘that under Union we will not retrograde but we will proceed further towards granting the privileges and rights and liberties of all His Majesty’s subjects in South Africa. . . . We must look to the interests of all Natives that come into the Union. In this way we may lay the foundation and beginning of a more liberal Native policy all over South Africa.”

The Cape also led South Africa in according to the Native peoples a measure of local self-government. In 1894 what was known as the Glen Grey system was introduced, with the formation of district councils, consisting of representatives of leaseholders presided over by the local magistrate, which administered the funds accruing from the rents and were responsible for a limited number of executive matters such as road making, erection and maintenance of dipping tanks, etc. In 1895 Native Councils were established in the Transkei and four districts sent representatives to a General Council. This system was successively applied to other districts which also sent their representatives to the General Council. The powers of the General Councils were very similar to those of the district councils and they exercised quite large executive and fiscal authority. No institutions of the kind existed anywhere else in British Colonial Africa so that at the time of Union (1909) the Cape policy was the most advanced Native policy in the whole of Africa.

After Union the Council system was gradually extended and widened. Additional councils were formed in the Transkei and Ciskei and a few institutions of a similar nature (village management boards) were introduced into the Orange Free State (three), of the Transvaal (eight), and Natal (one), with very limited functions. The culmination was reached in 1931 with the federation of the Transkeian Councils into the United Transkeian



Territories General Council, popularly known as the Bunga. It consisted of the Chief Native Commissioner, as president, the twenty-six District Native Commissioners, three Native members elected by each District Council and four Native chiefs. In 1931 a similar General Council was established for the Ciskei. Their function and significance have been summed up as follows: "The district and general councils are constituted as advisories to the administration, associating the people with the control of local funds, giving them a voice in the disposal of affairs intimately affecting their own interests, training them in constitutional methods of expressing their wishes in regard to general and local policy and also keeping the Government and its officers immediately in charge of the administration of the Transkeian Territories in touch with Native feeling".<sup>1</sup>

In form and content the Bunga and its counterpart in the Ciskei had certain features in common with the local government bodies that have been developed in the High Commission Territories and other British African colonies, as described earlier, but there are several profound differences. Neither the Council nor its Native members are associated with the administration of justice nor with the detailed administration of affairs in the Native areas, and both these vital matters are confined almost entirely to the Government Native Commissioners. Further the Council is heavily loaded with European government personnel and it is on them, rather than on the Native members, that the main administrative and executive responsibility falls.<sup>2</sup> Nevertheless it has greatly fostered Native political development and within the areas covered by the Councils (about one quarter of the Union's Native population) it gave the Native people an appreciable measure of local self-government and, although now outdated by developments elsewhere it was at that time (1931), a remarkable constitutional achievement. It has, however, failed to develop with the times and, in spite of its obvious limitations, it has not changed in twenty years.

In the general political field no change took place after Union for a generation except that with the gradual economic and educational development of the country, increasing numbers of Natives qualified for the vote as the following table shows:

	1909	1929
European Voters:	121,336	167,184
Coloured Voters:	13,611	23,891
Native Voters:	6,637	15,780
Asiatic Voters:	783	1,737

<sup>1</sup> J. T. Kenyon: "An Address on the General Council Administrative System of the Transkeian Territories."

<sup>2</sup> Lord Hailey in *African Survey*, Oxford, 1935 says (p. 353): "In essence the Council system, while providing a measure of local government, was an extension of magisterial rule."

The Native vote thus slowly became a factor of political significance and an object of fear. In 1930, the first attack upon the Native franchise and on non-European political rights generally was made. The franchise was extended to European women over twenty-one. In 1931 the earlier property qualifications were abolished so far as Europeans were concerned. Six years later (and one year after the London negotiations for "transfer" and the issue of the Thomas-Hertzog statement, the next and more drastic step was taken and the Natives were deprived of their "right to be enrolled on the same voters' lists as Europeans and to participate in the ordinary elections . . . for members of the House of Assembly and of the Provincial Council".<sup>1</sup> In 1936 the "Representation of Natives Act" was passed by a two-thirds majority by both Houses of Parliament. This act "was designed to achieve a dual purpose, viz.:

- (a) to provide a solution of the difficulty presented by the Cape Native Franchise and
- (b) to accord a special form of representation, quite apart and distinct from the ordinary franchise rights, to the Native population of the Union as a whole". (Explanatory Memorandum).

This purpose was to be achieved by three separate provisions:

- (1) the removal of the Natives from the common roll and their placement on a separate roll, with the right to elect three European representatives to the House of Assembly and two to the Provincial Council;
- (2) the whole Native population of the Union was given the right to elect, through a complicated system of electoral colleges, four European representatives to the Senate and
- (3) a Native Representative Council was established for the whole Union, to represent the Natives and to advise the Government.

The membership of this Council consists of the Secretary for Native Affairs (who is also Chairman), five Chief Native Commissioners, four nominated Native members, appointed by the Governor-General and twelve other Native members, elected through the same electoral colleges as the senators. The functions of the Council are consultative and advisory—the Council has the right to consider and advise the Government on all matters affecting the interests of Natives, and the Government is supposed

---

<sup>1</sup> Explanatory Memorandum published with the Representation of Natives Act, 1936 (Act No. 12 of 1936).

to refer to it for consideration and report all legislation affecting such interests.<sup>1</sup>

There is no need to describe the Act in detail, or its relationship with Union Native policy as a whole or its effect on Native opinion and on subsequent political development. It is sufficient to say that it was the culmination of a comprehensive scheme of Native policy and regulation of Native affairs based on the concept of segregation, or *apartheid* as the latest slogan puts it, which denied to non-Europeans and especially Natives equal social and political rights with Europeans and which aimed at giving the Natives a small measure of local self-government, in their own areas, under the immediate control of European officials and subject to the overriding authority of Parliament in which Native interests are represented in the ratio of one to fifty.

The removal of the old Cape franchise came as a severe blow to educated Natives throughout South Africa and was strenuously opposed by all African leaders in the Union as well as by the foremost European liberals. Time has not lessened their opposition to it and to the policy it embodies. Although its value was recognised in that it gave statutory recognition to the principle of Native representation and provided a platform for the expression of Native opinion, which would be a useful training ground in public affairs and would contribute to the development of a national African consciousness, they condemned its defects in no uncertain terms.<sup>2</sup>

In 1946, the feelings of opposition and frustration came to a head and on 14th August, 1946, the Native Representative Council refused to continue the farce and resolved to adjourn *sine die*, with an appeal to the Government to abolish all discriminatory legislation affecting non-Europeans in the Union.

---

<sup>1</sup> Section 27 of the Act provides that:—

“1. The Council shall consider and report upon:—

- (a) Proposed legislation so far as it may affect the Native population.
- (b) Any matter referred to it by the Minister.
- (c) Any matter specially affecting the interests of Natives in general.

2. The Council may recommend to Parliament or to any Provincial Council legislation which it considers necessary in the interests of Natives.”

Subsection 3 of this section also provides that if the Minister certifies that any proposed bill or ordinance contains provisions specially affecting the interests of Natives such bill or ordinance shall not be proceeded with until it has been referred to the Council for consideration and report.

<sup>2</sup> Vide the symposium “Political Representation of Africans” published by the South African Institute of Race Relations. In this Dr. A. B. Xuma, President General of the African National Congress wrote: “The Representation of Natives Act was never acceptable and never will be acceptable as a satisfactory solution of the problem of representation”, and Mrs. Ballinger, one of the three Natives’ Representatives in Parliament: “Whatever effectiveness this particular platform achieves depends essentially, I believe, on the ever-present and dominating consciousness, on the part of those who use it, that the system which it represents is an unacceptable system in a truly democratic society. . . .”

The Native representation cited in support of their action the scant courtesy with which the Council had been treated by Government Ministers (the Prime Minister had not attended a single meeting since its inception in 1937, the Deputy Prime Minister attended only the first session, the Minister for Native Affairs only occasionally for formal business. Other Ministers and ordinary members of Parliament appeared to "ignore this institution of their own creation")<sup>1</sup> and, "the fact that the Government has not shown sufficient evidence of a desire to take its advice seriously when obtained or of readiness to seek that advice on matters affecting African welfare".<sup>2</sup>

After preliminary discussion with a number of members of the Council in May, the then Prime Minister, General Smuts, issued a memorandum in October, 1947, proposing the reconstitution of the Council and further development of Native local government. Briefly they were to do away with official and nominated members of the Council (and of all other Councils such as the Bunga and District Councils), to increase the elected Native members to fifty, to give the Council limited executive and legislative authority, including the power to levy Native taxes and to establish a treasury in which would be vested the revenues of the Bunga and other councils (which would thereafter be subordinate to it) and a proportion of the general Native tax and of such other monies as might be allocated to it. These proposals undoubtedly constituted an advance on the existing state of affairs and would have provided a medium of self-government for those living in the Native reserves. But, be that as it may, they did not go to the root of the matter, namely the denial of "civilised" rights to the Natives and the subordination of their interests to those of the dominant European minority, nor did they constitute the radical change that the Council requested when it first adjourned. They did not even go as far in giving the Natives a say in and responsibility for the management of their own civil affairs as the Natives enjoy in the Territories. Nevertheless they were probably the maximum "concessions" that the majority of the European electorate would tolerate, and they were more than the Nationalist Government which came into power a few months later would stand for. The new Government has repudiated the Smuts proposals and has suggested that the Council shall be abolished, and, in its place, regional councils shall be established. The purpose of this is to arrest the development of a national consciousness of which the Native Representative Council can form a focal point, and return, more or less, to the old tribal divisions.

As is well known the Malan Government stands for apartheid and talks about encouraging the Natives to develop on their own

---

<sup>1</sup> Statement by Professor Z. K. Mathews, Chairman of the Caucus.

<sup>2</sup> *Ibid.*

lines and in their own areas. A policy of this nature would undoubtedly resemble the policy of encouraging "local self-government" followed in the Territories but it has still to be developed.

Even if it came, it would not meet the aspirations of the Native political leaders of the Union (*vide* the stony reception given to the Secretary for Native Affairs' recent appeal to the Native Representative Council to co-operate with the Government in introducing apartheid) nor would it reassure the chiefs and other leaders in the Territories. In the latter, the development of local self-government is a preliminary to wider political rights. In the Union, it is a substitute therefor.

A great deal has been done in the Union in the development of Native agriculture, education, health and social services. In some ways there has been a greater advance than in the Territories; in other ways less, quite apart from the tendency of the present Government to retard rather than to continue the progress made under successive Smuts governments. This is a very wide subject and just comparisons need far more intensive examination than is permitted by the scope of this essay.<sup>1</sup> But there is one aspect of the matter that is relevant to the question of transfer and is seldom mentioned. It is this. Fundamentally, the really important point is not so much the volume of this development as the manner of its doing. In the Union the tendency is to regard Native development schemes as something that is being "done for the Native", as a form of charity dispensed by philanthropic Europeans, for which gratitude should be duly rendered, as a generous gift from one racial group to another; not as the discharge of a normal civic duty of government. In contrast to this, the tendency in the Territories is to stimulate the Natives' active participation in their development, for them to do things for themselves, to contribute as well as to receive.

The difference stems from something still deeper. It may be described sweepingly, if not accurately, by saying that, in the Territories, the African is regarded as a member of the body politic, as a citizen, as a person, as "part of the show". This attitude varies with and towards the individual. It is implicit most of the time but becomes clearer and more explicit the higher up one goes in the African social scale. There is a strong social colour bar in the Territories but that does not prevent the extension of the ordinary courtesies to Africans.

Trivialities? Yes—but also symbols of a common humanity: the sort of thing that brings a warmth and friendliness to government relations and which, in the long run, counts for more than the provisions of expensive schools and hospitals, and softens the inevitable failings and irritations of government.

---

<sup>1</sup> The Handbook on Race Relations in South Africa contains the most detailed and up-to-date account of the position in the Union and in the Territories that is readily available.

The essential difference in policy and attitude was epitomised in the late King's visit in 1947. His Majesty was warmly received everywhere he went in Southern Africa, but there were great differences in the way in which the people were allowed to receive him and in which he was able to respond. In the words of a Press representative: "The welcomes at Maseru (Basutoland), Goedgegun (Swaziland) and Lobatsi (Bechuanaland Protectorate) outshone anything staged in the Union. There was more dignity and spontaneity. The Africans felt that they were their "shows", and not arranged for the entertainment of Europeans. Also that upon their chiefs and themselves responsibilities were imposed to see that proper decorum was observed."

This was clearly seen in the King's visits to Zululand and Swaziland, which are quoted here because they took place within a few days of each other and so provided the stronger contrast. At Eshowe, His Majesty drove to the arena preceded by European motor cyclists, circled the field and went straight to the royal platform. After formal speeches of welcome and reply, his A.D.C. presented the Zulu chiefs with "certificates", and then the Zulu Paramount Chief and other leading chiefs were led up to the foot of the dais where they made obeisance. This concluded the function and the King then went to tea with the European officials, having had no personal contact whatsoever with his Zulu subjects. Compare this with his visit to Swaziland a few days later. The Swazi Paramount Chief was there, with the principal Government officials to welcome His Majesty to Swaziland, and Swazi regiments formed the royal guard of honour. At the official public gathering, the King personally decorated the "Queen-Mother", Europeans and other Swazi, with the honours he had conferred upon them, and at the conclusion of this ceremony he descended from the dais, accompanied by the Paramount Chief, and inspected the Swazi regiments.

These comparisons may appear trifling but they are signs of profound and subtle differences in the spirit of government. They are not lost upon the Native peoples concerned.

\* \* \*

From this brief account of political and constitutional developments, it is clear that the policy enunciated at the 1935 London Conference has not been implemented. It was envisaged there that the policies of the two governments would converge so that the then existing differences would be resolved and conditions would become so similar that "transfer . . . could be effected with the full acquiescence of the populations concerned". The reverse has happened: they are now wider apart than they have ever been before and their paths promise to diverge still

further. Left to themselves, the Natives of the Territories are not likely to "acquiesce" in the transfer of their administration to the Union—still less readily to agree.

It is impossible to say whether they will be left to themselves. The answer depends on the conflicting demands of world, Commonwealth and imperial politics. The United Kingdom now occupies the dual position of leader of the Commonwealth and head of the British Empire, most of which consists of African dependencies. Her interests in these two capacities are not always compatible, particularly in racial matters, and owing to the diversity of the Commonwealth, her position as leader is peculiarly delicate. The Territories are one place where she must walk warily. On most, if not on all, practical grounds, the Territories should be transferred to the Union; but now as in 1908 "the only issue in dispute" to quote again the reply to the Basuto petition against transfer, given over forty years ago "is that of the political rights of the African within the Union." This is one of the most difficult and explosive subjects there are. Failure to transfer the Territories risks giving offence to the Union, a strategically valuable member of the Commonwealth.<sup>1</sup> On the other hand, failure to support the Territories who have repeatedly appealed against transfer would expose the United Kingdom to accusations of racialism and insincerity, both in Africa and in the East. What the answer is, no man knoweth, but it hardly lies with the Territories themselves.

---

<sup>1</sup> As recently as 9th February 1951, Dr. Malan, in an address of welcome to the Minister of Commonwealth Relations, complained that delay in implementing the "expressed intention contained in the South Africa Act to transfer the Territories to the Union" might be a sign of grievous mistrust in the Union's capacity to deal fairly with Native races and was an affront to her "self-respect as a nation".

APPENDIX "A"

CENSUS FIGURES

BASUTOLAND				
	1911	1921	1936	1946
Europeans ...	1,396	1,603	1,434	1,689
Africans ...	401,807	495,937	559,273	561,289
Asiatics ...			341	274
Mixed ...	1,304	1,241	1,263	602
	<u>404,507</u>	<u>498,781</u>	<u>562,311</u>	<u>563,854</u>

NUMERICAL AND PERCENTAGE INCREASE OR DECREASE

	1911-21	1921-36	1936-1946
Europeans ...	207 : 14·83	—169 : —10·54	255 : 17·78
Africans ...	94,130 : 23·43	63,336 : 12·77	2,016 : 36
Asiatics ...		363 : 29·25	—67 : —19·65
Mixed ...	—63 : —4·83		—661 : —52·34
	<u>94,274 : 23·31</u>	<u>63,530 : 12·74</u>	<u>1,543 : —27</u>

NOTE: These tables exclude absentees.

BECHUANALAND PROTECTORATE

	1911	1921	1936	1946
Europeans ...	—	1,743	1,899	2,325
Africans ...	—	150,185	260,064	290,103
Asiatics ...	—	52	66	96
Coloured ...	—	1,003	3,727	1,708
	<u>123,303</u>	<u>152,983</u>	<u>265,756</u>	<u>294,232</u>

SWAZILAND

	1911	1921	1936	1946
Europeans ...	1,083	2,205	2,740	3,201
Africans ...	104,533	110,295	153,270	181,269
Coloured ...	143	451	705	745
	<u>105,759</u>	<u>112,951</u>	<u>156,715</u>	<u>185,215</u>

NOTE: Temporary absentees are included.



APPENDIX "B"

SPECIMEN STATEMENT OF TRIBAL TREASURY'S REVENUE  
AND EXPENDITURE

<i>Revenue</i>		<i>Expenditure</i>	
1. Native Tax (35% of Collections) ...	£3,160	1. Central and Central Office Staff ...	£2,020
2. Graded Tax ...	3,490	2. District and Village ...	770
3. Fines ...	425	3. Judicial ...	10
4. Stand Rents ...	660	4. Treasury ...	170
5. Ammunition Permits ...	30	5. Police ...	180
6. Game Permit Fees ...	100	6. Works Recurrent (Maintenance of buildings, water supplies, etc.) ...	540
7. Interest on fixed deposit ...	75	7. Works Staff ...	120
8. Miscellaneous ...	130	8. Education ...	1,700
9. Sale of Vaccines ...	60	9. Medical ...	30
10. Fares and Lorry Hire ...	150	10. Agriculture and Veterinary ...	100
11. Sale of School Books ...	90	11. Miscellaneous ...	120
		12. Capital Works ...	1,000
	<u>£8,370</u>		<u>£6,760</u>

# AFRICA SOUTH OF THE SAHARA

AN ASSESSMENT OF HUMAN  
AND MATERIAL RESOURCES

*Prepared by a Study Group of the*

SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

*Under the Chairmanship of*

Major-General Sir Francis de Guingand, K.B.E., C.B., D.S.O.

---

"The South African Institute of International Affairs has undertaken and discharged with commendable thoroughness a task which must, at the outset, have appeared formidable to the editors and compilers of this comprehensive and valuable volume . . ."

*J. S. Lloyd in a review article in "The South African Journal of Economics," December, 1951.*

---

Deemy 8vo, 286 pages with 13 maps and charts,  
27s. 6d. in South Africa; 25s. in England.

*Please order through your bookseller*

OXFORD UNIVERSITY PRESS

Capetown

London

1953

▲ LSG-25235