

THE OPPOSITION TO GENERAL J.B.M. HERTZOG'S  
SEGREGATION BILLS, 1925-1936:  
A STUDY IN EXTRA-PARLIAMENTARY PROTEST

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by

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PREFACE

I would like to acknowledge the assistance of my supervisor, Professor J.W. Horton, whose encouragement, guidance and criticism were a considerable help in the preparation of this thesis. I would also like to express my thanks to Mrs. Sonia Horn, who undertook the typing, and to the staff of the various libraries and archives I consulted. I am particularly indebted to Marcelle Jacobsen of the Historical and Literary Papers Department, University of the Witwatersrand. In addition, I wish to acknowledge the financial assistance provided by the Human Sciences Research Council.

Finally, in compliance with the regulations of the University of Natal, I declare that this entire thesis is, except where specifically indicated to the contrary in the text, my own original work.

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ABBREVIATIONS

AAC	All African Congress
AD	Appellate Division of the Supreme Court
ANB	Afrikaner National Bond
ANC	African National Congress
APO	African Political (later Peoples') Organisation
APS	Aborigines Protection Society
CNVC	Cape Native Voters' Convention
CPD	Cape Provincial Division of the Supreme Court
CPSA	Communist Party of South Africa
IANC	Independent African National Congress
ICU	Industrial and Commercial Workers' Union
IRC	Inter-Racial Council
JJC	Johannesburg Joint Council
LAR	League of African Rights
NCPWA	Natal Coloured Peoples' Welfare Association
NEUF	Non-European National Front
NRC	Native Representative Council
NRFA	Non-Racial Franchise Association
SAIRR	South African Institute of Race Relations
SANNC	South African Native National Congress
SAP	South African Party

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NOTES ON NOMENCLATURE

The term *Black*, as used in this thesis, means Coloured, African and Indian. The term *African* has been used as opposed to Native or Bantu. The term *Native* has been used only in a 'scientific' or 'impartial' sense *i.e.* "Native policy".

\*One of the first things I noticed when I landed was that I was immediately dependent on the services of men and women who are not of my own colour. I felt I was in a slave State, and that, too, the very worst sort of slave State. I mean the sort in which the slaves are not owned by masters responsible for their welfare, nor protected by stringent laws from ill-treatment, but one in which they are nominally free, like white people, and can be thrown into the streets to starve, without pensions or public relief when nobody happens to need their services, or when they are old and are displaced by the young.

This state of things makes wise people uneasy. Foolish people think that the danger is that the slaves will rebel and refuse to do any more work; but that is not the real danger at all. Even if it were it would not matter, because white men can still easily suppress rebellions, even if they have to employ black men to help them.

No, the real snag of the business is that if you let other people do everything for you, you soon become incapable of doing anything for yourself. You become an idler and a parasite, a weakling and an imbecile. You will be helpless in the hands of your slaves, who will have all the strength and knowledge and character that come from working and from nothing else.

The Coloured man is terribly dangerous in this way. He can reduce you to a condition in which you cannot open a door for yourself or carry a parcel. It is in his interest to reduce you to that condition, so that you cannot do without him. Even the things you still can do for yourself he can make you ashamed to do.

\*George Bernard Shaw's message to South Africa from Cape Town in 1932.

## INTRODUCTION

This dissertation was originally conceived as a response to a need for an in-depth examination of the campaign waged in 1935-36 against General J.B.M. Hertzog's two Segregation Bills - the Native Trust and Land Bill and the Representation of Natives Bill. Subsequent research revealed that little was known about the extra-parliamentary opposition to earlier Bills introduced in 1926 and 1929 and that the overall protest movement between 1926 and 1936 had perhaps been inadequately or incorrectly analysed.

There has been no major study of the opposition to General Hertzog's Segregation Bills, although interpretations and explanations have appeared in a number of books, biographies and the occasional pamphlet and article.<sup>1</sup> Donald Molteno's pamphlet, *The Betrayal of the 'Natives Representation'*, briefly discusses the opposition to the 1929 Natives' Parliamentary Representation Bill, and provides some insight into the activities of white liberals and members of the All African Convention Executive in Cape Town during early 1936. The introductory essay to the first part of Thomas Karis and Gwendolen M. Carter (eds.), *From Protest to Challenge : Documents of African Politics in South Africa 1882-1964*, Volume II, contains a fairly comprehensive, though somewhat uncritical examination of African reactions to the Bills in 1935-36. Peter Walshe devotes a chapter of his fine work, *The Rise of African Nationalism in South Africa : The African National Congress 1912-1952*, to an assessment of African opposition to the Bills, but creates the impression that there was an escalation of protest after 1926, culminating in the formation of the All African Convention in December 1935. In the classic, *Time Longer Than Rope : A History of the Black Man's Struggle for*

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<sup>1</sup> See Bibliography infra.

*Freedom in South Africa*, E. Roux, on the other hand, tends to telescope the whole process and preoccupies himself with the years 1935-36. *Class and Colour in South Africa 1850-1950* (H.J. and R.E. Simons), although a richly detailed study of various protest groupings, has little in the way of a systematic treatment of the problem. Of all the general histories of South Africa, T.R.H. Davenport's *South Africa : A Modern History* is the most informative on the extra-parliamentary agitation against the Hertzog legislation. He focuses, however, on 1926-27, and 1935-36 and glosses over developments in the intervening years. Similarly, in his book *Shadow and Substance in South Africa: A Study in Land and Franchise Policies Affecting Africans 1910-1960*, C.M. Tatz neglects the African response to the 1929 Bills.

Alan Paton's perceptive biography of J.H. Hofmeyr includes a thorough scrutiny of Hofmeyr's stand against the Representation Bill in April 1936. Autobiographies by white liberals such as Sir James Rose-Innes, W.H. Macmillan and Edgar Brookes are not particularly informative on the actual opposition to the Bills, though they do contribute to an understanding of tensions within white liberalism. Only in Martin Legassick's paper, 'The Rise of Modern South African Liberalism', which unfortunately spotlights only the mid-1920's, is there a pertinent, if at times impressionistic, discussion of the reaction of white liberals to the Bills.

Among the few relevant books written by Africans, Albert Luthuli's autobiography, *Let My People Go*, is the most valuable insofar as it throws light on the position of Natal Africans in 1935. In *My Life and the ICU : The Autobiography of a Black Trade Unionist in South Africa*, Clements Kadalie makes but passing reference to the opposition movement prior to May 1936 (by which time both Bills had been placed on the statute book). But he deals at some length with his

campaign in mid-1936 against the new institutions set up by the Representation Act. Jordan Ngubane in his work *An African Explains Apartheid* confines himself to a few remarks on the inception and development of the AAC.

Roux and the Simons' collectively give some idea of the stand of the South African Communist Party in regard to the Bills, but do not explicitly discuss the question.

Coloured reactions to Hertzog's segregation policy have been touched on by Davenport and the Simons' and have either been neglected or beyond the scope of other writers. *The Cape Coloured People 1652-1837*, by J.S. Marais, has a short account of post-Union Coloured political activity, but makes no reference to that group's response to Hertzog's initial Bills. L.M. Thompson's pamphlet, *The Cape Coloured Franchise*, has a similar shortcoming.

In brief, the relevant literature does not add up to a detailed investigation of the extra-parliamentary opposition to the Segregation Bills between 1926 and 1936.

While published collections of documents, contemporary newspapers and journals, and Government blue books have been indispensable, manuscript collections have generally proved the most rewarding. The archival holdings of the South African Institute of Race Relations - the Rheinallt Jones papers, the B.Box series and the A.B. Xuma papers - constituted the most important source material for this study, particularly with respect to white liberal and African protest. An understanding of white liberalism was reinforced by the collections of individual white liberals - Sir James Rose-Innes, Howard Pim, F.S. Malan, Maurice Webb, R.F.A. Hoemlé and others. Apart from the Xuma papers, there are very few extant collections left by African participants in the struggle against the Hertzog Bills. The Molema-Plaatje



papers and the small D.D.T. Jabavu collection unfortunately have a paucity of material suitable for this study. A.W.G. Champion's remaining papers,<sup>2</sup> which are divided among three collections in Cape Town, Johannesburg and Pretoria respectively, contain little information on Champion's activities in regard to the Bills, but provide useful background detail. The writer was one of the many hopefuls who beat a path to Mrs. John L. Dube's door in a vain attempt to locate the papers of her late husband. The Heaton Nicholls papers, however, include some interesting letters from Dube on the Hertzog legislation.

The Industrial and Commercial Workers' Union collection in the Forman papers, contains an important ICU manifesto on the 1926 Bills. The ICU collection of the University of Witwatersrand has illuminating material in protest activity in general, during the late 1920's and early 1930's.

A potentially rich source on African political activity during our period, lies in the Archives of the Secretary of Native Affairs. But this collection is only adequately classified up till the early 1920's, and there was insufficient time to examine the mass of unsorted material. The private papers of those Secretaries of Native Affairs (Major J.F. Herbst and D.L. Smit), whose collective terms of office spanned the years 1926-1936, were examined, although Herbst's papers were of comparatively little value.

The Hertzog papers did not fully measure up to expectations, although some useful information was gleaned *inter alia* on Coloured and African support for the General's proposals. It should be pointed out that limited time did not permit as thorough a scrutiny of this large collection as was desired.

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<sup>2</sup> I was unable to see those sections of the Champion papers which appear to be in the United States.

With respect to the CPSA response to the legislation, the papers of E. Roux proved disappointing. Moreover, in regard to Coloured protest, there appeared to be no collections of relevant Coloured leaders in the various archives around the country.

The J.S. Marwick and B.K. Long papers and the Zulu Society Collection offered a few snippets of information, but not much more.

The above does not represent an exhaustive examination of available manuscript collections. Circumstances did not permit a scrutiny of the papers of General Smuts, Oswald Pirow and other prominent members of Parliament operative in our period. Nor were the papers of Sir Charles Crewe examined.

Compounding these omissions, microfilms of some key newspapers - *The Friend*, *The Cape Times*, the *East London Daily Dispatch* and the *Eastern Province Herald* - were not available on inter-library loan.

To keep this work within reasonable bounds, it was decided to omit discussion of humanitarian and left-wing opposition, from outside the borders of South Africa, to the Hertzog proposals. It was felt that an examination of parliamentary opposition to the Segregation Bills amounted to a thesis in its own right. Nor was an analysis, of the dynamics of the response of white authorities to this extra-parliamentary protest, attempted. Yet even within these self-imposed limits this work should in no way be regarded as definitive.

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The emergence of a class of mission educated Africans<sup>3</sup> in the latter half of the 19th century was central to a burgeoning African political consciousness.<sup>4</sup> Educated Africans in the Cape, by virtue of their greater numbers and existence of a qualified non-racial franchise (both of which contributed to the formation of a political elite), stood as an example to their compatriots in the two Republics and Natal.<sup>5</sup>

African political activity in the Cape was, in part, ancillary to that of the whites. This tendency was exemplified in the political journalism of John Tengo Jabavu, editor of *Imvo Zabantsundu* (an African newspaper founded with the assistance of sympathetic whites in 1884) and in the establishment in the same year, in the Kingwilliamstown district, of a Native Electoral Association, which returned a young independent and liberal candidate, James Rose-Innes to Parliament. Africans, through bloc voting and informed lobbying, came to exercise, by the end of the century, a limited though real influence within Cape politics.<sup>6</sup> A More African orientation was seen in the formation in the eastern Cape in 1882 of the first African political organisation,

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<sup>3</sup> For a discussion of this group see eg. D. Chanaiwa, 'African Humanism in South Africa, 1850-1920: The Utopian, Traditionalist, and Colonialist Worlds of the Mission-Educated Elites', Paper presented at the International Conference on Southern African History, held at the National University of Lesotho, 1-7 August 1977.

<sup>4</sup> This is not to accept Walshe's standpoint that African political consciousness or nationalism began in the 19th century. (See P. Walshe, *The Rise of African Nationalism in South Africa: The African National Congress 1912-1952*, p. 1.) Nor was mission education the cause *par excellence* of African nationalism. One cannot overlook the link between primary and secondary resistance.

<sup>5</sup> For a discussion of the respective franchise systems of the Cape, the OFS, Transvaal and Natal before Union see C.M. Tatz, *Shadow and Substance in South Africa: A Study in Land and Franchise Policies Affecting Africans 1910-1960* (1962), pp. 1-6.

<sup>6</sup> Walshe, *op. cit.*, p. 3 *et seq.* Also, *Report of the South African Native Affairs Commission 1903-05*. Vol. II : Minutes of Evidence taken in the Cape Colony, p. 94.

the *Imbumba Yama Afrika*.<sup>7</sup>

Associated with the emerging African political élite were 'friends of the natives' white liberals and philanthropists who developed an ideology or tradition which has come to be known as Cape liberalism.<sup>8</sup> The foremost protagonists of this movement were drawn from the leading financial and commercial enterprises, from the Cape Parliament (especially from the opposition of the day), from Christian missionaries, from the bar and the major newspapers of the colony. The *sine qua non* of Cape liberalism was the qualified franchise. But there was an ambivalence behind the rationale for such a franchise. Cape liberals did not accept the idea of mass enrolment. Few, if any, liked the idea of Africans sitting in Parliament and even less did they favour social integration.<sup>9</sup>

Historians such as T.R.H. Davenport,<sup>10</sup> S. Trapido<sup>11</sup> and N.G. Garson have questioned the amount of popular support there was for the Cape franchise policy and find that 'party considerations, rather than a Cape liberal tradition conceived in isolation from them, provide the chief explanation for the survival of non-white voting rights there'.<sup>12</sup>

New socio-economic conditions, ushered in by Union and the passing of time, saw the erosion of the influence of individual Cape liberals, but the ideal of non-racialism, reflected or caricatured by Cecil John Rhodes' slogan of 'equal rights for all civilized men south of the Zambezi', informed future

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<sup>7</sup> Leo Kuper, 'African Nationalism', pp. 4-28

<sup>8</sup> For an analysis of Cape liberalism see *inter alia* S. Tradipo 'Liberalism in the Cape in the 19th and 20th centuries', ICS postgraduate seminar paper, 1972; and P. Lewsen, 'The Cape Liberal Tradition - Myth or Reality'; Paper delivered to the Institute for the Study of Man in Africa, November 1969.

<sup>9</sup> Trapido, *op. cit.*

<sup>10</sup> T.R.H. Davenport, *The Afrikaner Bond 1880-1911* (1966).

<sup>11</sup> Trapido, *op. cit.*

<sup>12</sup> N.G. Garson, 'Party Politics and the Plural Society: South Africa 1910-1929', ICS postgraduate seminar paper, 1970.



African political thought.

In the aftermath of the Anglo-Boer War new African political bodies sprang up in all of the four colonies which were to constitute the Union of South Africa. These groups through petitions and deputations campaigned for an extension of political and civil rights to blacks throughout South Africa.<sup>13</sup> They were reinforced by organisations of Coloured people,<sup>14</sup> the most prominent of which was the African Political (later Peoples') Organisation.<sup>15</sup> The APO had been established in 1902 in Cape Town with branches in the Cape, Transvaal and OFS. Its formation was stimulated by Coloured interest in politics following their marginal involvement in political contests in the Cape during the late 19th century, and by discrimination against Coloureds in the Republics.<sup>16</sup> In 1905 the erudite and able Dr. Abdullah Abdurahman, a Cape Malay medical practitioner, assumed leadership of the body.

The leadership and membership of these groups was dominated by a new black 'middle class' hopeful of meaningful participation in the evolving new society. They were prepared, by and large, to achieve their aims through peaceful and constitutional means.

The establishment of African political organisations in the

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<sup>13</sup> See Walshe, *op. cit.*, p. 15 *et seq.*

<sup>14</sup> Africans and Coloureds, however, do not seem to have entered into *effective* political relations prior to Union.

<sup>15</sup> At this time in South Africa the features of Indian politics were quite distinct from other black politics. Although Indians, led by Gandhi, had achieved world-wide attention through their passive resistance campaigns in the early years of the century, their campaigns were carefully conducted in terms of Indian-South African relations with the British Indian governments, which was seen as the most important agency for the intervention on behalf of South African Indians. Unlike Coloureds and Africans, the Indians, until the late 1930's, sought redress of their grievances through diplomatic intervention rather than through efforts to participate in the South African political system.

<sup>16</sup> T.R.H. Davenport, *South Africa: A Modern History*, (1978), p. 155.

late 19th and early 20th centuries ran parallel to the spread of independent or separatist churches especially of the 'Ethiopian' variety.<sup>17</sup> Unlike the political bodies (and voters' associations in the Cape), these churches for the most part derived their membership from semi and uneducated Africans, although the leaders usually belonged to the small African élite. Although a polyvalent phenomenon with a conservative and radical side, Ethiopianism, with its emphasis on independent African action, represented a new stimulus in African political thinking and had a leavening effect on mass consciousness.<sup>18</sup>

In the wake of the restricting terms of the Act of Union and largely through the initiative of Pixley ka I. Seme, a young lawyer trained at Columbia, Oxford and the Middle Temple, the South African Native National Congress was established in 1912.<sup>19</sup> The Rev. John L. Dube was elected president.<sup>20</sup>

The existing political bodies in the various provinces provided most of the SANNC's leaders and members, although it incorporated elements of Ethiopianism in its conception of unifying Africans of all classes and tribes throughout

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<sup>17</sup> Although it stands in need of supplementary, specialised studies on smaller regions or individual church secessionists, the standard work on Ethiopian churches and sects in Southern Africa remains B.G. Sundkler, *Bantu Prophets in South Africa* (London, 1948, 1961, 1964).

<sup>18</sup> Cf J. Mutero Chirenje, 'The Afro-American Factor in Southern African Ethiopianism, 1890-1906', D. Chanaiwa (ed.) *Profiles of Self-Determination: African Responses to European Colonialism in Southern Africa. 1652- Present* (1976), pp. 250-280; P. Rich, 'Black Peasants and Ethiopianism in South Africa: 1896-1915', *Conference on the History of Opposition in Southern Africa* (1978), pp. 119-140.

<sup>19</sup> For details of the formation of Congress, see Walshe, *op. cit.*, pp. 30-40. See also Jordan K. Ngubane, *An African Explains Apartheid* (1963) pp. 69-84.

<sup>20</sup> Dube was born in Natal in 1871. After studying theology in America for three years he was ordained by the Congregational Church and returned to Natal where he established the Ohlange Institute in August 1901, a school modelled on Booker T. Washington's principles of self-help and vocational education. In 1900-1901 Dube helped found the Natal Native Congress and in 1902 launched Natal's first African paper, the weekly *Ilanga Lase Natal*.

South Africa. Forman points out that Congress could not have come into being at the time without the support of the chiefs, since tribalism was still strong and national and political consciousness weak.<sup>21</sup> Initially then, Congress was an alliance between a small professional élite and the traditional élite of tribal society. As industrialisation undermined the traditional societies and created a more politically conscious urban population this alliance grew increasingly brittle.<sup>22</sup>

The forming of the SANNC was opposed by John Tengo Jabavu, who was wary of an organisation that did not concentrate its efforts upon working with sympathetic whites to exert pressure within the established parliamentary system. Jabavu and his supporters in the Cape Province therefore formed their own unionwide organisation, the non-racial South African Races Congress.<sup>23</sup>

Issues involving both ideology and policy were raised for the SANNC and the Races Congress by the 1913 Natives Land Act. The Land Act established 'possessory segregation' as the cornerstone of South African Native policy. This entailed separate African and European areas while permitting the residence of individuals in each other's area. While intended as a temporary measure to maintain the *status quo* pending the report of a land commission, the Act was retained until Hertzog's Native Trust and Land Act. In the interim Africans were barred from purchasing land except from other Africans or in existing tribal reserves.

The impact of the legislation was to restrict African land

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<sup>21</sup> L. Forman, *Chapters in the History of the March to Freedom* (1959) p. 214.

<sup>22</sup> It must be appreciated, however, that there was considerable tension between 'enlightened' and conservative chiefs.

<sup>23</sup> The 1916 Beaumont Commission's proposals were considered too liberal by most whites (especially farmers), and too meagre by the majority of Africans, but the Government was more inclined to listen to the whites.

ownership to the so-called 'scheduled areas', some 10.5 million morgen.<sup>24</sup> This represented about 7.3% of the total land area, the bulk of which was the tribal reserves.

The Act also checked squatting by prohibiting the movement of Africans from farm to farm and requiring those who chose to remain on white property to work ninety days per annum for the privilege. Sharecropping was stopped and individuals given the choice of returning to overcrowded reserves, working as labourers for a particular farmer, or seeking employment on the mines and in urban centres, where freehold rights were scarce and only low-paid unskilled or semi-skilled work available.

The Cape remained an anomaly as a result of the Supreme Court's ruling that Section 8 (which provided that nothing in the Act should deprive Cape Africans of their political rights) had the effect of exempting the Province on the grounds that a restriction on property rights in turn interfered with franchise qualifications.<sup>25</sup>

The Act affected Africans of all classes<sup>26</sup> precipitating mass evictions in the Free State, and undermining, and in some areas destroying, a developing class of progressive

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<sup>24</sup> The Land Act allocated land as follows:

	Total Area (in morgen)	Native Reserves	%
Cape	83,700,000	6,217,037	7.5
Transvaal	33,400,000	1,159,296	3.5
Natal	10,650,000	2,972,312	29.7
OFS	14,800,000		0.5
Total	142,550,000	10,422,935	7.3

(Figures cited in Walshe, *op. cit.*, p. 44)

<sup>25</sup> Thomson and Stilwell *vs.* Kama, 207 A.D. 1917.

<sup>26</sup> For a detailed account of African reactions to the Land Act see Sol. T. Plaatje, *Native Life in South Africa* (1916).



African peasantry.<sup>27</sup>

The Land Bill was piloted through Parliament by the new Minister of Native Affairs, J.W. Sauer, long regarded by the Africans as a friend.<sup>28</sup> J.T. Jabavu, believing that Sauer would not let the Africans down, summoned a meeting of the South African Races Congress and obtained a resolution in favour of the new legislation. But he encountered hostile opposition even in his own stronghold of the eastern Cape.

There is no evidence of any coordinated campaign being waged against the Land Bill by white liberals and humanitarians. Indeed, there was a definite ambiguity in their response to the legislation. This is reflected in the debate within the South African Society, a pressure group on Native policy formed in Cape Town in 1912 at the indirect instigation of the Aborigines Protection Society. An observer had this to say to the APS:

Of course there are different views as to the degree of iniquity of the Land Act. Some condemn it altogether - others think it need not be very bad if it is fairly administered, and the dispossessed natives given land elsewhere. One man finds hopeful that the Europeans as a whole will not allow the Native to be driven out from one place unless another is given him, and that the gross injustice which some fear, will not be tolerated.<sup>29</sup>

The immediate response of Congress to the Land Bill - which

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<sup>27</sup> An interesting analysis of the political and economic implication of the Land Act is given in Paul Rich's unpublished paper, 'The agrarian counter-revolution in the Transvaal and the origins of segregation: 1902-1913', University of Witwatersrand, 1976.

<sup>28</sup> According to the historian D.W. Krüger, Sauer's friends apparently found him at home in tears on the night of his introductory speech. Tatz, *op. cit.*, p. 19.

<sup>29</sup> Cited M. Legassick, 'The Making of South 'Native Policy', 1903-1923: The Origins of Segregation', ICS postgraduate seminar paper (1972). By 1916 the Society had collapsed. Walshe, *op. cit.*, p. 247.

took advantage of the discontent to consolidate its support among the chiefs, the new élite and many less educated Africans - was to reject any move towards segregation in favour of freedom within a wider multi-racial South Africa i.e. equality of opportunity based on the removal rather than the perpetuation of racial discrimination.<sup>30</sup> Once the Bill became law, however, congressmen began to speak with seemingly contradictory voices. The Act was still attacked in the terms already noted, but there was also a plea for the magnanimous application of the principle of segregation as contained in the Act.<sup>31</sup> However, at the time, segregation had a variety of meanings. African leaders did not object to rural land segregation, safeguarding and extending the tribal areas, as long as this was no obstacle to equality of opportunity for educated Africans in a wider South Africa.<sup>32</sup>

In 1917 Dube was replaced by S.M. Makgatho, the leader of the Transvaal Congress, as president of SANNC after a dispute within the body as to whether the principle of territorial segregation might be accepted in theory. Makgatho represented the dominant wing in the Congress that was unwilling to compromise with the ideal of an ultimately non-racial society.<sup>33</sup>

Despite increased support after the Land Act, Congress (from 1923, the African National Congress) remained largely the instrument of an African élite which made up its leadership and membership. It relied on resolutions, deputations and respectful pressure group tactics. However, in March 1919 the Transvaal branch of Congress launched a passive

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<sup>30</sup> Walshe, *op cit.*, pp. 46-47.

<sup>31</sup> *Ibid.*, p. 47.

<sup>32</sup> *Ibid.*, pp. 47-48.

<sup>33</sup> For details of this internal tension see *Ibid.*, pp. 48-61.

resistance campaign against passes, but the mass agitation was stamped out by the white authorities. Walshe points out that the general demeanour during these protests showed that Congress remained under the leadership of men who were committed to non-violence. Moreover, Congress apparently lacked the organisational strength to sustain passive resistance.<sup>34</sup>

In the same year a Congress delegation sailed for England aiming 'to do nothing less than reverse the long standing trends in Native policy.'<sup>35</sup> This venture failed and Congress lost a good deal of its coherence and initiative. The support of the chiefs declined and membership stagnated and later dropped.<sup>36</sup>

Post-war unrest facilitated the development of new protest groupings and the emergence and spread of new ideas.

A tendency for the SANNC and the African Peoples' Organisation to protest on a broad front, contributed to the establishment of a number of black trade unions in most major centres, catering for the chief demands - higher pay and better working conditions - of the new black 'proletariat'. Among these new bodies was the Industrial and Commercial Union which was established in Cape Town in 1919 under the leadership of Clements Kadalie.<sup>37</sup> The early ICU (renamed the Industrial and Commercial Workers' Union in 1922) was essentially a Cape organisation, but by 1924 Kadalie had managed to extend the movement into the other provinces.

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<sup>34</sup> *Ibid.*, pp. 80-83.

<sup>35</sup> *Ibid.*, p. 65. The delegation consisted of Sol T. Plaatje, R.V. Seloape Thema, J.T. Gumede and L.T. Mvabaza.

<sup>36</sup> *Ibid.*

<sup>37</sup> For a discussion of the grievances of African and Coloured workers and the origin of the ICU as a national organisation see Sheridan W. Johns, III, 'The Birth of Non-White Trade Unionism in South Africa', *Race*, Vol. IX (1967) pp. 173-192; and P.L. Wickins, *The Industrial and Commercial Workers Union* (Unpublished Ph.D. thesis, 1973).

Its trade union concerns had clear political overtones and by the mid-1920's Kadalie's ICU was implicitly challenging the pre-eminence of the ANC in African politics.<sup>38</sup>

The ICU provided an outlet for those interested in the writings of Marcus Garvey,<sup>39</sup> or merely frustrated by Congress's failure to obtain concessions from the authorities. Also, by the mid-1920's it harboured a small but influential group of communists. However, it had no clear strategy in regard to the problem of race relations and political power.

While the ICU had no coherent ideology, the small Communist Party of South Africa, formed in 1921, developed a non-racial working class analysis. In its early days, however, the CPSA tended to focus its attention on the white labour movement and its impact on black protest was negligible until 1924.<sup>40</sup>

Apart from the communists, a second group of whites - a small band of philanthropic and liberal professional men - attempted to intervene in African politics.<sup>41</sup> This group was largely based on the Rand. For the most part, they

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<sup>38</sup> An examination of the rise of the ICU is contained in Sheridan W. Johns III, 'Trade Union, Political Pressure Group, or Mass Movement? The Industrial and Commercial Workers' Union of Africa', Robert I. Rotberg and Ali A. Mazrui (eds.), *Protest and Power in Black Africa* (1970) pp. 695-754; and Wickins, *op. cit.*

<sup>39</sup> For a discussion of the impact of Marcus Garvey, the American Negro leader, on black South Africa, see Walshe, *op. cit.*, pp. 163-139. For details of Garveyism see J.H. Clarke (ed.), *Marcus Garvey and the Vision of Africa* (1973).

<sup>40</sup> For a detailed account of the origins and early years of the CPSA see H.J. and R.E. Simons, *Class and Colour in South Africa 1850-1950* (1969).

<sup>41</sup> Efforts by white liberals to intervene in African protest appear to have commenced in 1918, if not sooner. There is some doubt, however, as to the identity of those involved in the initial efforts. Howard Pim (CBE), a Quaker and wellknown Johannesburg businessman, was certainly involved, as was the Bishop of Pretoria.

were responding to a growing alienation between themselves and African leaders and to increasing racial tension, particularly in the Transvaal. Their commitment seems to have been to encourage the emergence of an African middle class prepared to cooperate with the authorities, while the latter, it was hoped, would be influenced by an increasingly informed public opinion.<sup>42</sup>

The first attempt failed. *Umteteli wa Bantu* (Mouthpiece of the Bantu) sponsored by the Chamber of Mines, was set up in 1920 in the wake of the 1919 disturbances and the African mine strikes, as part of the effort to moderate African thought and counter the left wing of Congress with its mouthpiece *Abantu Batho*. An early issue of *Umteteli*, however, reported that 'advances recently made by prominent Europeans towards a closer sympathy and understanding' with Africans had been received with 'coldness and suspicion'.<sup>43</sup>

The situation was transformed by the arrival of the Gold Coast educator, Dr. J.K. Aggrey, and Dr. Thomas Jesse Jones, Educational Director of the Phelps-Stokes Foundation, in South Africa in April 1921.

Aggrey remained until July in consultation with whites and African leaders, and as a result the Johannesburg Joint Council of Europeans and Natives came into existence, and following it Joint Councils in other centres.<sup>44</sup> Among those initially involved was the Transvaal Native Congress, the Mine Clerks' Association, the Native Teachers' Association, with Howard Pim, J.D. Rheinalt-Jones, Rev. R.E. Phillips, Saul Solomon, O.D. Schreiner, H.M. Taberer, C.T. Loram and

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<sup>42</sup> Walshe, *op. cit.*, pp. 96-97; M. Legassick, 'The Rise of Modern South African Liberalism: Its Assumptions and its Social Base', ICS post-graduate seminar paper, 1972.

<sup>43</sup> Walshe, *op. cit.*, p. 97.

<sup>44</sup> For a discussion of the Joint Council movement see J.W. Horton, 'South Africa's Joint Councils: Black-White Co-operation between the two World Wars', *South African Historical Journal*, No. 4, (1972).



J.H. Hofmeyr on the white side.<sup>45</sup>

Few Congress leaders evinced much interest in Garveyism and still less in the class analysis of white Marxists. However, just as the remaining influence of older Cape liberals was waning, the Joint Council movement resuscitated hopes of reform via pressures from within European politics. This, combined with its own organisational weaknesses, new modes of consultation with the Government and contact with Afrikaner intellectuals at the European-Bantu Conference of 1923, encouraged Congress to shelve any plans for militant mass action.<sup>46</sup>

The response of Congress and other African leaders to the legislative measures - the Native Affairs Act of 1920 and the Union Areas Act of 1923 - saw a qualification of the Cape ideal. The Native Affairs Act made provision for the establishment of local councils on the lines of the Glen Grey scheme,<sup>47</sup> a Native Affairs Commission was to advise the Government and form a bridge with the Africans; and periodic conferences were to be held with African chiefs and leaders as a form of consultation. The measure was

<sup>45</sup> John David Rheinallt Jones was the central figure in the Joint Council movement. A Welshman and son of a Methodist Minister, he came to South Africa and first became involved in race relations work in Cape Town. In 1918 he moved to College, and then as its assistant Registrar. He later became a lecturer in anthropology. The Rev. Ray E. Phillips was an American Board missionary. Saul Solomon was the son of the Cape Statesman, Saul Solomon. In 1900 he was admitted to the Cape Bar, but moved to Johannesburg in 1902. In 1927 he became a judge.

O.D. Schreiner was a Johannesburg lawyer and the son of the Cape liberal politician W.P. Schreiner. H.M. Taberer was the General Manager of the Native Recruiting Corporation. C.T. Loram was the Chief Inspector of Education in Natal. In 1920 he was appointed to the Native Affairs Commission. J.H. Hofmeyr, later to become a leading politician, was at the time the Principal of the Johannesburg University College.

<sup>46</sup> Walshe, *op. cit.*, pp. 104-105.

<sup>47</sup> For a discussion of the Glen Grey scheme see e.g. E.H. Brookes, *History of Native Policy in South Africa from 1830 to the Present Day*. (1924), pp. 360-375.

welcomed by white liberals and humanitarians in South Africa and Britain.<sup>48</sup> However, some African leaders like the Rev. Z.R. Mahabane, president of the Cape Congress, were opposed to the Bill. Nothing short of direct representation in Parliament, he maintained, would satisfy the African people. The Bill was a step in the right direction only insofar as it facilitated improved local government. If it heralded thorough-going political segregation, it was 'drifting further away from the ideal of the Native Congress'.<sup>49</sup> Mahabane then developed his personal view, proposing that separate representation be given to Africans in order to lessen white fears of being swamped by the black vote.<sup>50</sup>

Once the Bill became law, however, there was a general willingness to make it a success.<sup>51</sup>

Although in 1918 Africans had denounced the predecessor to the 1923 Natives (Urban Areas) Bill, by 1922 most African leaders were prepared to compromise on local segregation and urban control.<sup>52</sup> On its credit side the Bill offered Africans the prospect of freehold tenure in their own townships and provided for Location Advisory Boards. Moreover, the logic of separate urban areas was seen by some leaders as a means to claim exclusive trading rights for African entrepreneurs.<sup>53</sup>

At the last moment, however, the freehold tenure provision

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<sup>48</sup> W.K. Hancock, *Smuts*, Vol. II: *The Fields of Force 1919-1950* (1968) p. 121.

<sup>49</sup> Cited Walshe, *op. cit.*, p. 101.

<sup>50</sup> Mahabane suggested an initial representation of two MPs for each of seven constituencies - three in the Cape, two in the Transvaal and one each in Natal and the Free State.

<sup>51</sup> Walshe, *op. cit.*, p. 102.

<sup>52</sup> Walshe, *op. cit.*, pp. 103-104.

<sup>53</sup> *Ibid.*, p. 104.

was dropped.<sup>54</sup> This led to a storm of protest against the Government, to which some white liberals, particularly those associated with the Johannesburg Joint Council, added their voices.<sup>55</sup>

At its annual convention in May 1923 the ANC drew up a Bill of Rights. The document stressed the common humanity of all South Africans and the 'God-given right' of Africans (and other blacks), as British subjects, had an 'inalienable right' to equality before the law and a 'legal and moral right' to claim the application of Rhodes' maxim of 'equal rights for all civilized men'. Finally, racial interdependence entitled Africans to 'direct representation by members of their own race in all legislative bodies of the land'.<sup>56</sup> The ANC was to invoke these premises in its protest against the Hertzog Bills.

Whether intended or not by its framers, the Bill of Rights was sufficiently vague to allow for conflicting interpretation. On a short-term basis, at least, Congress and most other African leaders had come to accept by 1923, despite their opposition to the amended 1923 Urban Areas Bill, that participation in a wider South African society might have to take place from separate rural and urban areas coinciding with the organs of local government. While

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<sup>54</sup> For a detailed study of the policy which led up to the passing of the Natives (Urban Areas) Bill see T.R.H. Davenport, 'The Passing of the South African Natives (Urban Areas) Act', ICS postgraduate seminar paper, 1967. Cf. Peter Kallaway, 'F.S. Malan, the Cape Liberal Tradition and South African Politics 1908-1924', *Journal of African History*, Vol. XV, (1974), pp. 123-128.

<sup>55</sup> H. Selby Msimang, personal interview, 26 August 1977. Msimang maintains that white liberals in the Joint Council Movement, after their opposition to the 1923 Urban Areas Act, were finally accepted by moderate ANC leaders.

<sup>56</sup> Resolutions of the Annual Conference of the African National Congress, May 28-29, 1923, Thomas Karis and Gwendolen M. Carter (eds.) *From Protest to Challenge: A Documentary History of African Politics in South Africa 1882-1964*, Vol. I: *Protest and Hope, 1882-1934* (1974), pp. 297-298.



separate representation of Africans by Africans in Parliament had also been discussed, these trends in Congress did not extend to a concept of separate economic development or parallel political institutions.<sup>57</sup>

African political activity, particularly in the Cape Province, was not confined to the Native Congress. The collapse of the South African Races Congress and the apparent failure of the SANNC to root itself in the eastern Cape, contributed to the emergence in 1919 of the Bantu Union under the leadership of Meshach Pelem. But this remained a small organisation in the eastern Cape, rivalling and sometimes cooperating with the Cape Native Voters' Convention, which, as the Griqualand West Native Voters' Association, had been started in 1923 with the object of mobilising African voters in support of the South African Party.<sup>58</sup> Organising registered voters to influence government was a less effective tactic than in the pre-Union days. With Natal, the OFS and Transvaal only enfranchising white males, the relative voting strength of African and other black voters was significantly cut.<sup>59</sup> Also, since Union constituencies were larger than those of the old Cape Assembly, the number of seats in which black votes could be decisive was less than before.<sup>60</sup> Moreover, as S.M. Bennett Ncwana<sup>61</sup> commented, support of the SAP offered little benefit:

During the thirteen years of Union the position of the Cape Native voter has become less and

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<sup>57</sup> Walshe, *op. cit.*, p. 106.

<sup>58</sup> Wickins, *op. cit.*, p. 228.

<sup>59</sup> In 1909 there were 21 021 black and 121 346 white voters in the Cape, compared to the 24 347 black voters in the Cape and 321 488 white voters throughout the Union in 1913. *Official Year Book of the Union of South Africa*, No. 1, 1910-1916, p. 351.

<sup>60</sup> Garson, *op. cit.*

<sup>61</sup> Ncwana was General Organiser of the Griqualand West Native Voters' Association and later filled the same position in the CNVC.

less considered, and we are now face to face with issues calculated to hinder our progress. When the Unionist Party merged itself into the South African Party our last hope seemed shattered, and yet we found consolation in the fact that old members of the former Party would jealously guard our interests. But other parties are now turning the tables against us. We are faced with the need of helping to support the party now in power and the uncertainty of the political situation should the present Government be thrown out. We are bound also to guard against any compromise the present government may be persuaded to make with the opposition, such as is evidenced in instances of past enactments contrary to the will of the Native people. The real status of a Cape Native Voter has become obscure.<sup>62</sup>

In the Cape Province, when its members could exert some direct political influence, the APO fulfilled a similar function to the CNVC. A central concern of Coloured protest throughout the Union appears to have been the issue of political rights. In 1922, for instance, a petition with 50,000 Coloured signatures was handed to General Smuts, the Prime Minister, required 'the removal of the Colour Bar, by granting to non-European subjects Franchise Rights in all Provinces of the Union, and the right of being elected as Members of the legislature'.<sup>63</sup>

Unlike the ANC, the APO seems to have expanded its membership in the early 1920's.<sup>64</sup> Yet there were signs that a number of APO supporters were not particularly enthusiastic about Abdurahman's zealous defence of African rights and his desire for closer cooperation with African political

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<sup>62</sup> *Ilanga lase Natal*, 1 June 1923.

<sup>63</sup> *Report of the Commission of Inquiry Regarding the Cape Coloured Population of the Union*, UG 54/1937 (hereinafter UG 54/1937), pp. 228-229.

<sup>64</sup> By 1924 there were 120 branches with a total membership of over 6,000 male adults. Abdurahman's figures cited by J.S. Marais, *The Cape Coloured People 1652-1937* (1939), p. 276.

organisations, or for his support of the SAP.<sup>65</sup>

Meanwhile, Hertzog had concluded an electoral Pact with Colonel Cresswell, the Labour Party leader, in April 1923, and in preparation for the 1924 elections Nationalists proposed to release the Coloured people from the economic colour bar. Hertzog who had talked in terms of a new dispensation for Coloureds since late 1922,<sup>66</sup> advocated the extension of the vote to Coloured people in the northern provinces. 'His appeal', Davenport observes, 'played on their cultural ties with the Afrikaner and on the natural desire of many to rise in status by dissociating themselves from the Africans'.<sup>67</sup> Hertzog's 'New Deal' for Coloureds appears to have split the APO which usually voted SAP, or at least against the Nationalists, and saw the emergence of the Afrikaner National Bond led by W.H. le Grange, which offered him electoral support. N.A. Gamiet's Cape Malay Association was also won over to the side of the Pact.<sup>68</sup>

Although it was not half as assiduous in wooing Africans as it was Coloureds, and somewhat hamstrung by its declared segregation policy, the Pact managed to secure a fair amount of African support. At its 1923 and 1924 conferences, the ICU resolved not to align itself with either party. After the dissolution of Parliament in April 1924 it convened a 'united Non-European congress' in Cape Town and took up a position of hostility (to be expressed in a boycott of the election) to *both* the SAP and the Pact, which ended chances of working with the CNVC and the APO,

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<sup>65</sup> This is indicated by the enthusiasm generated by Hertzog at meetings organised under the auspices of the APO. Also, in October 1922 the Wynberg branch of the APO supported the National Party candidate in a provincial council by-election - a decision Abdurahman deplored.

<sup>66</sup> See Hertzog's interview with and speech to Coloureds at Aliwal North on 1 December 1922. F.J. du T. Spies *et. al.* (eds.) *Die Hertzogtoesprake*, Deel 4 (1977), pp. 234-237.

<sup>67</sup> Davenport, *South Africa*, p. 196.

<sup>68</sup> *Ibid.*

both of which inclined toward the SAP. But soon some ICU leaders were advocating not a 'militant neutrality' but a vote against the Government.<sup>69</sup>

At its May conference the ANC urged the black electorate 'to vote solidly for a change of government',<sup>70</sup> and a mixed deputation of ICU and ANC leaders (Kadalié, S.M. Masabala, James Thaele and Johnson Dlwati)<sup>71</sup> subsequently met Hertzog in Bloemfontein. But beyond Hertzog's offer to foot the bill for an election issue of the *Workers' Herald*, which was given out free, there is no evidence that the Nationalists offered any solid benefits for Africans.

An analysis of Cape constituencies in 1924 is needed to assess to what extent black voters supported the Pact.<sup>72</sup> While a number of Coloureds voted for the Pact it is questionable whether they were in the majority. African voters largely preferred to stick to Smuts, whatever his faults. As one African leader put it: 'While the native is not easily bluffed, the coloured man seems to be the victim of the propaganda of the Pact.'<sup>73</sup> Even Congress leaders appear to have had second thoughts about the desirability of voting against the Government.<sup>74</sup>

The new Pact Government soon demonstrated where its priorities lay. In October 1924 a 'civilized labour policy'

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<sup>69</sup> For a discussion of the ICU's response to the impending 1924 Election see Wickins, *op. cit.*, p. 221 *et. seq.*

<sup>70</sup> *Ibid.*, p. 230.

<sup>71</sup> S.M. Masabala was the ICU organiser-in-chief at the time but was soon thereafter dismissed. James Thaele was head of the Western Cape ANC and Johnson Dlwati, the General Secretary.

<sup>72</sup> This aspect is glossed over in C.E.M. O'Dowd's article, 'The General Election of 1924', *South African Historical Journal*, No. 2 (1970), pp. 54-76.

<sup>73</sup> Quoted Wickins, *op. cit.*, p. 239.

<sup>74</sup> *Ibid.*



was instituted, under which poor white Afrikaners were to replace Africans and Indians (at inflated wage rates) in relatively unskilled jobs in government enterprises.<sup>75</sup> The Mines and Works Amendment or 'Colour Bar' Bill, introduced in February 1925, explicitly named Africans and Asiatics as persons who could be excluded by regulation from receiving certificates of competency in certain trades, and specifically empowered managements to apply a racial classification of their employers when apportioning work among them.<sup>76</sup> The industrial colour bar, Davenport argues, was the reverse side of segregation 'which was conceived as a favour conferred on the black man'.<sup>77</sup>

Although Hertzog had been publicly advocating segregation<sup>78</sup> since 1911,<sup>79</sup> the public was largely in the dark as to precisely what he had in mind when the Pact Government took office in 1924.<sup>80</sup> 'This Government has no native policy at this moment' he declared in that year.<sup>81</sup>

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<sup>75</sup> This aspect of Pact policy appears to have been promoted chiefly by the Nationalists. See Garson, *op. cit.*

<sup>76</sup> The 1925 Wage Act, which specifically excluded agricultural labourers and domestic servants from its coverage, and the gazetting of the Native Administration Bill, were also resented by blacks.

<sup>77</sup> Davenport, *South Africa*, p. 205.

<sup>78</sup> Segregation was neither an invention of Hertzog nor an Afrikaner tradition. See e.g. D. Welsh, *The Roots of Segregation: Native Policy in Colonial Natal* (1971); Legassick, 'The Making of South African "Native Policy" '.

<sup>79</sup> James Rose-Innes Papers, J.X. Merriman to Rose-Innes, 14 September 1911; Legassick, 'The Making of South African "Native Policy" ' ; Cf. Tatz, *op. cit.*, pp. 14-15.

<sup>80</sup> Even officials in the Native Affairs Department seemed to have little more than a rough idea of Hertzog's segregation policy. See e.g. J.F. Herbst Papers, D47, Memorandum by E.R. Garthorne on Native Segregation, dated 7 October 1924.

<sup>81</sup> Cited Davenport, *South Africa*, p. 205. Hertzog was presumably assimilating new ideas and clarifying his own at the time. He was given food for thought, when E.H. Brookes, a lecturer in Political Science and Latin at the Transvaal University College, sent him a manuscript entitled *History of Native Policy in South Africa from 1830 to the Present Day*, asking for Hertzog's help in finding a publisher. The work (for which Brookes was later awarded a D.Litt.) included a 'solution' of the Native problem (a policy of differentiation as Brookes called it) similar to that of Hertzog's. Hertzog subsequently funded the publication of the book. See Hertzog Papers, Vol. 35, Hertzog-Brookes correspondence; and E.H. Brookes, *My South African Pilgrimage* (1977), pp. 20-21

It had been a standard complaint of Hertzog, during his years in opposition, that the SAP was adopting a policy of 'drift' on the Native question,<sup>82</sup> yet by 1923 segregation was firmly ensconced as the guiding principle in official Native policy.<sup>83</sup> Nevertheless, from Hertzog's standpoint in 1924, his accusation was not without substance. The Cape African vote still stood in the way of a 'uniform Native policy'. The position of the Coloured people within South Africa needed to be defined. Moreover, additional land was needed for acquisition by Africans but, with the proviso that 'the Native should not have the right to own or lease ground wherever he liked'.<sup>84</sup> Territorial segregation was linked to a demand for some form of industrial segregation. At Stellenbosch in April 1924 Hertzog remarked that

... it was plain to him that the Native must be segregated where he could progress on his own lines in suitable parts of the country ... The Native to-day with his uncivilized labour was taking employment from both white and coloured.<sup>85</sup>

Hertzog was not aiming at undermining the supply of cheap unskilled labour for mines and industries;<sup>86</sup> rather he was seeking to stunt the growth of an African middle class in

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<sup>82</sup> See *inter alia* Hertzog Papers, Vol. 35, Hertzog to E.H. Brookes, 23 March 1924.

<sup>83</sup> See Legassick, 'The Making of South African "Native Policy" '. As a member of General Botha's Cabinet before his expulsion in December 1912, Hertzog played a prominent part in persuading the SAP Government to follow a segregationist course in Native policy. Indeed, the 1913 Land Bill was essentially a draft Bill of Hertzog's, 'a mere sketch of what was contemplated by me /Hertzog/ in the matter of possessory segregation. It was to be accompanied or immediately followed by similar differentiating legislation as to administration etc.' Hertzog Papers, Vol. 35, Hertzog to Brookes, 23 March 1924.

<sup>84</sup> *Rand Daily Mail*, 14 October 1921.

<sup>85</sup> *The Star*, 9 April 1924.

<sup>86</sup> See e.g. Herbst Papers, D47, Memorandum by E.R. Garthorne on Native Segregation; and Legassick, 'The Making of South African "Native Policy" '.

the cities, by denying Africans access to skilled positions in the economy. He seems to have envisaged an African élite (the class from which 'agitators' were drawn) finding an outlet for their aspirations in their own areas and, possibly as a means of controlling this group, greater emphasis was to be placed on tribal government as opposed to local councils.<sup>87</sup>

While Hertzog undoubtedly considered that he was formulating a comprehensive solution to the Native problem,<sup>88</sup> his was not an ideologically rigid scheme and entailed a substantial degree of *laissez faire*.<sup>89</sup> Indeed, Hertzog, to a large extent, was concerned with maintaining the *status quo*. For instance, there is no evidence that Hertzog devoted any serious thought to the question as to whether Africans would be granted complete autonomy in their allocated areas.

Once in power Hertzog seemed determined to translate his thoughts about segregation into practice. In part, he was fulfilling election promises and politically entrenching his Government. Psychological motives were surely present as well. For Hertzog, segregation was more than a shabby plan to deprive Africans of what little rights they had in exchange for a little more land. Hertzog felt that he was tackling a 'momentous question'. For him segregation contained a certain *mystique*.<sup>90</sup>

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<sup>87</sup> This trend of thought is indicated in the Native Administration Bill, introduced in 1925.

<sup>88</sup> Hertzog Papers, Vol. 35, Hertzog to Brookes, 23 March 1924.

<sup>89</sup> See N.J. Rhoadie and H.J. Venter, *Apartheid: a socio-historical exposition of the origin and the development of the apartheid idea*. (1960), p. 134 *et. seq.* For a brief but perceptive discussion of the pragmatic nature of segregation consult André du Toit, 'Ideological Change, Afrikaner Nationalism, and Pragmatic Racial Domination in South Africa', L.M. Thompson and J. Butler (eds.), *Change in Contemporary South Africa* (1975), pp. 38-39.

<sup>90</sup> See Hertzog Papers, Vol. 35, Hertzog to Brookes, 23 March 1924.

Hertzog does not appear to have been moved by pressures within the National Party to advocate an explicit policy of segregation.<sup>91</sup> This is illustrated in a letter written to Edgar Brookes, in which Hertzog remarked how, prior to the formal adoption by the National Party of a policy of segregation, he had addressed his parliamentary colleagues in caucus 'explaining to them that policy in its many phases and bearings and assigning reasons for its adoption'.<sup>92</sup>

Segregation made good sense to Hertzog. It was a vague concept, with a broad appeal straddling class divisions among the Afrikaners. It suited both sides in the new Pact Government. In addition, it was bound up with Hertzog's programme for the socio-cultural and economic regeneration of the Afrikaner poor-white class.<sup>93</sup> An essential prerequisite for the upliftment of poor whites, as Hertzog seems to have diagnosed it, was the retarding of African advancement within the white economic and political order.

Hertzog was also responding politically and emotionally to white fears of black majority rule. According to E.H. Brookes, a deep impression had been made on white South Africa<sup>94</sup> by the following observation of the influential South African Native Affairs Commission (1903-1905):

The Native population of the Cape Colony is about a million and a half, out of which a quarter of a million are adult male Natives and potential voters. The present number of Native voters is, therefore, the merest fringe of the impending

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<sup>91</sup> Garson, *op. cit.*

<sup>92</sup> Hertzog Papers, Vol. 35, Hertzog to Brookes, 23 March 1924.

<sup>93</sup> Hertzog's preoccupation with the poor-white problem is reflected, for example, in his speech on 17 October 1923 to the Congress of the National Party held at Kroonstad. Spies *et al.* (eds.), *Die Hertzogtoesprake*, Deel 4, pp. 272-273.

<sup>94</sup> E.H. Brookes, *The Colour Problems of South Africa* (1933), p. 86.



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The 1921 population census revitalised white fears of a 'rising tide of colour'.<sup>96</sup> It is in this context that Hertzog's long-standing opposition to the 'colour-blind' Cape African franchise must be viewed.<sup>97</sup> It may help to explain why the main thrust of his segregation policy was the abolition of the Cape African franchise.

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<sup>95</sup> *Report of the South African Native Affairs Commission, 1903-05*, Vol. II: Minutes of Evidence taken in the Cape Colony, p. 94.

<sup>96</sup> W.M. Macmillan, 'White South Africa: The Colour Bar and Some Loose Bolts', *The Star*, 30 June 1925, Simons, *op. cit.*, p. 32. A report of the 1921 census was completed in 1923 and published in 1924. See *Report on the Third Census of the Population of the Union*, 3 May, 1921, UG 40/1924 (hereinafter referred to as UG 40/1924). For Hertzog's 'interpretation' of the 1921 census see e.g. his May 1926 Malmesbury speech in Spies *et al.* (eds.), *Die Hertzogtoesprake*, Deel 5 (1977), pp. 71-77.

<sup>97</sup> Cf. the views he expressed at the 1908-09 National Convention. E.H. Walton, *The Inner History of the National Convention* (1912), p. 133. His opposition to the Cape African franchise grew considerably more intense during 1924.

## CHAPTER I

1925-1928: THE BATTLE-LINES ARE DRAWN

On the 13th November, 1925 at Smithfield, in a well publicised speech, General Hertzog enunciated a four-point segregationist programme. In an elaboration of views expressed earlier on his tour of the Transkeian Territories,<sup>1</sup> the Prime Minister proposed 1) the removal of Africans from the common electoral roll in the Cape Province; 2) a final deliniation of the land to be made available to Africans under the Natives' Land Act of 1918; 3) within these areas the establishment of partly-elected, partly-nominated local 'Native Councils' with provision for a similarly chosen 'Union Native Council'; and 4) representation of African interests in Parliament by seven white representatives elected by Africans enrolled upon a special, separate voters' roll. These members were to have full powers and rights in the Assembly, except that they would be unable to vote on any question relating to a change in the basis of African representation.

Fear has also been expressed to me /Hertzog declared/ that the seven Native members in the Assembly may create a danger to the Government by combining and throwing their weight as a group against the Government in order to make the Government fall or compel them to accede to what they desire and what the Government would not otherwise have done. This is not impossible, but for various reasons which I do not at present wish to discuss, it seems hardly probable. Suppose, however, that it does happen that they combine to form a group against the Government, then we must not forget that the Government with all its followers are dependent upon the white vote only, and should the Government proceed to barter the interests of the

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<sup>1</sup>See e.g. *The Star*, 21, 22, 24, 28, 31 August 1925 and 2 September 1925 for reports of his speeches.

country for the seven Native votes, the white population of the Union would soon enough call such a Government to account. Here also, therefore, all fears to me appear to be groundless.

In addition, Hertzog proposed a special status for Coloureds: Economically, industrially and politically they were to be 'placed on an equal footing with the Europeans'. Socially, neither group desired association with the other.<sup>2</sup>

The opposition South African Party press, on the whole, was not particularly critical of the Smithfield proposals. In fact, *Imvo Zabantsundu*, an African newspaper, complained at the time that the European press in the eastern districts of the Cape Province was causing great concern in giving white correspondents, with an anti-African bias, preferential treatment as opposed to African correspondents.<sup>3</sup> Most editorial comment referred to Hertzog's moral courage and statesmanship in tackling the 'Native Question'. The *Cape Times* felt that the part of the scheme dealing with the Native Council was likely to meet with general acceptance, but that the other proposals would cause a wide disturbance of public opinion in various parts of the Union. Hertzog's suggested compromise on the subject of the African franchise contained certain seeds of settlement, though 'his plan has been advanced in such vague and indefinite terms, with so many gaps to the fabric, that it is difficult to fully understand the proposals'. The paper thought it would be difficult to define the limits and powers of the seven white representatives and declared that this group would be caught up in the maelstrom of party considerations.<sup>4</sup>

*The Friend* maintained that the scheme was consistent with

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<sup>2</sup>*The Star*, 14 November 1925.

<sup>3</sup>*Imvo Zabantsundu*, 17 November 1925.

<sup>4</sup>Cited in *The Star*, 14 November 1925.

SAP policy, although it was the 'first considered and comprehensive plan for a solution of the native and coloured problem that has been placed before the South African people by the head of a responsible government'. The crucial issue was whether the plan was acceptable to Africans.<sup>5</sup>

*The Star's* summing up of the speech came closest to reflecting the concerns of mining and industrial interests:

... while the speech gives solid ground for discussing the representation of the natives it is quite disappointing as regards the segregation policy of which representation is only one aspect. The Union's effort to compete in production with other parts of the world is to a great extent dependent ... on its supplies of native labour. General Hertzog and his Government practically secured the country (*sic*) that they could find a way of separating the white and native races without plunging the country into economic disaster; and the Prime Minister's speech, admirable though it was in many respects has really done little to justify this undertaking.<sup>6</sup>

Possibly the most discordant note was sounded, somewhat surprisingly, by the *Natal Advertiser*:

The policy of the Premier is going to divide South Africa. It also, we think, is going a long way to destroy South Africa. It is a policy of racial fear on the part of the minority - a minority that is diminishing relatively year by year. It is not rule by a white aristocracy. If it were, something might be said for it ... in our opinion the safety of the white man's civilisation rests on two things only. The one is the steady reinforcement of its own numbers from without, and the other is a wise and liberal attitude towards those subject peoples ...<sup>7</sup>

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<sup>5</sup> *Ibid.*

<sup>6</sup> *The Star*, 14 November 1925.

<sup>7</sup> *Natal Advertiser*, 14 November 1925.

There was at first a certain ambiguity in the white liberal response to the Smithfield speech. Professor W.N. Roseveare, of Natal University College and Secretary of the Pietermaritzburg Joint Council, was cited by *Die Burger* as an admirer of Hertzog's programme.<sup>8</sup> Howard Pim, Chairman of the Johannesburg Joint Council of Europeans and Natives, who, by the end of 1926, stood out as a critic of Hertzog's proposed legislation and, as a champion of the Cape African Franchise, was by no means of the opinion in late 1925 that there should be an uncompromising stand against the abolition of the Cape franchise. In a note analysing the Smithfield proposals and Hertzog's subsequent address to the Government Native Conference, held in December 1925, he remarked that

Throughout both these addresses and especially this later one, there runs a tone of concern that real justice should be done, and judging by the extracts I have quoted there is no ground for the belief that the Prime Minister has no hard and fast Segregation Scheme in his mind, but that, as the desirability of keeping the races socially apart is common ground, so that this should be the general line of policy for South Africa, and that legislation tending in this diversion should be brought forward as required. May we understand that when he says 'Ministers are all agreed that a solution must be found along the lines of segregation' he means, and only means, that the natural tendency of the two races to keep apart socially will be encouraged and facilitated.

Pim felt that the political proposals should only be implemented after the question of land had been settled in order to remove African suspicions. He approved, however, of the political proposals:

The first thing to be noted is that the Prime Minister offers the native population

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<sup>8</sup> *Die Burger*, 23 November 1925.



something real *viz.*, seven members in the House of Assembly who practically will have full powers and being elected solely by natives will be able to act with full regard to native interests instead of at present owing a divided allegiance partly to European and partly to natives. Through their membership of the Native Council they will be kept in touch with native colleagues with regard to all proposed Native legislation before it reached the House of Assembly.<sup>9</sup>

Although some African leaders seemed to have reserved comment on Hertzog's grand scheme, articulate African opinion was fairly unanimous in opposing it. Segregation, according to a number of moderate Africans<sup>10</sup> interviewed by *The Star*, would only be viable if absolute, if the right of self-determination applied to what would be an African state not under control of the Union Government, but forming part of the British Commonwealth and Empire. In demanding territorial separation, white South Africa had forfeited the right to direct the destinies of the Bantu race. The Cape African franchise would only be abrogated if the whites were to surrender control of Native Affairs to Imperial authorities. The Africans of the Union were urged to assist in every way the territories of Basutoland, Swaziland and Bechuanaland to oppose the incorporation of these territories into the Union. The only solution to the problems of relations between white and black, was the extension of the Cape African Franchise to the northern provinces, with the proviso that qualifications for Africans be made as high as possible. The council system idea was given a qualified approval, but the proposed scheme of seven white MPs, with limited powers, was rejected.<sup>11</sup>

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<sup>9</sup> Archives of South African Institute of Race Relations (hereafter SAIRR Archives) : Rheinallt Jones Papers : Johannesburg Joint Council Records, 'Note on General Hertzog's Smithfield Proposals.'

<sup>10</sup> These Africans were not named.

<sup>11</sup> *The Star*, 14 November 1925.

As an example of a more extremist standpoint in regard to the Smithfield proposals, *The Star* cited the words of Clements Kadalie of the ICU, though on closer examination there is little beyond a more vituperative tone to distinguish between the views of the flamboyant Nyasaland and moderate opinion:

General Hertzog's native policy is calculated to set the whole population of the Union ablaze. The pith of the Government's policy is to deprive the Cape natives of the franchise, which was the only means through which the native could vindicate and defend his rights. The appointment of seven European 'representatives' without a vote on the basis of native representation in Parliament is the biggest political crime since the days of absolute monarchy in Great Britain.<sup>12</sup>

The impact of the Smithfield speech on the African community is summed up by Solomon T. Plaatje, the veteran African political leader and journalist:

Needless to say, the natives are rather concerned over the Premier's Smithfield pronouncement. The suggested disfranchisement of Cape natives is creating alarm, curiously enough in the Transvaal even more than in the Cape Province. While the Cape natives have but a vague idea of life without a vote, the inarticulate black proletariat of the Transvaal, who at present look for some sympathy from Cape members of Parliament, regard a voteless outlook with apprehension. While it is expected that the divergent views expressed by the Premier and the Cape Nationalists on the one hand and the Minister of Justice and the Transvaal Nationalists on the other, may have the effect of postponing the evil day, it is realised nevertheless that natives never stood in greater need of European sympathy. Despite this restlessness, natives, except in isolated instances when their views were sought by journalists, prefer to refrain from comment on the Smithfield addresses until the Prime

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<sup>12</sup> *Ibid.*

In July, 1926, Hertzog published his promised Segregation Bills.<sup>16</sup> These four Bills were interdependent, a clear sign as Tatz sees it, of Hertzog's determination to abolish the Cape African franchise.<sup>17</sup>

The Representation of Natives in Parliament Bill provided for the disfranchisement of the Cape African voters by altering sub-section (2) of Section 35 of the South African Act, 1909, which stipulated that no voter could be removed solely on the grounds of race and colour.<sup>18</sup> In place of the individual and personal vote of the Cape Africans, provision was made for special and uniform representation of Africans in the House of Assembly applicable to the Union as a whole. As from the next general election the Africans were to be represented by seven additional white members in Parliament: two each from Natal, Transvaal and the Cape Province and one from the OFS.<sup>19</sup> The electors were to be Government nominees who formed the electorate of the suggested Native Council and consisted of designated chiefs, headmen, members of local councils and individual Africans. Their number was uncertain and to be decided by the Governor-General. The seven European representatives in the House of Assembly were additional to those provided under the South Africa Act and were subject to the usual qualifications and disqualifications laid down in the Act. They would have all

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<sup>16</sup> *Government Gazette Extraordinary*, No. 1570, 23 July 1926.

<sup>17</sup> 'For as long as the Cape African franchise remained entrenched, the possibility of uniform segregation and separate "homelands" was impossible.' Tatz, *op. cit.*, p. 49.

<sup>18</sup> Section 1(1). Section 7(1) effected the actual disfranchisement.

<sup>19</sup> Section 2. In 1926 it was estimated that there were 1,740,000 Africans in the Cape, 1,240,000 in Natal, 1,650,000 in the Transvaal and 475,000 in the OFS. Figures cited in *Report of the Select Committee on the Subject of the Union Native Council Bill, Coloured Persons' Rights Bill, Representation of Natives in Parliament Bill and Natives Land (Amendment) Bill, June 1927*. SC 10/1927, (hereafter referred to as SC 10/1927), p. 9.



Minister has addressed them through the Native Conference.

The decision to make segregation a non-party question is also causing anxiety. It impresses the native mind as a European combination against the aborigines. Natives cannot understand why white people, who are so divided on every conceivable subject, should sink their differences immediately the native problem is broached.<sup>13</sup>

At the annual Governor-General's Native Conference held early in December 1925, Hertzog, to an extent, cleared up some points regarding his conception of territorial segregation and the amount of land to be given to Africans. He was against extreme territorial segregation; his proposals were identical to the Native Land Act, 1913, which had stipulated that the African could remain in towns and in the country for wages. In regard to the size of the Native areas and their position in the Union, he thought it fair that the recommendations of the Beaumont Commission be considered. Moreover, he intended that the African should have security of tenure.<sup>14</sup>

The Conference delegates were circumspect in their reaction to Hertzog's segregation scheme. Nevertheless it was evident that his proposals did not meet with approval. There appears to have been no explicit reference to the attack on the Cape African franchise. D.D.T. Jabavu argued that if the 'academic' theory of segregation was so desirable, it was logical to begin with territorial segregation, i.e. provision of a fair amount of land for African development. If political segregation was a priority, Africans should have their own magistrates and machinery of self-government.<sup>15</sup>

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<sup>13</sup> *Diamond Fields Advertiser*, 28 November 1925.

<sup>14</sup> *Report of the Native Affairs Commission for the Years 1925-1926*, UG 17/1927 (hereinafter referred to as UG 17/1927). Minutes of a Conference summoned under Act No. 23 of 1920 and held at the Palace of Justice, Pretoria, 3-5 December 1925, pp. 16-18.

<sup>15</sup> *Ibid.*, p. 36.

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However, any released area was only open to Africans of the particular class or tribe designated in the first schedule to the 1913 Act.<sup>27</sup> The power of Africans to combine to buy land was further limited by a clause stating that 'no association or aggregation of natives, other than a recognized tribe, shall acquire land in a released area, except under conditions prescribed by regulation'.<sup>28</sup> Other restrictions were imposed on buying and selling in these areas. An African could not, without Government permission, buy land which would be entirely enclosed by white holdings and *vice versa*.<sup>29</sup> The Governor-General was empowered to expropriate land for Africans inside scheduled or released areas.<sup>30</sup> Furthermore, Crown land in released areas adjoining scheduled areas was reserved for Africans and could not, without Parliamentary sanction, be sold or let for more than a year, to whites.<sup>31</sup> Any land held by Africans could be exchanged for Crown land in scheduled and released areas.<sup>32</sup>

Provision was made for Africans, with the approval of the Governor-General, to buy in adjoining white areas on condition that they only bought land adjoining African holdings and that the Africans of the class or tribe to which the prospective buyer(s) belonged already held land equal to or greater than that of the released area constituted for their benefit.<sup>33</sup>

The Bill also contained fencing provisions. For example, the white or African neighbour of a buyer in a released area

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<sup>27</sup> Section 1(1).

<sup>28</sup> Section 1(3).

<sup>29</sup> Section 14.

<sup>30</sup> Section 6(1).

<sup>31</sup> Section 8.

<sup>32</sup> Section 9.

<sup>33</sup> Section 4(1).

the rights and privileges of the normal MPs except that they would be unable to hold the balance of power in matters other than 'Native matters' listed in the Schedule. They could not participate in an alteration of the Act, nor vote on any question of confidence.<sup>20</sup>

The Union Native Council Bill envisaged a Native Council for the whole of the Union,<sup>21</sup> consisting of 50 members, 15 nominated by the Governor-General and 35 elected by the same electors who voted for the African representatives in the House of Assembly.<sup>22</sup> The Council, which was to meet once a year, was to be presided over by an official of the Native Affairs Department who could make rules of procedure and adjourn or close Council meetings.<sup>23</sup> The functions of the Council were 'deliberative and advisory'. It was empowered to discuss any matters affecting Africans, and resolutions passed in that connection would go to both Houses of Parliament. The legislative powers of the Council were subject to certain safeguards. The Council could pass ordinances binding on Africans only in regard to any matter delegated to the Council by Parliament. Such ordinances had to be initiated by the Minister of Native Affairs and be approved by the Governor-General after they had been passed by Parliament.<sup>24</sup>

The Natives' Land Act 1913, Amendment Bill provided for the acquisition of land by Africans outside the scheduled African areas which had been defined by the 1913 Act.<sup>25</sup> Power was given to the Governor-General under the authority of Parliament, to proclaim additional areas as released areas in which Africans and non-Africans could compete.<sup>26</sup>

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<sup>20</sup> Sections 6(a) and (b).

<sup>21</sup> Sections 1(1) and 1(2).

<sup>22</sup> Section 3.

<sup>23</sup> This official was possibly the Secretary of Native Affairs.

<sup>24</sup> Sections 4(1), 4(2) and 4(3).

<sup>25</sup> Section 1.

<sup>26</sup> Section 3.

could claim that the land bought be fenced, and in such a case the cost of fencing would be shared between them. Also, rates could be levied upon African tribes for the fencing of locations held under communal tenure.<sup>34</sup>

A Native Land Purchases and Advances Fund was constituted into which certain revenues were paid and from which advances could be made to Africans to meet the expenses of fencing and to promote their agricultural and pastoral interests in scheduled or released areas. The moneys of the Fund would also be applied to the acquisition of land for disposal or lease to Africans.<sup>35</sup>

The scheduled areas, unlike the released areas, were regarded as African territory and a permit was required for entry or residence by non-Africans.<sup>36</sup>

Chapter II of the Bill was concerned with the creation of 'Proclaimed Areas' within which the residence of Africans was governed by a number of restrictions.<sup>37</sup> After a certain date (fixed by the Governor-General) an African was not to live on land outside scheduled or released areas (belonging to Africans) unless he was a registered owner of such land, a servant, licenced as a labour tenant or squatter or with special government permission to live on it.<sup>38</sup> An owner could not keep more labour tenants or squatters on his farm than his divisional council (at the Cape) or a special divisional board appointed by the Government (in other provinces) could authorise.<sup>39</sup> Relatively expensive licences were imposed for the number finally authorised.<sup>40</sup> The labour tenant's contract was brought under the Masters and

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<sup>34</sup> Section 2 read with Part I of the Second Schedule.

<sup>35</sup> Sections 12(1) and 12(2).

<sup>36</sup> Section 13.

<sup>37</sup> Section 15.

<sup>38</sup> Sections 16 and 19.

<sup>39</sup> Section 17.

<sup>40</sup> Section 17 read with the Third Schedule.

Servants law and made the labour tenant a servant under that law. The labour tenant's family could be made statutory servants and brought within the Masters and Servants laws if the labour tenant made a written contract with the proprietor that they should live and work on the land.<sup>41</sup>

The Coloured Persons' Rights Bill provided for the repeal of Section 35 of the South Africa Act and for the removal of Africans from the voters' rolls in the Cape Province and Natal.<sup>42</sup> A board presided over by a Supreme Court judge with two assistants<sup>43</sup> would erase the names of Africans from the existing voters' roll and compile a new list showing the names, residences and occupation of all male Coloured persons who were on the point of, or who had, attained majority. These lists would be forwarded to the Minister of the Interior who would in turn publish district lists, copies of which would be sent to the magistrate of the district concerned.<sup>44</sup> Any male Coloured of 21 years or over, resident in a certain district and whose name was not on the relevant list, could apply to the magistrate to have his name added to the list. These applications would be considered by a board comprising the magistrates of the district and two persons resident therein, appointed by the Governor-General.<sup>45</sup> Provision was made for the enfranchisement of Coloured persons whose names appeared on the lists or who had been declared Coloured persons by Parliament.<sup>46</sup> In the Cape Province the Coloured voters were to continue to vote with whites as they had done. In the other three provinces the future Coloured voters were, collectively to elect one white representative to the House of Assembly.<sup>47</sup>

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<sup>41</sup> Section 18.

<sup>42</sup> Section 1(1).

<sup>43</sup> Section 2.

<sup>44</sup> Section 3.

<sup>45</sup> Section 4.

<sup>46</sup> Section 5(1).

<sup>47</sup> Section 6.



He was to have the same rights and powers in Parliament as the representatives of white voters.<sup>48</sup> After seven years the Governor-General had the power, if authorised by a resolution of both Houses of Parliament, to include the Coloured voters of the three northern Provinces on the ordinary voters' rolls for Parliament and Provincial Council elections.<sup>49</sup>

The voting qualifications required the prospective voter to be able to read and write as well as possess 'the property, occupational, wages or income qualification (if any) prescribed by the electoral law of the Province concerned'. He was also required to follow in this daily life the habits of a Coloured person or European, generally associated with Coloured persons or Europeans and have a standard of life confirming to that of European civilisation.<sup>50</sup>

The Bill laid down a curious definition of a Coloured person:

In this Act ... 'coloured person' means a person resident in the Union who is not a European or native (as herein defined) or an Asiatic but includes a member of the race or class commonly known as Cape Malays ... 'native' means -

- a) any member of an aboriginal race or tribe of Africa; and
- b) any person whose mother or father is or was a member of a race or tribe: Provided that where the father or mother of such a person is or was an European or a member of the Cape coloured race and such person was born prior to the commencement of this Act, he shall be regarded for all purposes of this Act not as a native but as a coloured person if the board or district board (as the case may be) finds as a fact after enquiry that such person is, from his language associates and standard or habits of life, more closely akin

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<sup>49</sup> Section 9.

<sup>50</sup> Section 5a(1)(a) and (b).

to the Cape coloured race than to a native and is desirous of being considered as a coloured person: Provided further that the Governor-General may, by message to both Houses of Parliament, recommend that any person whose mother or father is or was a member of such race and tribe and who was born subsequent to the commencement of this Act and is desirous of being considered a coloured person shall be declared a coloured person and if both Houses by resolution declare such a person to be a coloured person he shall be regarded as such for the purposes of this Act.<sup>51</sup>

Hertzog had hoped to make his segregation legislation bi-partisan and approached General Smuts in December 1925. Smuts's unwillingness to use the Smithfield proposals as a basis of discussion, and his insistence that Hertzog's scheme be submitted to a National Convention, caused Hertzog to accuse Smuts of temporising and, on 26th January 1926, the correspondence was closed.<sup>52</sup>

In August 1926, Smuts criticised the Bills in a comprehensive memorandum. The Land Bill was releasing land not necessarily for African occupation, but for competitive inter-racial purchase. Moreover, it would lead to the ejectment of thousands of Africans from white farms. With the white electorate in mind, he objected to the proposal to give Africans separate representation in Parliament as an attempt to weaken the influence of the white man. Though the Coloured Persons' Rights Bill was taking a firm step towards the parliamentary representation of Coloured persons outside the Cape, the proposals of compiling a list of Coloured persons was the product of muddled thinking. By and large, he thought that parliamentary discussion and amendment could give the Land Bill and Council Bill some viability; but the other two Bills were to be submitted to a 'small National Convention', or,

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<sup>51</sup> Section 11.

<sup>52</sup> Hertzog Papers, Vol. 38, File marked 'Briewewisseling tussen Generaal Hertzog en Generaal Smuts insake die Naturelle Vraagstuk, 1925-26.'

preferably, to a strong representative commission.<sup>53</sup>

On 23rd March 1927<sup>54</sup> General Hertzog introduced his four Bills into the House of Assembly. They met with little success and Hertzog announced that they would be referred to a Select Committee for consideration. The Committee<sup>55</sup> was appointed on 4th April. It took evidence but did not complete its enquiry and therefore recommended the appointment of another Select Committee during the next session. In October 1927 another Committee<sup>56</sup> was duly appointed. In May 1928, the Committee expressed its regret that 'owing to the magnitude of the task before it and the many different issues involved' it would not be able to frame comprehensive proposals before the end of the session and recommended that a Commission, composed of members of the Committee, be appointed to finish the work.<sup>57</sup>

SAP opposition to the Segregation Bills did not prevent the Government from attempting to regulate African affairs. In 1927 the Native Administration Bill was passed, giving the Governor-General authoritarian powers in the broad sphere of 'Native administration'; powers in effect exercised by the government of the day. The notorious Section 29 enabled the Governor-General to punish 'any person who utters any words or does any other act or thing whatever with intent to promote any feeling of hostility between Natives and Europeans'.<sup>58</sup>

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<sup>53</sup> Memorandum on Native Bills, J. van der Poel (ed.) *Selections from the Smuts Papers*, Vol. V (1973), pp. 305-324.

<sup>54</sup> *House of Assembly Debates*, Fourth Session, Fifth Parliament, 28 January - 14 April 1927, col. 1723.

<sup>55</sup> The 1927 Select Committee consisted of General Hertzog, Mr. A. Barlow, Col. C.R. Collins, J.H. Conradie, A.I.E. de Villiers, P. Duncan, Krige, J.S. Marwick, L. Moffat, the Rev. J. Mullineux, G.H. Nicholls, A.O.B. Payne, C. Pearce, W. Rood, Gen. Smuts, Dr. A.J. Stals, P.W. le R. van Niekerk, J.B. Wessels, and J. L. Steytler.

<sup>56</sup> There was one change in the 1927-28 Select Committee - Mr. P.C. de Villiers, who replaced Mr. A.I.E. de Villiers.

<sup>57</sup> *Report of the Select Committee on the Subject of the Union Native Council Bill, Coloured Persons Rights Bill, Representation of Natives in Parliament Bill and Natives Land (Amendment) Bill*, May 1928, SC 19/27 (hereafter SC 19/1927), pp. v-vi.

<sup>58</sup> This clause appears to have been expressly directed at the ICU's activities.

During February and March 1928 Smuts and Hertzog held a series of confidential talks on the Native Bills.<sup>59</sup> Smuts tried to persuade Hertzog to abandon the Native Council Bill which, as Smuts saw it, clashed with the development of the local council system on the Transkeian model, and with the system of annual conferences between the Government and African leaders and chiefs, established by him.

The focal point of the discussions was the franchise. What worried Smuts was the attempt to settle the franchise piecemeal: one settlement for the Africans, another for the Coloureds, and possibly a third for the Indians.

And it was a question /Smuts continued/ which he should consider seriously, whether a more comprehensive solution should not be adopted. That is to say, a general franchise reform, constituting a common franchise all over South Africa based on occupation and income or salary which was to apply to all, black and white alike, and while not so high as to exclude the whites, yet to be high enough to exclude the bulk of the Native population. In addition to this common qualification, there might then also be an education and civilization test, applied to all non-Europeans in future, the presumption being that the European was civilized and that the non-European had to prove his adoption of European civilization.<sup>60</sup>

After giving the proposal some consideration Hertzog turned it down, remarking that he could never carry it in the Transvaal and OFS. He suggested that Africans in the three northern provinces send five members to the Senate and that Cape Africans be given two members in the House of Assembly. Smuts maintained that this was not a fair exchange for the Cape African vote. He declared that the

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<sup>59</sup> Long Papers, MS 6688, B.K. Long to G. Dawson, 16 February; W.K. Hancock, *Smuts*, Vol. II, pp. 213-214.

<sup>60</sup> Quoted Hancock, *Smuts*, Vol. II, p. 213.

Cape Africans then on the Cape common roll should be left there until they died. At the same time a separate register would be prepared, on which Cape Africans could elect as many members to the House of Assembly as they would be entitled to on the white quota. Hertzog gave this proposal some thought but nothing developed from it.

Two members of the Native Affairs Commission, Senator A.W. Roberts and A.W. le R. van Niekerk, MP, had undertaken a tour of the Union from August to November 1926 to explain the content and ramifications of the Segregation Bills (with the exception of the Coloured Persons' Representation Bill) to the African community.<sup>61</sup>

In regard to the Union Native Council Bill the Commission observed that the idea of a 'pan-Native Council' had captured the imagination of most of the people they had addressed.<sup>62</sup>

The Commission maintained that the major part of the opposition to the Representation Bill originated and reached its culmination in the Cape Province.

When the Commission began its tour in the Western Transvaal the Natives in that part of the Union seemed willing to welcome the measure as bringing a greater measure of political liberty and opportunity to them than they had hitherto enjoyed. But as the tour extended the opposition increased, taking such form that it was evident it was directed and sustained from one source.

Had the Cape Franchise been untouched by the Bill the Commission is assured the other three Provinces would have accepted the measure readily and gladly.<sup>63</sup>

In view of the intense feeling against the Bill on the part of the great majority of Africans, the Commission

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<sup>61</sup> UG 17/27, Native Legislation : Tour of Native Affairs Commission, pp. 42-49.

<sup>62</sup> *Ibid.*, p. 44.

<sup>63</sup> *Ibid.*, p. 45



recommended two other alternatives to the franchise proposals of the Bill which referred to the Cape Province. Either the Government could agree to allow the present African voters to remain on the common roll, but add no new voters, or adopt a system of individual voting, though adhering to the principle of a separate franchise in the Cape.<sup>64</sup>

On the Land Bill the Commission suggested either the withdrawal of the section dealing with the apportioning and licensing of African tenants or that the gradation of licence fees be substantially modified. It noted a 'very strong objection' to the condition that only certain tribes could buy in certain areas and pointed out that in almost every centre objection had been raised against *both* Europeans and Africans being allowed to buy freely in released areas. Roberts and van Niekerk also drew attention to the fact that:

... the opposition in the Cape Province to the proposed Land Bill rests on a different basis from the line of opposition in other parts of the Union. The demands of the Cape Native to be allowed to buy where they like must be related to their franchise position and is governed by their desire to retain their franchise rights. But this need not in any way obscure our views with regard to the inadequacy of the land they at present possess.<sup>65</sup>

The Smithfield proposals had been more promising than the actual Bills, but it would be simplistic or even misleading to depict the collective protest against the Bills, during the course of 1926 and after, as a burgeoning force. One cannot conceptualise the opposition to the Hertzog legislation as a mere linear movement. For example, the

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<sup>64</sup> *Ibid.*, pp. 45-46.

<sup>65</sup> *ibid.*, pp. 46-47.

ANC, a moderate African body, took a fairly vigorous stand against the Smithfield package at the beginning of 1926,<sup>66</sup> but by mid-year a reaction had set in. The *Umteteli wa Bantu* was restrained in its criticism of the newly published Bills:

The four Bills comprise an elaborate plan which, with the exception of the franchise question, will be favourably considered by white and black alike. Many of their provisions will be amended or modified after study and discussion, but the Bills furnish a most useful basis on which to build a scheme to satisfy some of the Natives' more important requirements and stimulate the best of their aspirations.<sup>67</sup>

R.V. Selope Thema, Transvaal journalist and ANC leader, argued that while the motive behind the Representation Bill

... is to make it impossible for our race to influence in any way the party politics of this country, yet it is a principle which may yet establish the nucleus of a purely Bantu Party in this country.

He took an optimistic view of the Coloured Persons' Rights Bill:

There can be no doubt that if a black man, whose habits and language are those of the coloured man can be regarded as a coloured man on application, then the way is open for our race to secure equal political rights with the other sections of the population of this country.<sup>68</sup>

Yet, by the end of 1926 moderate African opinion was, with very few exceptions, opposed to the Hertzog scheme. African delegates to the 1926 Native Conference held in Pretoria in

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<sup>66</sup> See below pp. 82-83.

<sup>67</sup> *Umteteli wa Bantu*, 12 June 1926.

<sup>68</sup> *Umteteli wa Bantu*, 19 June 1926.

November, although moderate or conservative in political outlook, stood firm in refusing to compromise on the Cape franchise,<sup>69</sup> and passed a resolution stating that co-operation with Hertzog on the Bills was 'very difficult if not impossible'.<sup>70</sup>

The Representation Bill was rejected. The purpose of the Bill, said Thema, was not to give but to take away rights.<sup>71</sup> Chief Tombela of Natal remarked that the proposed seven members would be 'kneehaltered dummies and mummies'.<sup>72</sup> Chief Shadrach Zibi of Transvaal agreed with Thema that Africans in the North were prepared to wait for the vote, rather than gain one or two representatives at the expense of the Cape African franchise. He felt it would be a pity if an educated African were asked to vote in the way suggested by the Bill.<sup>73</sup> The response of Chiefs Zibi<sup>74</sup> and Tombela is an indication that the more enlightened or educated chiefs perceived some sort of identity of interests with an emerging African middle class.

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<sup>69</sup> 'Here was a gathering of "safe and sane" chiefs, parsons and notables chosen of course with a view to getting approval of the Bills registered by "the natives themselves"; yet even these could not stomach the proffered physic, and the Government will now have to push the Bills forward avowedly in the teeth of passionate opposition by the very body whose blessing it had contemplated triumphantly quoting in Parliament.' *South African Worker*, 12 November 1926.

<sup>70</sup> UG 17/1927. Minutes of a Conference summoned under Act No. 23 of 1920 and held at the Presbyterian Hall, Pretoria, on 2-5 November 1926, p.60.

<sup>71</sup> *Ibid.*, p. 57

<sup>72</sup> *Ibid.*, p. 59

<sup>73</sup> *Ibid.*

<sup>74</sup> In a note on the 1925 Native Conference Rheinallt Jones saw Zibi as an enlightened chief: 'The chiefs represented the Conservative element in the Conference, but one of them, Chief Shadrach Zibi, stood out as a thoughtful speaker with moderate views. He has recently transferred a portion of his people from the Transkei to the Transvaal to secure more land, and he has proved himself a capable and successful leader.' SAIRR Archives, Box B72(a), untitled note by J.D. Rheinallt Jones.

A qualified approval was given to the Council Bill<sup>75</sup> but the Conference delegates were opposed to and dissatisfied with the Land Bill. The Bill reminded Plaatje of 'a jackal trap - a nice piece of meat with poison inside'.<sup>76</sup> The Rev. A. Mtinkulu<sup>77</sup> thought it savoured of slavery, the underlying principle being to keep the black man down.<sup>78</sup> Some delegates contended that the Bill ignored the aspirations of progressive Africans, and a number opposed the proposed application of the Bill to the Cape Province.<sup>79</sup>

Selope Thema's change of attitude toward the Bills between June and November 1926, and the firm stand of the 1926 Native Conference are not unrelated to developments within the Joint Council movement.

Agitation against the 'Colour Bar' Bill, in which the Johannesburg Joint Council figured prominently, had a bearing on the subsequent opposition to the Hertzog Bills. The campaign, largely financed by the Chamber of Mines, was the 'first issue on which a major public and political coordinated challenge had been offered to the Government on native policy since Union by liberals'.<sup>80</sup> The Senate, partly influenced by W.M. Macmillan's lobbying in Cape Town, rejected the Bill. With the reintroduction of the Bill in 1926 a Public Manifesto, signed by 150 Europeans and 50 Africans and a petition signed by 2,800 Africans, was organised by Rheinallt Jones. The Senate again rejected the

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<sup>75</sup> UG 17/1927, pp. 83-85.

<sup>76</sup> *Ibid.*, p. 70

<sup>77</sup> Born in Natal, Mtinkulu was ordained a minister in the Wesleyan Methodist Church but left it later to join the independent Bantu Methodist Church, of which he became president. Mtinkulu had been active in the Natal Native Congress before the formation of the ANC. After living in Cape Town during the 1920's and early 1930's, he returned to Natal and became the deputy leader of the provincial ANC.

<sup>78</sup> UG 17/1927, p. 75.

<sup>79</sup> *Ibid.*, pp. 72-73, 76.

<sup>80</sup> Legassick, 'The Rise of Modern South African Liberalism', p. 16.

Bill and Hertzog eventually forced the Bill through at a Joint Sitting of Parliament. According to the annual report of the JJC,

The protest was unsuccessful in its immediate purpose, but its effect upon the Native people has been to lessen considerably the racial bitterness caused by the Bill, and to convince them that a great many Europeans are prepared to stand by them when faced with injustice.<sup>81</sup>

Closer contact in late 1925 and during 1926 between prominent JJC members, such as Macmillan and Rheinallt Jones, and African leaders, like D.D.T. Jabavu, who were based elsewhere than on the land, presumably led to a deeper understanding of the essentially moderate aspirations of an African élite.<sup>82</sup> In addition, closer links were forged at this time with the JJC's counterpart in Cape Town - the Cape Peninsula Native Welfare Society.<sup>83</sup> This increased activity was paralleled by a development in white liberal thought.

The most comprehensive white liberal critique of the Native Bills, anticipating or incorporating the opposition of the English churches and some missionary bodies,<sup>84</sup> was contained in two Johannesburg Joint Council memoranda<sup>85</sup> - one on the

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<sup>81</sup> SAIRR Archives : Rheinallt Jones Papers, Johannesburg Joint Council Records, Johannesburg Joint Council Annual Report to October 31, 1926.

<sup>82</sup> For example, mid-1926 found Rheinallt Jones establishing new Joint Councils and consolidating existing ones in the Eastern Cape - a situation which gave him considerable access to the views of Cape Africans, particularly with respect to the Hertzog Bills.

<sup>83</sup> See e.g. correspondence in SAIRR Archives: Rheinallt Jones Papers, Cape Town Joint Council Records. The campaign in Cape Town against the 'Colour Bar' Bill undoubtedly facilitated a closer alliance.

<sup>84</sup> See e.g. Statement of Assembly of Congregational Church in *Cape Argus*, 20 October 1926. See also copies of resolutions and memoranda in SAIRR Archives, Box B72(a).

<sup>85</sup> Johannesburg Joint Council, *General Hertzog's Solution of the Native Question*. Memorandum No. 1: Native Land Act 1913, Amendment Bill, 1927; Johannesburg Joint Council, *General Hertzog's Solution of the Native Question*. Memorandum No. 2: Union Natives Council Bill, 1927; Representation of Natives in Parliament Bill 1927.



Land Bill and the other on the two Franchise Bills - published in the closing months of 1926. Hertzog's segregation policy was condemned because it aimed at entrenching colour-discrimination, rather than moving in the opposite direction - legislating for all individuals, white and black, in a common economic and political order. The policy was also arbitrary and lacking in any definite principles. Hertzog's insistence that the Bills be passed in tandem, with the released areas partly compensating for the removal of the Cape African Franchise, was deemed unscrupulous.

The two Franchise Bills were rejected on points of detail as well as principle. Under the Bills no African 'however educated or civilized' had a personal vote for his member, either on the Native Council or in the House of Assembly.<sup>85</sup> The appointment of the electors and the procedure governing the nomination and election of candidates for the Native Council and the House of Assembly, was shown to be open to abuse.<sup>85</sup>

The idea of the proposed Union Native Council as 'a Native Parliament legislating for "Natives only" ' was rejected. Moreover, the Native Council was in reality the Native Conference, called under the Native Affairs Act of 1920, under a different guise and gave the 'African no additional share in the government of the country whatsoever':

Our view of this Bill is, that until the Native people have adequate Parliamentary representation ... some kind of Native Council is required to ventilate Native opinion. It should be thoroughly representative and for the greater part, elected by personal vote.

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<sup>85</sup> Memorandum No. 2, p. 6.

<sup>85</sup> *Ibid.*, pp. 6-7.

But this objective could be achieved by altering the existing structure of the Native Conference; there was no necessity for the Union Council Bill.<sup>86</sup>

The emasculation of the powers of the seven special MPs was condemned as this implied that

... Native interests are something apart from the interests of South Africa generally; that in the government of the country, affecting as it does every member of the community, the Native is to take no serious part ...<sup>87</sup>

The proposed abolition of the Cape African franchise was opposed on practical and moral grounds. In the first plan, development of an African middle class, with a vested interest in European civilisation, would be discouraged. Secondly, there existed no precedent under democratic rule for the withdrawal of the franchise from a people who had not only not abused it, but who regarded the privilege as a sacred one.<sup>88</sup>

The thrust of the Land Bill was 'to force the progressive Native, and indeed all detribalized Natives, back into tribal conditions'.<sup>89</sup> The Bill did not provide for the progress of Africans 'to a higher state of civilization', rather it sought 'to protect the European against such a development'.<sup>90</sup>

By exposing the African to European competition in the released areas very little land was being given to the former.<sup>91</sup> The proposal to allot particular areas to

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<sup>86</sup> *Ibid.*, pp. 4-5

<sup>87</sup> *Ibid.*, p. 8.

<sup>88</sup> *Ibid.*, p. 13.

<sup>89</sup> Memorandum No. 1, p. 8.

<sup>90</sup> *Ibid.*, p. 15.

<sup>91</sup> *Ibid.*, p. 6.

particular tribes was 'pressed too far'.<sup>92</sup> It was stressed that the progressive African required individual tenure of land for his continued development, and that this was not obtainable in tribal areas.<sup>93</sup> The machinery enabling the 'average Native' to acquire land in these areas was virtually non-existent. But more important than 'these problems of machinery' was the question whether the 'average Native' could afford to buy land:

His wages are small. Nowhere in South Africa today is the price of land negligible, and the only basis upon which Natives can acquire land under this Bill is to purchase it in the open market.<sup>94</sup>

The 'real meaning' of the Bill was found in Chapter II.<sup>95</sup> Although one of the motives of the Bill was the elimination of squatters, there was no offer of individual tenure outside the reserves. Harsh licencing regulations and the lack of provision for the protection of labour tenants would force this group into contracts of service on their masters' terms and reduce a great mass of Africans to the status of servants 'indistinguishable from slaves' and 'without hope of raising themselves above this status'.<sup>96</sup>

'Liberal segregationism' was by no means a spent force in the period 1926 to 1928. Such an approach was embodied in the memorandum of the Pretoria Joint Council which was presented to the 1927 Select Committee on the Native Bills.<sup>97</sup>

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<sup>92</sup> *Ibid.*, p. 7.

<sup>93</sup> *Ibid.*, p. 8.

<sup>94</sup> *Ibid.*, p. 9. In connection with this point, Howard Pim, in giving evidence to the 1927 Select Committee on the Native Bills put forward a rather radical view: 'It must be made reasonably possible for the native to acquire land. I personally would be prepared to suggest that he should be given land. I think he should have a better right than the white man because he has been restricted so long and because the present value of the land is due to the work he has done upon it.' SC 10/27, p. 158.

<sup>95</sup> *Ibid.*, p. 10.

<sup>96</sup> *Ibid.*, pp. 14-15.

<sup>97</sup> This memorandum, drafted in December 1926, was submitted to the Select Committee by Pim. of the JJC.

The influence of Edgar Brookes, who was Chairman of the Council, was unmistakeable. The Council complained that the Land Bill failed to accommodate 'detrified' Africans, maintaining that it would be 'entirely opposed' to Chapter II of the Bill unless 'drastic changes' were made to Chapter I.<sup>98</sup>

On the Cape Franchise question, the Council declared that there was no consensus of opinion within its ranks and that there was little chance of the Transvaal and the OFS being converted to the 'southern view' within a reasonable period of time. Retention of the Cape system was not necessarily the answer to the 'Native question'.

To postpone the solution of the so urgent land question, together with all that is inherent, in the interests of the view that there can be only one means of political expression, namely, that enjoyed by a certain percentage of Natives in two out of four Provinces, may mean ultimately a handling of both aspects, political and agrarian, which will be less than just.<sup>99</sup>

It was felt that the Union Native Council, if invested with some real powers, would facilitate meaningful political and economic advancement for the African community.<sup>100</sup> The Pretoria body favoured the principle of the Representation Bill, provided an equitable *quid pro quo* was given for the abolition of the Cape franchise. However, the Council could only support the Bill if amended substantially, and it preferred the *status quo* to the Bill. The modifications entailed a) the preservation of the rights of existing African voters in the Cape Province and Natal during their lifetime; b) the granting of a direct vote to Africans fulfilling certain monetary and educational qualifications; c) the increase of the number of representatives from seven to nine; and d) the granting of full voting powers to the

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<sup>98</sup> SC 10/27, p. 133.

<sup>99</sup> *Ibid.*, p. 169.

<sup>100</sup> *Ibid.*, pp. 169-172.

African representatives in Parliament. Clause a) was crucial, and if not granted the Council promised 'an attitude of uncompromising hostility towards the Bill'.<sup>101</sup>

The Durban Joint Council adopted a similar, though less critical, line to its Pretoria counterpart. It approved of the principles of the Representation Bill but thought that the MPs representing should have the same powers and privileges as the other members. Also, it requested that those African voters already on the Cape common roll be allowed to retain the franchise.

There was fairly extensive comment on the Land Bill. The Council felt it was not in a position to say whether the land provided was adequate or not, but stressed that there should be no delay in providing land to Africans. It was noted that 'the detribalised Native who is endeavouring to live up to a higher standard' was not catered for and requested that such a group be given the opportunity of acquiring land for themselves.<sup>102</sup>

Liberals paid little or no attention to the Coloured Persons' Rights Bill. The official line of the Pretoria and Johannesburg Joint Councils, for instance, was that the question of Coloured rights was beyond their scope as the Councils were formed of Europeans and Africans only.<sup>103</sup> All the Cape Native Welfare Society had to say was that:

While not desiring to criticise the provisions of the Coloured Persons Rights

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<sup>101</sup> *Ibid.*, p. 174.

<sup>102</sup> SAIRR Archives, Box B72(a), Memorandum of sub-committee appointed by the Durban Joint Council of Europeans and Natives at its meeting of 17th to consider the Native Bills to be introduced in Parliament this session.

<sup>103</sup> For JJC standpoint see Memorandum No. 2, p. 14. For Pretoria Joint Council see copy of Councils' memorandum to Select Committee in SAIRR Archives, Box B72(a).



Bill it is felt that the definitions of Native and Coloured Person needs revision. It is not desirable for Coloured persons as commonly understood, to be classed as Natives.<sup>104</sup>

There was perhaps some uncertainty in liberal ranks on how to respond to the Bill. After all, the Bill appeared to be extending rather than whittling away existing political rights.

By 1927 Martin Legassick argues, an idealised version of segregation or 'differential development' in some form or other, and a concern with a 'uniform native policy', no longer constituted the internal dynamic of contemporary liberalism.<sup>105</sup> The declared opposition of the Johannesburg Joint Council (including Howard Pim) to the Hertzog legislation, especially the proposed abolition of the Cape African franchise, was in effect the commencement of a qualitative shift in the ideology of white South African liberalism, which was reintegrated with its Cape antecedents. Legassick blurs the distinction between 'liberal segregationists' like E.H. Brookes and other white liberals like J. Rheinallt Jones and W.M. Macmillan - both members of the Johannesburg Joint Council - by implying that Howard Pim's views, as expressed in his note on the Smithfield proposals, reflected the consensus of opinion in the Council prior to 1926. Admittedly, the utterances of Rheinallt Jones and Macmillan might have had more in common with Brookes' standpoint than superficial analysis reveals. However, Brookes, in his writings in 1924/25 took pains to counter the arguments of a group of 'integrationists' or 'assimilationists' who were largely based on the Rand.<sup>106</sup>

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<sup>104</sup> SAIRR Archives, Box B72(a), 'Cape Native Welfare Society: Draft Resolutions'.

<sup>105</sup> Legassick, 'The Rise of Modern South African Liberalism'.

<sup>106</sup> See e.g. Brookes' introduction to his *History of Native Policy in South Africa from 1830 to the Present Day* (1924). See also Brookes, 'Towards a Native Policy', series of 3 newspaper articles, (1925) in Don Africana Library, Durban.

In short, in the first half of the twenties, differential development was not the orthodoxy, but rather a liberal alternative.

One cannot dismiss altogether the possibility that Pim's note on the Smithfield address was a piece of kite flying. He was, at times, an idiosyncratic man. There may be some significance in the fact that the 'note' was never published. Pim sent a copy to Sir James Rose-Innes and the latter's reply presumably gave him food for thought:

Many had hoped that the policy of the Cape would have leavened the policy of the Union after 1910. That hope has not been realised - on the contrary the policy of the North has been the dominating factor. Bearing that in mind, will it be possible to assign to the natives land sufficient in quantity and quality for their needs, regard being had to their numbers and requirements? Public opinion will need a great deal of educating I fear. As to the colour bar, where is the skilled native artisan and the professional man to find scope for his energies and ambitions? Apart from that, is it possible in a constitutionally governed country to keep down the men who do the rough work of the country - work which is educating them all the time? As to political segregation, the choice is between the policy of the Cape and Sir George Grey, which aimed at gradually eliminating the chiefs and giving the native a voice in the government of the country, and the policy of the North and of Shepstone, which governs through the Chief and denies the native any such voice. Which do you think has shown the best results as yet? May it not be desirable to consider the feasibility of a high differential franchise qualification for natives throughout the Union?<sup>107</sup>

Pim's apparent *volte face* and the elaboration of white liberal thought in 1926/27 should be viewed in the context of a growing disillusionment with Hertzog and the Pact

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<sup>107</sup> Rose-Innes Papers, Rose-Innes to Pim, 4 January 1926.

Government. In April 1926, for instance, in a speech at Malmesbury, the Prime Minister painted a lurid picture of the African as an enemy of white civilisation. The address was described by a moderate African newspaper as a 'tissue of political obfuscation and opportunism'.<sup>108</sup> The determination, which the Government evinced forcing the 'Colour Bar' Bill through Parliament, made Hertzog's professed intention of giving the African a fair deal, sound hollow: Pim, in his note, had been resolutely opposed to the creation of a *de jure* colour bar which he felt would 'have grave reactions upon the relations between Europeans and Natives throughout the Union'.<sup>109</sup> Furthermore, the Hertzog Bills had less to offer than the Smithfield proposals. For instance, Pim was of the opinion after Smithfield that the proposed seven African representatives in the House of Assembly would practically have full powers.<sup>110</sup> However, in the Representation Bill the powers of these representatives were considerably circumscribed.

Other political factors behind the decline in respectability of parallel development as a liberal option may have been 1) the re-emergence of English-Afrikaner polarisation over the issues of South Africa's relationship to the Empire (particularly the Flag Bill),<sup>111</sup> which encouraged protagonists of the Empire to view Hertzog's Bill as an Afrikaner move to make political capital out of the 'Native question' and which provoked a counter reaction in Parliament; and 2) the overall African response to the Bills and the pressures of African leaders within the Joint Councils whose

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<sup>108</sup> *Imvo Zabantsundu*, 4 May 1926. The paper emphasised the lack of consistency between the Smithfield and Malmesbury addresses.

<sup>109</sup> Pim, 'Note on General Hertzog's Smithfield Proposals', pp. 10-11.

<sup>110</sup> *Ibid.*

<sup>111</sup> It is interesting to note that Pim was active in the Flag controversy. See SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Rheinallt Jones to Patrick Duncan, 13 May 1927.

positions were threatened by the rise of the ICU.<sup>112</sup> The adoption of a more critical attitude toward the Hertzog legislation by some of the Opposition press from mid-1926 onwards,<sup>113</sup> and the public release of General Smuts's memorandum,<sup>114</sup> may have made some contribution:

We know little of what went on behind the scenes of the Johannesburg Joint Council. According to its annual report, the Council discussed the Smithfield speech but felt it wiser to await the publication of the Bills before arriving at any decisions. When the Bills were published they were scrutinised for a number of weeks by a special Committee of the Council. After 'full discussions' the Committee had recommended that memoranda be prepared on the Native Bills.<sup>115</sup> The draft memorandum on the franchise proposals was not wholly to Saul Solomon's liking, as it embodied a clause which, as he saw it, implied that if a suitable substitute for the Cape franchise could be found, the abolition of that franchise might be unobjectionable:

Even if a tolerable differentiated franchise policy were framed it would fall very short of the present enlightened policy of the Cape Province and I should be opposed to it.<sup>116</sup>

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<sup>112</sup> Legassick, 'The Rise of Modern South African Liberalism', p. 21.

<sup>113</sup> Cf. e.g. editorial comment in *Road Daily Mail* of 4 June and 29 June 1926, and in *Cape Argus* of 18 March and 5 July 1926. The *Cape Argus* of 5 July 1926 declared that the main feature of the Government's Native policy was 'the killing of the native vote in the Cape Province'. The abolition of the Cape African franchise was simply a 'colossal piece of jerryandering in the interests of the Nationalist Party'. The emphasis in these and certain other papers, was not placed on the ethics of depriving Africans of their vote, but rather on the political expediency underlying the legislation.

<sup>114</sup> This appears to have been released in September. See, for instance, *Cape Argus*, 27 September 1926, for comment on the memorandum.

<sup>115</sup> Johannesburg Joint Council Annual Report to October 31, 1926.

<sup>116</sup> Pim Papers, A881/CC 20, Solomon to Rheinallt Jones, 8 November 1926.

During the second half of 1926 the JJC appears to have been preoccupied with the question of the extension rather than the retention of the Cape franchise. On 10th November 1926 the Council apparently held a meeting at which the question of the African franchise was discussed. Arthur Karney, the Anglican Bishop of Johannesburg, was unable to attend but submitted his views on the matter to Rheinallt Jones:

It seems to me /he wrote/ that it is inevitable that Native Franchise should be eventually extended to natives outside the Cape Colony. I do not believe this will come very soon, and when it does come I believe the natives will have so organised themselves by trade unions and so on, that they will be quite able to fight their own battle. In the meantime it seems that the Joint Council disagrees on the point of the advisability of such an extension, while they are unanimous in their determination to fight for the abolition of the Cape Franchise. In spite of what Dr. Brooke (*sic*) said, our policy is to be critical and even destructive. We believe that the Hertzog Bill (*sic*), if they are to stand together, will work against the advancement of the native instead of for it, and surely our business is to say so. We are not called on at this moment to offer an alternative policy. Could we not then leave out the whole question of the extension of franchise and merely unite in opposing the abolition of the Cape Franchise? It would be a disastrous thing if we could not come to an unanimous decision. I quite sympathise with those who say we ought to take our courage in both hands and declare what we are out for eventually, at the same time, there are times and seasons for all things, and I believe if we came out now for the extension of the franchise to the other provinces we should prejudice our case in the eyes of the public who are by no means ready for such an idea.<sup>117</sup>

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<sup>117</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Karney to Rheinallt Jones, 9 November 1926.



There also seems to have been some tension within the Cape Peninsula Native Welfare Society on the desirability of extending the Cape franchise.<sup>118</sup> Yet publicly, liberals during 1926-28 tended to argue for the preservation rather than the extension of the Cape franchise.<sup>119</sup> There were suggestions, however, that the Cape franchise be retained, and separate representation along the lines of Hertzog's proposals, be implemented in the northern provinces.<sup>120</sup>

During 1927-28, white liberals, especially those on the JJC, focused on the Representation Bill. In May 1927, for instance, Rheinallt Jones made a point of informing D.D.T. Jabavu that the JJC was 'adamant' on the Cape franchise, advising the latter to adopt a similar line in his evidence to the 1927 Select Committee on the Hertzog Bills.<sup>121</sup>

March 1928 found Pim in Cape Town sounding out support for an envisaged campaign for the preservation of the Cape franchise. His approach to the local Press met with some success:

The *Cape Times* is with us. The */Cape/ Argus* I have not yet seen. Whether party experiences will permit Long */editor of the Cape Times/* to do much I cannot say.<sup>122</sup>

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<sup>118</sup> Compare e.g. the respective evidence of the Rev. H. Booth Coventry and Sir Herbert Slolely given to the 1927 Select Committee on the Hertzog Bills, SC 10/27, pp. 316-322, 324.

<sup>119</sup> The Rev. H. Booth Coventry's evidence (SC 10/27, pp. 316-322) is one of the very few instances of an open advocacy of the extension of the Cape systems. He did, however, favour higher qualification for the franchise.

<sup>120</sup> See e.g. SAIRR Archives, Box B72(a) Resolutions of Synod of the Wesleyan Methodist Church of the Transvaal and Swaziland District.

<sup>121</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Rheinallt Jones to Jabavu, 10 May 1927.

<sup>122</sup> SAIRR Archives, Box B72(a), Pim to Rheinallt Jones, 21 March 1928. There is comparatively little information on Pim's activities in Cape Town. He sought an interview with Hertzog but one does not know whether this was granted. Nor do we know whether the *Cape Argus* was amenable to his suggestions.

Sir James Rose-Innes expressed keen interest in the idea, but discussions with Smuts and other SAP members, proved discouraging.<sup>123</sup> Little more than four SAP members, he reported to Rheinallt Jones, believed in the Cape franchise.<sup>124</sup> Smuts, he thought, was trying to maintain a low profile:

If he urges separate register he probably loses the Native vote. If he supports the Cape Franchise he will certainly lose support in the other three provinces.<sup>125</sup>

Pim's trip to Cape Town seems to have convinced him that it would be unwise to leave the defence of the Cape franchise to the SAP. He had also heard that the Select Committee was considering scrapping 'everything but the Franchise Bill'. He therefore felt that the JJC should 'carry on active propaganda in support of the Cape franchise'.<sup>126</sup> Consequently the Council brought out a further memorandum later in the year, entitled *In Defence of the Cape Franchise*. Moreover, Pim and Rheinallt Jones began to think in terms of establishing an extra parliamentary pressure group with the preservation and extension of the Cape franchise as its *raison d'être*.<sup>127</sup>

In June 1928 the missionary journal *South African Outlook*, published in Lovedale, aroused a controversy which raged throughout the second half of 1928, when its editor, Dr. J.T. Henderson, called for a separate roll, with Africans electing their own representatives who might be of any race.<sup>128</sup> In Howard Pim's eyes the *Outlook's* 'defection'

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<sup>123</sup> *Ibid.*, Pim to Rheinallt Jones, 19 and 21 March 1928.

<sup>124</sup> 'I have pretty well exhausted the list of its supporters if I mention Jagger, Macintosh, Moffat and Van Zyl.' *Ibid.*, Pim to Rheinallt Jones, 21 March 1928.

<sup>125</sup> *Ibid.*

<sup>126</sup> *Ibid.*

<sup>127</sup> See below p. 142.

<sup>128</sup> *South African Outlook*, June 1928.

seriously weakened the opposition to the Hertzog legislation<sup>129</sup> and he, Rheinallt Jones and African leaders such as Selope Thema, R.W. Msimang and D.D.T. Jabavu, in a series of letters to the journal, deplored any compromise on the Cape franchise.<sup>130</sup> Edgar Brookes, on the other hand, felt that Henderson had made a 'real contribution to the franchise controversy' but did not think that separate representation should be accepted 'under conditions which would limit the powers of the chosen representatives or fix their number arbitrarily for an indefinite period'. He nevertheless revealed a shift from the position he had adopted in 1924-26, to one closer to that of the JJC standpoint, in propounding his own solution:

... (a) the separate franchise for the Northern Provinces; (b) the Cape voter to choose whether to appear on the ordinary register or on a separate register, and none, either present or future voters, to be deprived of the right of voting as at present if he wishes to exercise it; (c) the number of Native members to rise with the number of Native voters.<sup>131</sup>

In December 1928 Henderson closed the correspondence acknowledging that the 'main service' of the original editorial

... has been to demonstrate the strength and intensity of feeling and the all but unanimous solidarity of educative Native opinion against the proposals, in so far as they appear to weaken the entrenched position of the Cape franchise.<sup>132</sup>

Yet one wonders whether 'educated Native opinion' was all that spontaneous in its opposition to the *Outlook* proposals.

<sup>129</sup> See Pim Papers, A881/CC 25 and 28, Pim to Henderson, 17 July 1928 and 1 August 1928, for private letters not printed in the *Outlook*.

<sup>130</sup> *South African Outlook*, July-December 1928.

<sup>131</sup> *Ibid.*, October 1928.

<sup>132</sup> *Ibid.*, December 1928.

There is evidence to suggest that Rheinallt Jones (and probably Pim) contacted some African leaders and urged them to express their disapproval of the proposals by writing in to the journal.<sup>133</sup> In any event, the *Outlook* after December 1928, dropped its support of separate representation.

White liberals still attempted to keep open lines of communication with Afrikaner intellectuals and clergymen who were in the main opposed to a policy of political integration.<sup>134</sup> Thus a second European-Bantu Conference<sup>135</sup> called by the Federal Council of the Dutch Reformed Churches was held in Cape Town in February 1927 'with the special object of discussing the Prime Minister's Bills on the native question'.<sup>136</sup> The Conference felt that the Bills should be proceeded with independently and considered the Land Bill the most crucial because of the urgency of the land question. The Conference maintained that the areas recommended by the 1917 Local Committees constituted the minimum acreage that would satisfy African requirements and urged that these areas of, or their equivalent, be set aside for African acquisition only. It was recommended that as few restrictions as possible be set on the acquisition of land by Africans and that a system of lease-farming be gradually substituted for squatting, labour-tenancy and share farming.<sup>137</sup>

It was proposed that the Union Native Council be more representative of progressive Africans and that more power

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<sup>133</sup> SAIRR Archives. Box B72(a), James A. Calata to Rheinallt Jones, 23 September 1928.

<sup>134</sup> Among this group were J.G. Strydom, Rev. P.G.J. Meiring, Rev. D.S. Botha. For an idea of their standpoint see SAIRR Archives, Box B3, G.H. Franz to Rheinallt Jones, 20 August 1927.

<sup>135</sup> This was based on the earlier European-Bantu Conference held in 1923.

<sup>136</sup> Evidence given by the Committee of the 1927 European-Bantu Conference, SC 10/1927, p. 340.

<sup>137</sup> *Ibid.*, pp. 340-344.

be given the Council in initiating discussions.<sup>138</sup> The issue of the Cape franchise, however, split the Conference, and the delegates agreed to disagree on the question of separate representation for Africans.<sup>139</sup>

In its response to the 'Colour Bar' Bill and the Hertzog legislation during 1925-28, the Joint Council movement became more 'politically' orientated. Protest, however, was inhibited by ideological differences within the movement, a reliance on moral assertion<sup>140</sup> and 'reasonable' propaganda,<sup>141</sup> and by limited funds<sup>142</sup> and organisational difficulties.

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<sup>138</sup> *Ibid.*, pp. 345-346.

<sup>139</sup> Besides the DRC participants, a few English-speaking delegates, including W.A. Russell, Hon. Secretary of the Cape Native Welfare Society, favoured separate representation. See report on proceedings and resolutions of the Dutch Reformed Church Conference, February 3, 1927, (Extracts) in Karis and Carter (eds.) *From Protest to Challenge*, Vol. I, pp. 233-239. See also respective testimonies of Prof. J. du Plessis and Archbishop William Carter before the 1927 Select Committee, SC10-27, pp. 346-353.

<sup>140</sup> For example, the JJC post-mortem of the agitation against the 'Colour Bar' Bill: 'The protest was based upon a moral principle, but we regret that so few of the critics of the Bill in Parliament prior to the Joint Sitting, based their criticisms upon any question of principle ...' Annual Report of Johannesburg Joint Council to October 31, 1926. Also: 'We are convinced that any dual franchise will increase racial antagonism and that the longer it lasts the more powerful for evil it will become ...' Johannesburg Joint Council, *In Defence of the Cape Franchise*, p.

<sup>141</sup> 'The first Memorandum - on the Land Bill - has been published, and has attracted wide-spread attention. Demands for copies continue to be received, and it is hoped that the effect of the severe criticisms made will be to prevent the country accepting the Prime Minister's proposals. (emphasis added). Annual Report of Johannesburg Joint Council to October 31, 1926.

<sup>142</sup> 'May I point out that the Joint Council in Johannesburg, being absolutely independent of financial groups and political parties, finds it difficult to publish at all. We are entirely dependent upon the generosity of our own members.' SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Rheinallt Jones to Leo Marquard, 6 November 1926. Other Joint Councils presumably operated on an even smaller budget.



Coordination of the scattered Native Welfare Societies and Joint Council devolved largely on the shoulders of Rheinallt Jones. C.T. Loram also played a part, but the extent of his contribution is difficult to assess. Prominent members of the Johannesburg Joint Council, such as Professor W.M. Macmillan and Howard Pim, also helped cement links. But the arrangement was unsatisfactory and by 1925-26 the idea of some sort of umbrella organisation was being mooted.<sup>143</sup> Loram does not appear to have approved of the idea. In September 1926 he wrote to Rheinallt Jones:

You will see that I have departed from my view of a National Joint Council. I see that Joint Councils to be effective must be local and non-political ... American experience would keep the Joint Councils aloof from National issues. If the Joint Council is bound to a votes for blacks policy, for example, it will find it harder to get the blacks in Pretoria a swimming bath. Without achieving practical local reforms, the Joint Councils will fade away ... If we are to get help from America, the Joint Council work must be like that of the Inter-Racial Committees in America. Don't you get associated with the political issues, otherwise we shall not be able to use you as you deserve to be used.<sup>144</sup>

Whether he thought about Loram's strictures, Rheinallt Jones did, however, during 1926 and 1927, tour the Union on Phelps-Stokes' money to visit the twenty-odd existing Joint Councils and to establish new ones. Also, an appeal was launched in Britain under his, Pim and Selope Thema's signatures and some British names, for funds to fight the Hertzog Bills.<sup>145</sup> Yet despite Rheinallt Jones' personal efforts and partly because of Loram, the Joint Councils were to remain uncoordinated until 1929.

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<sup>143</sup> See SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Rheinallt Jones to H. Harper, 7 August 1925; also Rheinallt Jones to Marquard, 6 November 1926.

<sup>144</sup> *Ibid.*, Loram to Rheinallt Jones, 22 September 1928.

<sup>145</sup> Legassick, 'The Rise of Modern South African Liberalism', p.21.

No concrete evidence has been located that suggests that there was any dialogue or cooperation between white liberals and communists in the period 1926-28. Did individuals like W.M. Macmillan, one wonders, accept the stereotype of white communists as out-and-out revolutionaries? Although the CPSA's task by 1924 was seen as one of establishing a non-racial class ideology binding the races in a common struggle against capitalism, there was a tacit distinction between long and short-term goals or, to put it more bluntly, between theory and actuality. The local Party was tiny and though it was beginning to expand its African membership, these new recruits tended to have little idea of Marxist ideology.<sup>146</sup> The unfolding of Hertzog's segregation policy conditioned the Party's policy:

The Communist party's policy in 1926 /H.E. and R.J. Simons write/ was limited to a demand for the rejection of Hertzog's segregation bills, the abolition of pass laws and other racial legislation, an extension of the Cape franchise to other provinces, and the right of Africans to elect representatives to 'native councils'.<sup>147</sup>

The CPSA described Hertzog's Segregation Bills, *inter alia*, as a device to prevent working class solidarity:

Realising that so long as the workers stand united together they cannot be beaten, he proposes to divide the coloured from the native people by granting the former some petty concessions, while still keeping both divided from the white workers.<sup>148</sup>

The Land Bill aimed

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<sup>146</sup> Roux, *op. cit.*, p. 215.

<sup>147</sup> Simons, *op. cit.*, p. 388. See also *South African Worker*, 13 August 1926.

<sup>148</sup> *South African Worker*, 13 August 1926.

... NOT IN THE LEAST AT DISPENSING NATIVE LABOUR, BUT ON THE CONTRARY AT REDUCING ALL NATIVES, AS WELL AS THEIR DEPENDENTS TO THE POSITION OF PERMANENT SERVANTS, or failing that, of 'squatters' or 'labour tenants' ...

The land released was considerably less liberal than the Beaumont Commission's recommendations and the Bill as a whole was more 'harsh, iniquitous and reactionary' than even the 1913 Land Act.<sup>149</sup> The electors of the seven MPs and the Union Native Council would be merely 'government nominees and tools' and both the MPs and the Council would be politically impotent.<sup>150</sup>

If Hertzog refused to pay heed to the volume of resentment against the Bills, the Party elected in August 1926 urged that Africans should then use the strike weapon. And in conjunction with the case it advised Africans to join the ICU.<sup>151</sup>

By November 1926 the CPSA appears to have considered the formation of a loose alliance to oppose the Bills. The Government, it argued, would only be forced to drop the Bills 'by a combined opposition of all the elements, heterogeneous and incongruous as they are'.<sup>152</sup> The Party, however, maintained that opposition would not be efficacious unless white trade unions and the Labour Party were involved. Applauding the Johannesburg Joint Council memoranda on the Bills the white liberals on the Council were described as

... something like the 'small part of the ruling class that cuts itself off and goes over to the proletariat' of the Communist Manifesto.<sup>153</sup>

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<sup>149</sup> *Ibid.*

<sup>150</sup> *Ibid.*, 12 November and 10 December 1926.

<sup>151</sup> *Ibid.*, 13 August 1926.

<sup>152</sup> *Ibid.*, 19 November 1926.

<sup>153</sup> *Ibid.*, 12 November 1926.

But any likelihood of dialogue between communists and white liberals presumably diminished when the ICU, partly in response to the overtures of some white liberals and philanthropists, especially authoress Ethelreda Lewis, began a purge against its communist members in December 1926.<sup>154</sup>

'Communist work within the ICU', Roux writes, 'had brought few converts to the party and after the break and the expulsions, the white revolutionaries were left fairly high and dry'.<sup>155</sup> The Party consequently increased its efforts to consolidate and expand its African membership. It also sought to extend its influence within the ANC and broke new ground in the field of black trade unionism.

At the 1927 annual conference of the Party held in early January, the Segregation Bills were the most important item on the agenda. Bunting analysed the Bills, stressing that they were not aimed at a particular section of workers but the working class as a whole.<sup>156</sup> By late 1928 the emphasis was being placed on the latent power of the African masses rather than working class solidarity.

Militant mass action was the only way to prevent the Hertzog legislation reaching the Statute books:

The determination to ride rough shod over every elementary right of the Bantu must be slammed and the time is for action. Every kraal, every location and township must ring throughout the country with a volume of protest ...<sup>157</sup>

There was, however, no explicit reference to strike action as a means to combat the Bills.

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<sup>154</sup> See below pp. 75-76.

<sup>155</sup> Roux, *op. cit.*, p. 203.

<sup>156</sup> *South African Worker*, 7 January 1927.

<sup>157</sup> *Ibid.*, 24 October 1928.

This appeal to a potential revolutionary urge in the African masses was the outcome of the local Party's adoption, partly prompted by a Comintern directive, of the slogan and analysis of a 'South African Native Republic as a stage towards a workers' and peasants' Government with full protection and equal rights for all national minorities'.<sup>158</sup>

Though officially accepted at the end of 1928, the Native Republic idea had, since the beginning of the year, been a subject of debate. In a letter to Roux<sup>159</sup> D.G. Wolton wrote:<sup>160</sup>

The 'New Task' of the Party is causing great dissension. You will no doubt have heard what it is. No final decision is taken yet but only three or four of us support it whilst all the rest ridicule it.<sup>161</sup>

Walshe has suggested that had the CPSA adopted the slogan of an 'independent Native republic' before the collapse of the ICU, 'matters might have taken a different course with the Party's propaganda strengthening the sense of black self-confidence'.<sup>162</sup> Yet there is some truth in George

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<sup>158</sup> *Ibid.*, 30 November 1928.

<sup>159</sup> Edward Roux was born in 1903 and while still a student, helped found the Young Communist League in 1921. In 1923 he joined the CPSA and was drawn into the wing of the party led by Sidney Bunting, which favoured emphasis on the recruitment of Africans. Roux was awarded a fellowship to Cambridge University, where he spent the years 1926-1929 completing a Ph.D. degree in Botany. In 1928 he went to Moscow as a South African delegate to the sixth congress of the Communist International, where the CPSA was instructed to adopt the 'Native Republic' slogan. Although opposed to the doctrine his loyalty to the CPSA remained unshaken.

<sup>160</sup> Douglas G. Wolton was leader of the CPSA from 1931 to 1933. He joined the Party in Cape Town in 1925 and was one of the party activists most strongly in favour of an emphasis on organising blacks.

<sup>161</sup> Wolton to Roux, 14 February 1928. Quoted Walshe, *op. cit.*, p. 177.

<sup>162</sup> Walshe, *op. cit.*, p. 173.



Padmore's remark that

... Africans have always demanded full citizenship rights within a multi-racial society. They have always looked with deep suspicion upon the new Communist slogan of a 'Native Republic', which they interpreted as an attempt to segregate them into some sort of Bantu state, for they knew Europeans - even those calling themselves Communists - would resent living under an all-African Government.<sup>163</sup>

The inability of the Communist Party to retain and expand its influence within the ICU suggests that the desire to seek constitutional outlets within the white dominated state was not confined to élitist political bodies such as the ANC and the Cape Native Voters Convention. Indeed, in what appears to be a formal ICU critique of the Bills<sup>164</sup> an élitist strain can be detected:

It is obvious that the disfranchisement of the Natives in the Cape Province, the self-dom (*sic*) inaugurated by the license-conditions (*sic*) of labour tenants, the nugatory (*sic*) effect of the restricted functions of both the proposed Native Council and the representatives of the Natives in the House of Assembly, as well as the subtle methods by which all representations of Natives in both the Council and the House are (directly or indirectly) Government nominees, all evidence:

- 1) to refuse the Natives any real participation and responsibility in the Government of the land of their birth;
- 2) to discourage the progress or development of the more enlightened section of the people; and
- 3) to inaugurate, through forced-labour conditions a fresh era of slavery.

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<sup>163</sup> George Padmore cited in Richard Gibson, *African Liberation Movements: Contemporary struggles against white minority rule* (1972), p. 38.

<sup>164</sup> Forman Papers: Industrial and Commercial Workers Union Collection, B4.78, 'Demonstration against the Prime Minister's Native Bills. Resolutions'. C 1927.



It was resolved to 'strenuously and unconditionally' oppose the legislation. The Prime Minister was requested to drop the Bills and ask 'organisations and individuals - European and non-European - interested in the welfare of Natives' to submit constructive proposals embracing the principles embodied in ICU recommendations.

It was felt that the Native Conference called under the 1920 Native Affairs Act, become an elected body, 'so as to make it more truly representative of the Native people in every walk of life', and that it be given some real powers. The extension of the Cape franchise to Africans and other non-Europeans elsewhere was advocated, 'the qualifications particularly educational of voters to be raised considerably'.

The ICU tacitly accepted territorial segregation. It desired the allocation of territories specifically for African occupation, on such terms and with Government assistance, to enable tribes, registered companies and groups of Africans, to procure land on a secure tenure. It recommended a gradual elimination of the squatting system in such a way as to avoid social dislocation and to encourage settlement and development in specifically African territories.

One of the resolutions, the call for

The repeal of the iniquitous Colour Bar Act, and the institution of some system encouraging the opening up of agricultural, industrial and commercial enterprise by non-Europeans in non-European areas

is rather ambiguous. While the repeal of the Colour Bar is clearly related to a desire for a general improvement in the economic and social life of all black workers, the term 'non-European areas' is puzzling. Also, as the ICU

had a strong Coloured membership, it is somewhat strange to find no reference to the Coloured Persons' Rights Bill.

In 1925 the ICU held promise of developing from an organisation attempting to win wage increases, to a movement set on challenging the white power structure.<sup>165</sup> In September 1925 the ICU claimed a membership of 30,400. By August 1926 this apparently had risen to 39,400.<sup>166</sup> Kadalie explained this expansion in terms of a single factor:

The consolidation of our forces was inevitable, and at the opening of the current year, 1926, one witnessed a campaign to organise all African labour into ONE BIG UNION becoming a reality. What brought about this yearning among the proletariat? It was no other than the infamous Smithfield declaration in which it was said that the black men and women of the land should remain as 'hewers of wood and drawers of water'.<sup>167</sup>

Feeling betrayed by the Pact Government, the ICU recruited trade union members upon a largely political platform of opposition to the Hertzog Bills legislation.<sup>168</sup>

Rhetoric and resolutions, even if backed by an expanding membership, were obviously insufficient to check Government intentions. A number of options or combinations of options seemed open. As a trade union, the ICU could have threatened strike action by its membership. Alternatively, in line with its growing political orientation, the union,

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<sup>165</sup> Johns, 'The ICU of Africa', p. 716.. For details of the transformation of the ICU from a Cape-based organisation to a union-wide movement see Wickins, *op. cit.*

<sup>166</sup> Ernest Gitsham and James Trembath, *A First Account of Labour Organisation in South Africa* (1926), p. 125.

<sup>167</sup> *The Workers' Herald*, 14 September 1926. Quoted by Johns, 'The ICU of Africa', p. 717.

<sup>168</sup> *Ibid.*

either allied with the ANC or acting independently, could have undertaken a series of demonstrations to draw attention to its demands. However, because of its relatively small size the ICU needed white allies to reinforce its strength and help shape its 'ideology'. Only the tiny South African Communist Party and some white liberals showed interest in the ICU within South Africa. But there were possible allies outside the Union. During the course of 1926 the ICU attempted to devise a strategy from these various, and often contradictory, alternatives.<sup>169</sup>

In early 1926 the ICU had placed its emphasis on joint action with the ANC but this proved abortive.<sup>170</sup>

The delegates to the annual conference of the ICU held in Johannesburg in April 1926, though united in their antagonism towards the Hertzog scheme and the 'Colour Bar' Bill, were at odds over the suggested remedies open to the black labour movement. Three groups emerged during the conference: the Moderates, 'whose policy was to face facts and to deliberate soberly and moderately on them'; the Die-hards, 'whose policy was that "Nay was Nay and Yea was Yea" '; and the Ginger Group, 'composed of all the young bloods, their policy was "Direct Action" '.<sup>171</sup>

On 6th April James Dippa,<sup>172</sup> one of the Moderates, moved an interesting resolution:

That in view of the rapid development in the introduction of fundamental changes in the Native policy under consideration, and in view of the seemingly compromising attitude of the European population on a whole (*sic*), particularly as regards the

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<sup>169</sup> *Ibid.*

<sup>170</sup> See below pp. 82-83.

<sup>171</sup> Wickins, *op. cit.*, p. 291.

<sup>172</sup> Little is known about the background of James Dippa. He was based in the eastern Cape and in 1935 was appointed to the AAC Executive.

Prime Minister's Smithfield declarations, this conference instructs the National Council of the I.C.U. to enter into negotiations for the affiliation of this organisation to the British Trade Union Congress, with the further object of bringing the case of the African worker before the League of Nations and public opinion in Europe.<sup>173</sup>

Wickins contends that this resolution demonstrates that 'the black labour movement was abandoning hopes of itself ameliorating its position'.<sup>174</sup> This is debatable, though it is evident that Kadalie and the ICU saw international links as a means to overcome white hostility within South Africa. By affiliating with the British labour movement, the ICU could attempt to bring British trade unionists to persuade the white, English-speaking trade unionists of South Africa to modify their attitude toward the ICU. Also, the ICU might have hoped to enlist the support of the British Labour Party to put pressure on the South African Government. Furthermore, the ICU explicitly saw this move as a step towards the 'internationalisation' of South Africa's colour problems before European public opinion and the League of Nations.<sup>175</sup>

The question of the 'internationalism' of the ICU was linked to a struggle for influence between local white liberals and philanthropists, and the communists. In early 1926 it appeared that the ICU was being drawn into the communist orbit. A counter force, however, was initiated by a female triumvirate - Ethelreda Lewis, Mabel Palmer<sup>176</sup> and Winifred Holtby<sup>177</sup> - who were all

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<sup>173</sup> *The Workers' Herald*, 28 April 1926. Quoted by Wickins, *op.cit.*, p. 292.

<sup>174</sup> Wickins, *op. cit.*, p. 292.

<sup>175</sup> Johns, 'The ICU of Africa', p. 721.

<sup>176</sup> In 1926 Mabel Palmer was 50 years old and had been in South Africa since the end of the war, after having been prominent in the Suffragette and Fabian movements in England. It is rumoured that she had an affair with George Bernard Shaw. In Durban in the 1920s she was lecturing in economics at Natal Technical College and was a member of the Durban Joint Council. A biography of this fascinating woman is much needed.

<sup>177</sup> Winifred Holtby was an English novelist.

to put Kadalie in touch with influential British socialists who gave him practical advice on how to implement the resolution passed by the national conference of the ICU in April. The communists, on the other hand, offered the ICU participation in a rival international pressure group, the Congress of Oppressed Nationalities.<sup>178</sup>

The issue of ICU representation overseas was a source of friction between it and the CPSA. Yet far more significant was the disagreement between the two bodies over the operation of the ICU in South Africa. The communists regarded the ICU as the chief means of raising the political consciousness of the black 'proletariat' of South Africa. When Kadalie was banned from Natal in mid-1926, the communists apparently exhorted him to challenge the Pass Laws and Hertzog's Bills by calling a general strike of ICU members. They began to attack corruption and bureaucracy within the ICU and question its methods as well as its failure to use the strike weapon. Stung by this criticism, which reflected adversely on his leadership, Kadalie, with the support of Champion, led a campaign between December 1926 and April 1927 to remove CPSA members from the ICU.<sup>179</sup>

In explaining the ousting of the communists, Kadalie took pains to stress that the move was made to preserve the ICU as a *bona fide* trade union functioning on constitutional lines and suggested that the use of strikes was outmoded.<sup>180</sup> Yet the ICU also reaffirmed its opposition to the Segregation Bills.

At the annual ICU conference held in Durban in April 1927 conventional trade union concerns received little attention.<sup>181</sup>

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<sup>178</sup> Johns, 'The ICU of Africa', pp. 721-723.

<sup>179</sup> *Ibid.*, pp. 723-725.

<sup>180</sup> *Ibid.*, p. 727.

<sup>181</sup> For a detailed account of the annual conference see Roux, *op. cit.*, pp. 167-172. Roux contends that the conference underlined the political immaturity of many Africans in the 1920s.

The delegates were preoccupied with the Hertzog Bills and the new measures of control formulated with the ICU in mind. In response to arguments from the floor in favour of direct action, Kadalie advocated instead a one-day protest strike should the Bills become law. This view was eventually accepted by the majority of delegates although Thomas Mbeki<sup>182</sup> delivered a fiery speech that won loud applause:

There can be no doubt that the general strike weapon makes delegates tremble but there can be no alternative if they want their freedom. At this juncture there is no alternative but to take drastic action. If we want to achieve freedom in South Africa we must go through flames of fire. The masses in the field are looking towards this Congress for something tangible. Those of you who have read the Government's four Bills can see that they are out to reduce the Native workers to a position of absolute serfdom ... and it is high time you should show your teeth. They speak of Native Councils that will consider Native affairs and grievances, but I tell you that all your grievances will be relegated to that cackling shop of witch-doctors and barbarians - the Pretoria Annual Native Conference - many of whom are 'Good Boys', and paid agents of the Government.<sup>183</sup>

The 1927 annual conference was probably the peak point in the career of the ICU. Claimed membership at this time was 100,000.<sup>184</sup>

The ICU, Sheridan Johns remarks, rose to the height of its power by capitalising on the groundswell of the resentment

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<sup>182</sup> Thomas Mbeki was born about 1900, and in 1924 became involved with the CPSA. When Kadalie began to establish the ICU in the Transvaal in late 1924, Mbeki became one of his principal lieutenants, serving of a time as Transvaal provincial secretary. When members of the CPSA were expelled from the ICU executive in 1926, Mbeki chose to stay in the ICU.

<sup>183</sup> *The Workers' Herald*, 17 May 1927. Cited by Wickins, *op. cit.*, p. 407.

<sup>184</sup> Roux, *op. cit.*, p. 167.



against the Hertzog Bills.<sup>185</sup> He fails, however, to elaborate on this idea. Admittedly, it is difficult to explore mass consciousness, let alone determine how various categories of urban and rural workers perceived the Hertzog Bills.

In considering instances of mass action in our period, one finds the response of black urban workers to white domination to be reactive and locally based.<sup>185</sup> These workers appear to be concerned with legislation bearing more directly on them, with issues like bad working conditions and poor wages, rather than the question of political rights.<sup>186</sup> However, education at night schools, especially in the Witwatersrand area, and the exhortations of African orators, presumably inculcated some awareness of the value of the Cape African franchise and of the objectives of Hertzog's segregation programme. The following are said to be the words of an African worker ('Comrade' Hlabanyane):

What is Hertzog/s policy? It is a policy of oppression of the native people. We workers oppose segregation with all our might. The colour bar is one of the most obnoxious laws that has been passed.<sup>187</sup>

There might be some truth in Plaatje's observation:

<sup>2</sup> White Cape natives have but a vague idea of life without a vote, the inarticulate black proletariat of the Transvaal, who at present look for some sympathy from Cape members of Parliament, regard a voteless outlook with apprehension.<sup>188</sup>

With the possible exception of the Cape Province, one would imagine rural workers being less politically conscious

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<sup>185</sup> Johns, 'The ICU of Africa', p. 717.

<sup>186</sup> See e.g. a short description of strikes in 1927 in Roux, *op. cit.*, p. 173.

<sup>187</sup> *South African Worker*, 30 July 1926.

<sup>188</sup> *Diamond Fields Advertiser*, 28 November 1925.

than the permanent urban workforce in our major centres. Yet much of the ICU support by 1927 came from the country districts. Why should the rural workforce be preoccupied with a somewhat abstract issue like the dismantling of the Cape system? Perhaps the stringent provisions regarding labour tenants and squatters in the Land Bill lay behind their opposition to the Bills, but the Bill did give some hope of land. Migrant labour might have facilitated some interaction between urban and rural areas.

A number of the ICU leaders and organisers were drawn from an African élite<sup>189</sup> and their élitist aspirations conceivably helped shape the political perceptions of ICU members - both rural and urban. Philip Converse contends that

Unless an issue directly concerns ... (uneducated lower strata) ... in an obviously rewarding or punishing way ... they lack the contextual grasp of the system to recognise how they should respond to it without being told by élites *who hold their confidence*...<sup>190</sup>

This is not to say that there was no hiatus between the perceptions and the masses. For how does one explain the fact that ICU expansion in Natal in 1927 was largely a rural phenomenon, the ICU being virtually transformed into a millenarian movement?<sup>191</sup> Though the evocation and exploitation of a climate of opposition against the Hertzog Bills undoubtedly contributed to ICU expansion, it seems that the movement, after a while, gained a momentum of its own.

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<sup>189</sup> Examples of ICU leaders drawn from an African middle-class are A.M. Jabavu, editor of *Imvu Zabantsundu* and Senior Vice-President of the ICU, A.W.G. Champion and Clements Kadalie himself. Also, Kadalie has pointed out that by 1926, 'young men, *particularly teachers* flocked to the ICU, where they occupied remunerative positions in various branch offices' (emphasis added). Kadalie, 'My Life and the ICU', p. 96.

<sup>190</sup> Cited in Frank Parkin, *Class Inequality and Political Order* (1975), p. 99.

<sup>191</sup> It is instructive to compare the Wellington movement in the Transkei with the ICU movement in the rural areas of Natal.

At the ICU Conference in April 1928 Kadalie gained approval for his 'Economic and Political Programme for 1928' which stated, *inter alia*, that:

The proposal of the present government to withdraw the very limited franchise to Natives in the Cape Province should be unequivocally condemned at every public gathering of the ICU. Further, on the principle: 'No taxation without representation' an extension of the franchise to Natives should be demanded. We would suggest that a monster petition be organised by the ICU against the reactionary proposal and presented to Parliament during the present session.<sup>192</sup>

Yet Kadalie's Programme was a dead letter, as the ICU was disintegrating as a result of expansion out-running organisation, rivalries between leaders which led to a series of sessions, conflict over political tactics, and an intensification of state repression as manifested in the 'hostility clause' of the Native Administration Act of 1927. As P. Bonner sees it, the major short-coming of the ICU in the later 1920's was its failure to effectively organize the African urban working class. And this neglect of these workers can possibly be linked with a preoccupation with 'bourgeois democratic aims'.<sup>193</sup> Jon Lewis maintains that because the ICU 'was primarily concerned with building a wide front of support around the political grievances of non-whites in general' it failed to take into account differences between 'more docile and unsophisticated' rural migrants who were forced into the towns by the breakdown of production in reserves, and the urban African working class.<sup>194</sup>

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<sup>192</sup> 'Economic and Political Programme for 1928.' Statement by Clements Kadalie, 1928. Karis and Carter (eds.), *From Protest to Challenge*, Vol. I, p. 332.

<sup>193</sup> P. Bonner, 'The Decline and Fall of the ICU - A Case of Self Destruction?' *South African Labour Bulletin*, Vol. 1, No. 6, (1974) pp. 38-42.

<sup>194</sup> Jon Lewis, 'The New Unionism: Industrialisation and Industrial Unions in South Africa 1925-1930', *South African Labour Bulletin*, Vol. 3, No. 5, (1977), pp. 26-27.

The rise of the ICU in the mid-1920's undermined the position of the African National Congress as the leading African political organisation. 'The ICU', H. Selby Msimang has said, 'had something to sell but the ANC was selling political freedom which could not be guaranteed'.<sup>195</sup> The contrast between the two organisations is embodied in the respective leaders:

Kadalie - demagogic, magnetic, with his odd high pitched voice - rallied the masses as no one had done before: promising reforms, cursing Hertzog ...

On the other hand ... the Rev. Zaccheus R. Mahabane, a Methodist, thoughtful, slow-speaking, with a jolly face, felt the work of Congress was to try to educate Africans about their rights, to make representation against the colour bar and for better wages, and to hold frequent meetings.<sup>196</sup>

The structural deficiencies persisted and, in some instances, were intensified during the mid-1920's. The National Congress was woefully short of funds. Provincial congresses were in essence the political organisations of local leaders, financially unstable although financially independent of the National Congress. There were also tensions at provincial level.<sup>197</sup> The participation of chiefs - a source of funds and a stabilizing influence in the organisation - was declining. In addition, most African newspapers were locally orientated and outside the influence of the National Executive.<sup>198</sup>

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<sup>195</sup> H. Selby Msimang, personal interview, 26 August 1977.

<sup>196</sup> Benson, *op. cit.*, pp. 45-46.

<sup>197</sup> In Natal, John L. Dube's refusal to participate wholeheartedly at the national level had led by 1926 to the establishment of a rival body to the Natal Native Congress. the Natal African Congress with J.T. Gumede at its head. The latter body became the official provincial branch of the National Congress.

<sup>198</sup> See Walshe, *op. cit.*, pp. 204-258, for a detailed examination of the ANC weaknesses.

Yet, despite these shortcomings, the Hertzog legislation provided the ANC with a real opportunity to reassert itself. On 1st January 1926 a Special Conference, called by the ANC to discuss and formulate strategy in regard to the Hertzog legislative programme, met in Bloemfontein. The meeting was believed to be the biggest and most representative gathering yet held<sup>199</sup> and the proceedings, the *Cape Argus* noted, were marked by tremendous enthusiasm and 'not seldom by intemperate language'.<sup>200</sup> In his Presidential Address, the Rev. Z.R. Mahabane, who had been present at the Pretoria Native Conference, remarked that it was the duty of the Convention to determine whether the Smithfield proposals were to be accepted, amended, or rejected in whole or in part. As they all agreed that the time was ripe for race adjustment in South Africa, criticism was to be constructive rather than destructive.

After a day and night session the conference reaffirmed the ANC Bill of Rights of 1923, eschewed segregation in any form and agreed to boycott 'native conferences' called by the Government under the 1920 Native Affairs Act. A key resolution stated that:

... in the event of the Union Government insisting upon disfranchisement of the Cape African voters as indicated in the Prime Minister's speech at Smithfield this special convention of the African National Congress resolves to take steps in the direction of meeting the challenge thus thrown out.

In addition, a 'strong disapproval' of the proposed Council system was voiced as it was a 'bar to direct representation in Parliament'.<sup>201</sup>

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<sup>199</sup> *The Star*, 4 January 1926.

<sup>200</sup> *Cape Argus*, 4 January 1926.

<sup>201</sup> *Umteteli wa Bantu*, 9 January 1926.

The ANC Conference appears to have appointed 'Professor' James Thaele, head of the Western Province section of the Congress, as special organiser to coordinate a nation-wide protest against the impending legislation. The ICU was asked to join and, at a meeting in Johannesburg on 31st January, Kadalie set the campaign in motion.<sup>202</sup> Yet it soon ground to a halt. This breakdown was not only due to structural weaknesses within the ANC but also to the fact that the Congress hierarchy was temperamentally in favour of constitutional protest.<sup>203</sup> 'Establishment' leaders do not appear to have given Thaele much moral or material backing.<sup>204</sup> However, a rift had developed between Thaele and Kadalie.<sup>205</sup>

At a well attended annual convention of the ANC held in Bloemfontein from 23rd to 26th June 1926, a discussion of the Bills constituted the central part of the proceedings. However, as the *South African Worker*, the official organ of the Communist Party saw it, Congress 'showed its complete inability to give a real fighting lead against the home imperialists'.<sup>206</sup> Instead of working out a strategy based on a complete rejection of the Bills, as a minority of the delegates present suggested, the discussion ended with a Committee being set up to study the Bills and present recommendations to the next annual convention to be held in 1927.<sup>207</sup>

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<sup>202</sup> Johns, *The ICU of Africa*, p. 718.

<sup>203</sup> For instance Mahabane's advice to the OFS Secretary of the ICU in regard to the latter's suggestion that a strike be called to settle a wage dispute in Bloemfontein: '... I feel strongly that in view of our present state of disorganisation and inability to present a united front, to precipitate a strike just at this juncture would be unwise.' *Umteteli wa Bantu*, 6 March 1926.

<sup>204</sup> See e.g. report entitled 'Thaele Repudiated', in *Umteteli wa Bantu*, 20 March 1926.

<sup>205</sup> *Umteteli wa Bantu*, 17 April 1926.

<sup>206</sup> *South African Worker*, 19 July 1926.

<sup>207</sup> *Ibid.* The ANC Committee reported at the end of October 1926, that the Bills contained no good points from the African point of view.



Both the special ANC Convention held at Bloemfontein in January 1927 and the subsequent Convention of Chiefs held in April 1927 under Congress auspices, formally rejected the Land and Representation Bills.<sup>208</sup> The Land Bill was criticised for offering wholly inadequate areas. Both bodies suggested a round table conference with representatives of the Government, Congress and other non-European organisations.

Congress was particularly emphatic on the issue of representation, 'in the sense that whereas a negotiated settlement on the basis of adequate land was theoretically acceptable within the confines of segregated rural and urban areas, there was no such willingness to concede even the theoretical possibility of bargaining away the Cape common roll'.<sup>209</sup> Hertzog's repressive intent had undermined any possible support for separate representation.

Land and the Cape franchise were the central issues for Africans, and these conditioned the ANC's response to the Union Native Council Bill and the Coloured Persons' Rights Bill.<sup>210</sup> The Council Bill was initially rejected as providing an alternative to the Cape franchise which, if accepted, would divert attention away from the extension of the Cape system to the northern provinces. On the issue of Coloured rights, Congress denounced a 'three-stream policy'.

Early in June 1927 Mahabane represented the Congress before the 1927 Select Committee on the Segregation Bills. Although reiterating the ANC standpoint on the Bills, he gave the impression that he was not averse to considering a reasonable

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<sup>208</sup> Report on proceedings and resolutions of the Annual Conference of the African National Congress, January 4-5, 1926 (extracts); Resolutions of the Convention of Bantu Chiefs, held under the auspices of the African National Congress, April 15, 1927. Karis and Carter (eds.), *From Protest to Challenge*, Vol. I, pp. 299-304.

<sup>209</sup> Walshe, *op. cit.*, p. 114.

<sup>210</sup> *Ibid.*

alternative to the Cape franchise:

If as you suggest this Committee can formulate some system by which a universal franchise is given to the natives of the whole Union based on an educational qualification and giving them separate representation not following the system of choice by the chiefs, and give them the same representation right through the Union, I think that they would meet the demands of the natives. Of course, we would prefer to be represented by natives. While the country is not ripe for that we would be prepared to say that we accept the principle that we would be represented by Europeans and continue to fight for our own representation.<sup>211</sup>

In the same month, on the expiration of Mahabane's term of office, Josiah Gumede<sup>212</sup> was appointed President-General. Trips to Brussels and Moscow during that year reinforced an inclination for political radicalism and a willingness to cooperate with the Communist Party in efforts, which would include mass demonstrations, to influence the Government. He felt that association with white liberals and peaceful constitutional methods of protest had not prevented discriminatory and repressive legislation aimed at the Africans.<sup>213</sup> He recognised the need to appease the strong moderate and conservative element in the ANC. In his inaugural message he appealed to the left and right wings of Congress to join in a united front: both conservative and radical, he said, had place in the 'Bantu movement

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<sup>211</sup> SC 10/27, p. 301.

<sup>212</sup> Josiah Tshangana Gumede was probably born in the 1870's. He was educated at the Native College in Grahamstown in the Cape, then became a teacher in Somerset East and later in Natal. With John L. Dube, Martin Luthuli and others he helped found the Natal Native Congress in 1900-1901, serving at different times thereafter as its secretary and vice-president under Dube. In 1926 Gumede, Stephen Mini and others formed a separate Natal African Congress to counter the parochialism of Dube's Natal Native Congress. Gumede was a foundation member of the South African Native National Congress and in 1919 accompanied the SANNC deputation to England and Versailles.

<sup>213</sup> Sheridan Johns in Karis and Carter, (eds.), *From Protest to Challenge*, Vol. I, p. 153.

for political and economic emancipation from the tyranny of European rule'.<sup>214</sup>

The ANC conference in June 1927 committed itself to overhauling the structure of Congress:

In the past the ANC has been a rather loose type of organisation carrying on sporadic propaganda among the native masses. It has now been resolved to build up the Congress on the basis of a duly registered individual membership, each member being obliged to subscribe an annual subscription of six shillings.<sup>215</sup>

Gumede actively sought cooperation with other protest groupings and other relevant bodies regardless of their ideological basis.<sup>216</sup> The Congress hierarchy placed most of its hopes on an alliance with the ICU, possibly feeling that a *rapprochement* would help revamp the ANC's image. It was also important, at least from Gumede's standpoint, to present a solid front to Hertzog's segregation policy:

Let not the ICU be led by the nose: it was not founded for that. Let it not hold aloof from the Congress. If your leaders do not play the game, kick them out. Why quarrel in the face of Hertzog's attacks? Unless we stand together the capitalist will grind South Africa still more.<sup>217</sup>

At Bloemfontein in Easter 1928 the ANC and ICU Executives met and accepted a resolution moved by Kadalie and seconded by Seloape Thema agreeing that

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<sup>214</sup> *Ibid.*, p. 304.

<sup>215</sup> *South African Worker*, 15 July 1927.

<sup>216</sup> This is underlined *inter alia* by the ANC's sponsorship of the formation of a Free Speech Defence Committee, embracing 'all sympathetic elements', in March 1928. See e.g. SAIRR Archives: ANC Collection, Eddie Khaile to Secretary, Johannesburg Joint Council, 7 March 1928.

<sup>217</sup> *South African Worker*, 29 April 1927.

... cooperation between the Congress and the ICU in matters of national policy, namely, the Government's Native Bills and the Pass Laws, is essential if the political and economic progress of our people is to be secured.

To facilitate this cooperation the ANC repudiated its association with the CPSA, 'which of late has openly identified with the Congress'.<sup>218</sup> Gumede apparently agreed to this resolution 'after some hedging'.<sup>219</sup>

Little, however, came of this association, as the ICU was soon preoccupied with internal problems. The ANC does not seem to have benefited from the decline of the ICU in 1928. In partial mitigation, it can be argued that the reconstruction of the ANC could not be achieved overnight. The funds of the National Congress when Gumede assumed leadership amount to little more than a shilling.<sup>220</sup> Gumede also appears to have been hamstrung, in his efforts to make the ANC a more assertive body, by the hypersensitivity of chiefs and a number of prominent leaders towards anything that was vaguely associated with the CPSA.

Until now we have discussed African reactions to the Bills on a national scale. However, examination of the response of the group most threatened by the Native Bills, is instructive. A considerable volume of moderate protest against the Hertzog legislation, emanated from the Cape, especially the eastern part which contained the greatest number of African voters.<sup>221</sup> This opposition was largely orchestrated by the Cape Native Voters Convention, working in conjunction with *Imvu Zabantsundu*.<sup>222</sup> Although S.M. Bennett Newana, the

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<sup>218</sup> Quoted Wickins, *op. cit.*, p. 473.

<sup>219</sup> Simons, *op. cit.*, p. 404.

<sup>220</sup> *Ibid.*, p. 391.

<sup>221</sup> This is illustrated e.g. by the numerous reports in *Imvo* of meetings specifically called to discuss the Hertzog Bills.

<sup>222</sup> It is no coincidence that D.D.T. Jabavu was the President of the CNVC and his brother, A.M. Jabavu, the editor of *Imvo*.

General Secretary of the CNVC, suggested, in April 1926, that passive resistance be directed against the Hertzog scheme,<sup>223</sup> but as far as can be made out provoked no serious consideration on the merits and demerits of such an approach. For the most part, the Cape African élite looked to deputations; orderly protest meetings in both rural and urban areas; 'educative' propaganda in the form of articles and letters in African and white English-speaking newspapers; and the white-controlled Parliament, for the redress of their grievances.<sup>224</sup> In December 1927 the annual conference of the CNVE which met in East London, framed and unanimously passed a petition, which was submitted to Parliament, opposing 'any tampering with the Cape Native Franchise in its existing form'.<sup>225</sup> At the Convention's annual conference at the end of the following year, regret was expressed at General Smuts's equivocation on the question of the abolition of the Cape African vote. It was decided that members in the forthcoming general elections would be supported solely on the basis of their stand on the Cape franchise.<sup>226</sup>

Although Cape Africans in general responded to the Hertzog Bills in an essentially moderate manner, certain nuances and patterns can be detected. In the eastern Cape, for instance, protest was most intense in the Alice-East London-Port Elizabeth triangle i.e. largely from Ciskeian Africans.<sup>227</sup> This group was on the whole more progressive than those in

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<sup>223</sup> *Imvo Zabantsundu*, 6 April 1926. Ncwana's involvement with the ICU may have influenced him to think in terms of passive resistance.

<sup>224</sup> The concerns of the Cape African élite are revealed particularly in the writings of D.D.T. Jabavu. See e.g. *The Cape Native Franchise* (1927) and *The Segregation Fallacy* (1928).

<sup>225</sup> Petition to the South African Parliament from the Cape Native Voters' Convention, Karis and Carter (eds.), *From Protest to Challenge*, Vol. I, pp. 337-338.

<sup>226</sup> Report on the proceedings of the Annual Conference of the Cape Native Voters' Convention, *Ibid.*, pp. 338-339.

<sup>227</sup> This conclusion has been arrived at by an analysis of reports of protest meetings and letters to the editor in *Imvo* 1926-28.

the Transkei due to a number of interacting conditions: a larger middle class, more contact with the white socio-economic system and the influence of the University of Fort Hare.<sup>228</sup> An examination of the respective evidence given to the 1927 Select Committee on the Segregation Bills by the three delegates of the United Transkeian Territories General Council or Bunga (Charles Sakwe, Elijah Qamata and William Mlandu)<sup>229</sup> and by D.D.T. Jabavu (who lived in Alice) and Dr. W.B. Rubusana (an East London resident).<sup>230</sup>

On the subject of the Land Bill, Sakwe stated that

If the Government takes the Land Bill entirely by itself independent of the other Bills and our franchise rights are not going to be affected we will be prepared, for the sake of the natives in the other provinces who are not free to buy land as we are, to accept this Bill if the right to buy in the released areas is restricted to natives only. We wish this to be clear that we only agree to the condition that natives only be allowed to buy, and that we do not accept the whole of the Bill as it stands. We object to Chapter II of the Bill.<sup>231</sup>

In subsequent remarks Sakwe seems to have hinted that Africans

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<sup>228</sup> 'The Ciskei is a part of the "Cape proper", and the Natives there have been proud that they were under ordinary European law.' Undated note by Rheinallt Jones on the Smithfield proposals and the 1925 Government Native Conference, SAIRR Archives, Box B72(a).

<sup>229</sup> Charles Sakwe was born in 1886 and was known as one of the 'fathers of the Bunga'. He was a delegate at both the 1925 and 1926 Government Native Conference.

We know little about Elijah Qamata and William Mlandu beside the fact that they were among the representatives at the 1926 Government Native Conference.

<sup>230</sup> Walter Benson Rubusana, born in 1858, was prominent in the fields of religion, literature, as well as politics. In 1910 he became the first and only African to be elected to the Cape Provincial Council. He was one of the founders of the South African Native National Congress.

<sup>231</sup> SC 10/27, pp. 52-53.



in the Cape would be prepared to relinquish their right to buy land anywhere in the Cape, provided that the released areas were extended considerably, that only Africans could buy within these areas and that they could have free access to released areas outside their particular territory.<sup>232</sup>

Qamata regarded the Union Council Bill

... as one of the best Bills that has ever been introduced by any Government because under it whenever the Government has any matter relating to native affairs which it wishes to bring before Parliament it has to go and consult the natives.<sup>233</sup>

The three delegates stressed, however, that they would be opposed to the Council Bill, if acceptance implied the surrendering of the Cape franchise. If the franchise was guaranteed, Africans throughout the Union would incline to support the principles of the three Native Bills.

One senses a somewhat more critical tone in the arguments of Jabavu and Rubusana. Jabavu concentrated his efforts on the Cape African franchise, analysing eight arguments levelled against it by Hertzog and others, showing these to be largely emotive in nature and having little empirical foundation. Unlike the Bunga delegates who were not prepared to make any alternative suggestions to the Representation Bill, Jabavu advocated the extension of the Cape franchise system to the northern provinces.

Even we today /he continued/ are looking forward to the day when the people of the country will be generous enough to see the justice of our claim to have a man of our own colour in the House of Assembly, even if he has to sit there in a segregation box.<sup>234</sup>

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<sup>232</sup> *Ibid.*, p. 61, 65, pp. 67-68.

<sup>233</sup> *Ibid.*, p. 233.

<sup>234</sup> *Ibid.*, p. 265.

Referring to the possibility of Africans eventually out-voting whites Jabavu pointed out that

... it becomes a problem because whites tend to look upon the question from the racial angle and assume that the black race is the enemy of the white race. Once you can get away from a man's colour that difficulty will disappear. Take a man like the Hon. Srinivassa Sastri, who is coming out to this country as the agent of the Government of India. The Assembly will not regard him as a black man or an Indian, but as a civilised man. There is no problem if you look at it from that angle, but if you look at it racially we will get into a tangle and a quagmire. You are correct in saying that in South African history racial feeling has played a very significant part, and I think it is to the discredit of the country that it should have done so. If this racial feeling has to be reckoned with in the future, then I say that Christianity is all bunkum; it is empty. If we are to take cognisance of that racial feeling then we are, according to Christianity, all hypocrites.<sup>235</sup>

In regard to the Union Native Council; Jabavu pointed out that while Africans in other provinces might benefit, those in the Cape would gain nothing.<sup>236</sup> Rubusana objected to the presence of Government representatives on the Council. This was the prime reason, he said, why Africans in the Ciskei had resisted the implementation of the Bunga system in their area.<sup>237</sup>

Jabavu remarked that the Land Bill conferred no benefits for Africans in the Cape, but he endorsed the principle of 'trying to develop the native on the land and finding more land for them'. As all the released areas were already occupied and congested, there was 'no scope whatsoever for the development of the natives in the Ciskei'. The only

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<sup>235</sup> *Ibid.*, p. 277.

<sup>236</sup> *Ibid.*, p. 274.

<sup>237</sup> *Ibid.*, p. 273.

salvation for Africans in the Cape (only the Ciskei?) was free purchase of land in other provinces.<sup>238</sup>

In-depth investigation might reveal the presence of regional consideration<sup>5</sup> in the reaction of Africans in the North-Western Cape and Griqualand West to the Hertzog programme. Also, there was, for instance, more contact with Africans in the north. Perhaps this fact was among the considerations which prompted Z.R. Mahabane to criticise the view of the CNVC (Jabavu) that the 'natives of the north are prepared to remain without representatives if the Cape franchise is left untouched'.<sup>239</sup>

Although Africans in the Cape Peninsula<sup>240</sup> seemed attracted to Garveyist rhetoric, this was not translated into coherent opposition to the Bills.<sup>241</sup> Nor did African voters appear particularly perturbed at the impending legislation:

At Cape Town last month /wrote Plaatje/ I reminded a number of them that under the new delimitation they will have a fresh constituency in the Cape Flats, with 400 to 500 Native voters and many more Coloured and Indian. They could squash the attitude of the most overbearing Europeans by working up the constituency and putting up a strong man who would stand between the Natives and repressive legislation ... But a score of leaders might just as well say that to the moon for all the Native voter cares.<sup>242</sup>

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<sup>239</sup> *Ibid.*, p. 252, 303.

<sup>240</sup> According to the 1921 census there were 8,893 Africans in Cape Town and suburbs.

<sup>241</sup> The impression one gains of African protest in the Cape is of a stratification of protest along class lines, with an urban African working class, receptive to 'radical' rhetoric providing a power base for the flamboyant 'Professor' Thaele, leader of the Cape Western Congress, and with middle class Africans showing greater fragmentation in their protest: they could work through the local CNVC and oppose or support Thaele. For a rather scathing account of African political activity in Cape Town, see Sol Plaatje, 'Under the Colour Bar', *Umteteli wa Bantu*, 19 June 1926.

<sup>242</sup> *Umteteli wa Bantu*, 18 February 1928.

To view opposition, or lack of it, to the Segregation Bills, solely in terms of regional factors, is of course one-dimensional. This is illustrated by the case of Meshack Pelem, President of the Bantu Union in the Cape. Throughout 1926-28 Pelem's standpoint was one of qualified acceptance of the Hertzog legislation.<sup>243</sup> A special committee of the Bantu Union (including Pelem) appointed to examine the Bills, presented its report, and apparently gained majority approval<sup>244</sup> at a meeting of Africans at Middledrift in December 1926. The Committee prefaced its report with the recommendation that the Bills should not be interdependent. Regarding the Representation Bill, the abolition of the individual suffrage was uncompromisingly opposed, although the principle of separate representation in Parliament was accepted, provided there was no distinction between the powers of the African representatives and the other MPs. It advised that the franchise experience and preponderance of numbers of the Cape Province Africans be taken into consideration, and that the African representatives be elected by adult male tax payers. The Committee felt that the Union Council should be elected on a similar basis, and that the powers of the Council be increased. The Land Bill was approved, but it was requested that the proposed released areas be for African occupation only and that the policy of confining land purchases in certain areas to certain tribes be rescinded.<sup>245</sup>

In his evidence to the 1927 Select Committee Pelem stated that:

If the native cannot get direct representation, which is most unlikely, then I think that the Europeans who represent him ought to be elected by the native vote solely, so

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<sup>243</sup> Cf. *Umteteli wa Bantu*, 26 June 1926 and *South African Outlook*, November 1928.

<sup>244</sup> Pelem was accused of manipulating the meeting.

<sup>245</sup> SC 10/27, pp. 256-257.

that the Europeans will have no claim on that man at all ... A member not elected solely by the native vote cannot serve the native as well as he can his own people ... If the native has no direct representation he must have separate representation, as he is at present he is really unrepresented in the Union Parliament.<sup>246</sup>

It is not quite clear which cause was chiefly instrumental in Pelem's acceptance of separate representation - (a) a realisation that whites were determined to abolish the Cape African vote and substitute a 'tribal or group vote' or (b) a feeling that the existing Cape African franchise was of little practical value. However, he did urge the Government to take a 'comprehensive, generous and liberal view of the whole situation and withdraw its proposal to abolish the Native franchise in the Cape.'<sup>247</sup>

It is evident that the Bantu Union was split on the issue of separate representation.<sup>248</sup> Although Pelem claimed that his views were supported by a fair number of Africans he acknowledged on one occasion that these views 'were not the views of the great bulk of the natives'.<sup>249</sup> The Jabavu brothers and other African leaders asserted that his support was illusory.<sup>250</sup>

Nevertheless, Pelem was articulating the aspirations of an African middle class, albeit in a more oblique manner than leaders like Jabavu. He was *not* advocating a return to tribalism. He espoused the idea of a franchise (though in a modified form) and thought in terms of participation within the white parliamentary system. Moreover, his views on

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<sup>246</sup> *Ibid.*, p. 263.

<sup>247</sup> *Ibid.*, pp. 254-255.

<sup>248</sup> See e.g. Rubusana's objections to Pelem's claim that the Bantu Union stood for separate representation. *Ibid.*, p. 263.

<sup>249</sup> *Ibid.*, p. 283.

<sup>250</sup> See e.g. D.D.T. Jabavu's comments in *South African Outlook*, December 1928.

the Land Bill were similar to those expressed by white liberal and African members of the Joint Council movement.

Opposition to the Hertzog Bills does not appear to have been an overriding concern of Africans in the Queenstown district, where Pelem's power base<sup>251</sup> was located.

I am distressed to find /wrote Rheinallt Jones to the Secretary of the Queenstown Joint Council/ that the Native members of your Joint Council are devoting their attention to the Kaffir Beer question rather than to the much more urgent questions of the Native Bills.<sup>252</sup>

There is a strong possibility that Pelem stage-managed or regulated the protest of Queenstown Africans, but the acute land congestion<sup>253</sup> in the area should not be overlooked.

Bearing in mind the limitations of analysing protest on a regional basis and hamstrung by a paucity of relevant evidence, the existence of certain patterns in African opposition to the Bills in the other three provinces is a matter for speculation rather than assertion. The remarks of Senator A.W. Roberts of the Native Affairs Commission provide a useful starting point for a tentative categorisation:

In our meetings with natives in the Transvaal, Natal and the Orange Free State we hear a good deal about the land question. They asked for more land, not political rights. In Natal I do not think they understand the meaning of the vote. They concentrated on the land question and they impressed me with

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<sup>251</sup> 'I live at Queenstown, and I think I represent the opinions of the Queenstown natives ... I do not say that all the natives there would support me, but I think a good number would.' Pelem before 1927 Select Committee, SF 10/27, p. 287.

<sup>252</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Rheinallt Jones to J.W. Pollard, 15 October 1926.

<sup>253</sup> UG 17/27, p. 47.



this view that if we can get this matter settled other things will fall into place.<sup>254</sup>

Roberts, however, seems to have arrived at this conclusion without adequate reference to African opinion in and around major urban centres.<sup>255</sup> An urban-rural dichotomy was more noticeable in the northern provinces than in the Cape, particularly the eastern sector.<sup>256</sup> Yet again, political awareness in the rural areas varied from district to district.<sup>257</sup> The respective standpoints of the Johannesburg, Pretoria and Durban Joint Councils<sup>258</sup> might represent a rough index of African opposition to the Hertzog legislation in these centres. (We do not know whether the Bloemfontein Joint Council passed any resolutions on the Bills or not.) Outside the Cape, one gains the impression that Africans on the Rand were the most articulate in their opposition to the Bills. It is no coincidence that the Rand, as the industrial heart of the Union, had a not inconsiderable number of middle class or progressive Africans. Rheinallt Jones thought very highly of the 'educated natives' of Johannesburg:

I know many /educated Africans/ ... who are making desperate efforts to live up to a 'civilised standard'. How they manage it on their incomes puzzles me. I do know that they eat less than they ought in order to live decently, and to buy papers and books for self-improvement. I go into their homes and find them just like those of good class European artisans in, say, an English town.

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<sup>254</sup> SC 10/27, p. 253.

<sup>255</sup> See list of places at which Native Affairs Commission held meetings in UG 17/27, p. 49.

<sup>256</sup> D.D.T. Jabavu told the 1927 Select Committee that he had a vague notion that most Africans in the 'backveld' of the northern provinces did not know very much about the vote. SC 10/27, p. 266.

<sup>257</sup> Cf. e.g. the testimonies of Chiefs Walter Kumalo and Swayimana before the 1927 Select Committee. *Ibid.*, pp. 289-292, 382.

<sup>258</sup> See above pp. 50-55.

So far from being a menace to civilisation  
they are one of its bulwarks.<sup>259</sup>

There appears to have been less political activity in the African townships of Pretoria than those of the Rand.<sup>260</sup> It is interesting that the two of the chief exponents of a right-wing approach - Africans writing under the *nom de plumes* of 'Resurgam' and 'Enquirer' - lived in Pretoria townships.

The response of Free State Africans to the Bills presents special difficulties. For example, there was no African newspaper located in that province reflecting regional interests and opinion. Protest was handicapped by a small African population, two tiny African reserves (Thaba Nchu and Witzieshoek) and little urban development. The stronghold of African political activity was Bloemfontein and Kroonstad was also active.<sup>261</sup> The fact that Bloemfontein was the host centre for the annual National Congress and the occasional ICU meeting in the 1920's, probably heightened the political consciousness of Africans in Bloemfontein and thus reinforced criticism of the Hertzog Bills.

The overall reaction of Natal Africans to the Bills left something to be desired. This can be ascribed to a number of factors, including the geographical isolation of Natal from the other provinces; the parochialism of Dube's Natal Native Congress and the distracting effect of the Dube-Champion rivalry.<sup>262</sup>

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<sup>259</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Note on 'Colour Bar' Bill by Rheinallt Jones, undated.

<sup>260</sup> See Walshe, *op. cit.*, p. 227.

<sup>261</sup> *Ibid.*, p. 282.

<sup>262</sup> For an analysis of the many-faceted nature of African protest, see R. J. Haines, 'Reflections on African Protest in Natal, 1925-36', paper presented at the history workshop, 'Natal in the Union 1901-1939', held at University of Natal, 5-6 July 1978. Analysis of the opposition of Natal Africans to the Bills is handicapped by a continuity gap (which unfortunately coincides with our period) in the back issues of the *Ilanga lase Natal*.

However, individuals like J.T. Gumede (before he moved to Johannesburg to take over the reins of the ANC) and A.W.G. Champion, were, on occasions, fairly outspoken on the Bills.<sup>263</sup>

Although the centre of African political activity tended to remain within their own organisations, the promulgation of the Hertzog legislation reinforced attempts to explore new avenues of protest. A common call during the late twenties was for a round table conference on the lines of the 1909 National Convention - but involving leaders from all the country's racial groups.<sup>264</sup>

In June 1927, the first of a series of non-European Conferences, convened by Dr. Abdurahman and chaired by D.D.T. Jabavu, was held in Kimberly. There were over a hundred delegates present, about twenty Indians, forty Coloureds and fifty Africans

... comprising every one of the substantial recognised associations known to exist. The most influential were the A.P.O. ... the I.C.U. ... the African National Congress, the Bantu Union, several Indian Associations, and several bodies of Bantu Chiefs, Farmers and Teachers.<sup>265</sup>

The Conference represented the culmination of a move conceived in the early twenties and reinforced by the advent of the Pact Government, to establish some sort of non-European front.<sup>266</sup>

The Conference was in reality a Coloured-African venture.

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<sup>263</sup> For an example of these leaders' comments on the Bills see Karis and Carter (eds.), *From Protest to Challenge*, Vol. I, pp. 260-261.

<sup>264</sup> Mahabane was the main exponent of such an idea. See Walshe, *op. cit.*, p. 251.

<sup>265</sup> D.D.T. Jabavu 'The Non-European Conference', *South African Outlook*, September 1927.

<sup>266</sup> *Ibid.*

The Indians requested and obtained conference agreement that they remain aloof from any political issues.

The Hertzog Bills featured prominently in the proceedings. The Conference supported the condemnation of the Representation Bill as had been expressed in resolutions passed at the Government's and other African conferences, and declared that the only effective means of ensuring the harmonious cooperation of white and black was by direct representation in the Union Parliament. The distribution of land envisaged in the Land Bill was found to be 'hopelessly unfair' to Africans especially in the Cape and the OFS.<sup>267</sup>

The Non-European Conference was more a gesture than a disciplined response to the Hertzog Bills. It was not placed on a sound organisational footing; nor did it become an annual event, as originally intended.

A Coloured-African alliance was by no means an inevitable development of Coloured political activity. Indeed, shortly after the Smithfield address, Rheinallt Jones observed that 'the promise to make a white man of the Coloured in all provinces has ranged the Coloured behind General Hertzog'.<sup>268</sup>

Although by the mid-1920's young, politically orientated Coloureds tended to seek an outlet for their energies in organisations such as the ICU, ANC or CPSA, rather than in the APO, this is not to say that 'moderate' Coloured protest and political activity was a spent force. While there may be some truth in Mary Benson's statement that

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<sup>267</sup> Proceedings and Resolutions of the Non-European Conference, June 1927 (extracts), Karis and Carter (eds.), *From Protest to Challenge*, Vol. I, pp. 257-266.

<sup>268</sup> SAIRR Archives, Box B72(a), Undated and untitled note by Rheinallt Jones on the Smithfield address and the 1925 Government Native Conference.

It was ... exceptional for Coloured people to be involved in politics: the majority were concerned to maintain their meagre privileges - better wages and opportunities than Africans, as well as freedom of movement. The great social ambition was to belong to white society rather than black.<sup>269</sup>

the introduction of the Hertzog Bills undoubtedly enlivened Coloured political thought and action.

The response of Coloureds in the Cape to the Hertzog proposals was ambivalent. There were various factors which should have engendered a healthy suspicion of the Government's segregation policy. Despite assurances to the contrary, Coloureds were adversely affected by the civilised labour policy. Also, when registration of voters was taking place in 1925, a concerted attempt had been made to reduce the number of Coloured voters on the roll in the Cape.<sup>270</sup> Moreover, as Davenport maintains, even if pleased at being distinguished from Africans in the Coloured Persons' Rights Bill, Coloureds 'tended to resent being equally distinguished from Europeans'.<sup>271</sup> Finally, Coloureds in the Cape already had the vote. Yet there were conflicting interpretations of Hertzog's policy.

The African People's Organisation denounced all four Bills and Abdurahman slated the Coloured Persons' Rights Bill as 'one of the biggest political frauds that any political party has ever attempted'.

It was particularly so in the light of the things the Prime Minister and other Ministers had said about giving the coloured people equal rights with the whites. Natives and coloured people had stood shoulder to shoulder in the past to maintain their political rights in the Cape Province and

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<sup>269</sup> Benson, *op. cit.*, p. 56.

<sup>270</sup> *Cape Times*, 12 April 1926.

<sup>271</sup> T.R.H. Davenport, *South Africa*, p. 209.

to fight for the extension of these rights in the Transvaal and Free State; and they were not going to be bribed now to leave the Natives in the Cape in the lurch.<sup>272</sup>

The Bill, moreover, raised the franchise qualification for Coloureds in the Cape.<sup>273</sup>

In giving evidence to the 1927 Select Committee on the Hertzog Bills, the Afrikaner National Bond declared itself against association, either political or social, with Africans, and endorsed Hertzog's Coloured policy. The Bond did not consider it adequate, however, that the Coloureds in other provinces should be represented in Parliament by only one member. The ANB declared that it represented the views of the majority of Coloureds, not only in the Cape, but throughout the Union, and claimed that it had drained away virtually all APO supporters.<sup>274</sup> However, the APO does appear to have drawn sizeable crowds to meetings in major centres like Johannesburg and Cape Town in order to protest against the Hertzog legislation, especially the Coloured Persons' Rights Bill.<sup>275</sup> ANB support in Natal seems to have been minimal; the most prominent Coloured political body there was the Natal Coloured Welfare Association which strongly opposed the Coloured Bill.<sup>276</sup>

The ANB Executive Committee issued a manifesto on the eve of the 1927 Non-European Conference, appealing to all Coloured organisations and individuals not to participate in the

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<sup>272</sup> *Umteteli wa Bantu*, 26 June 1926.

<sup>273</sup> *Cape Argus*, 17 June 1926. At the time all the prospective voter had to do (with respect to educational qualifications) was to state in his own handwriting where he lived and what his occupation was. The Bill required *inter alia* that the form be read without assistance.

<sup>274</sup> SC 10/27, pp. 364-370.

<sup>275</sup> See e.g. reports in the *Cape Argus*, 17 June 1926 and *South African Worker*, 2 July 1926.

<sup>276</sup> See report of mass meeting of Coloureds held under the auspices of the Association in e.g. *The Star*, 27 October 1926.



Conference. And it could be argued that Dr. Abdurahman's sponsorship of Non-European cooperation was a move to revitalise the APO's image. However, one feels that Abdurahman was perceptive in his analysis of white party politics and realised that the abolition of the Cape African vote would be the thin edge of the wedge: next would be the removal of the Coloureds from the Cape common roll.

The ANB-APO rivalry perhaps reflected class divisions within the Coloured community, with the APO appealing more to the professional classes and the ANB reflecting the aspirations of the lower strata who had more to fear from the possibility of African competition.<sup>277</sup>

Attitudes of politically conscious Coloureds opposed to Hertzog's segregation policy, if anything, hardened after the Smithfield address. For example, at a mass meeting in Johannesburg, late in June, prominent leaders of the APO pledged united action with the ICU against the Hertzog legislation. 'Coloured people in this country', explained M.J. Fredericks, organising secretary of the APO, 'who think they will be put on the same level as the white will be disappointed. No government has tried more to divide us than the present one.'<sup>278</sup>

The evidence given to the 1927 Select Committee on the Bills by the two Natal-based Coloured political organisations, the Natal Coloured Peoples' Welfare Association, and the Natal Amalgamated Political Association of Coloured People (mainly comprised of Mauritians and St. Helenas) represented by

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<sup>277</sup> Hertzog Papers, Vol. 28, Rev. A.A. Peterson to Hertzog, 9 November 1928. Peterson, leader of a group of Coloured voters in Salt River which supported Hertzog, was articulating the grievances of 2nd and 3rd grade Coloured tradesmen. This evidence, however, is thin.

<sup>278</sup> *South African Worker*, 2 July 1926.

O. Ogle and F. Swanby<sup>279</sup> respectively, suggests that regional concerns were operative in the opposition to Hertzog's segregation scheme.<sup>280</sup> Coloureds in Natal, subject to the same qualifications as whites, had the right to be registered on the common roll<sup>281</sup> and this right was viewed as a symbol of European Status.<sup>282</sup> This would fall away if the Coloured Persons' Rights Bill was implemented. Although only a few Coloureds had the vote (under 400), this was thought to be due largely to carelessness. Swanby felt that

... the Transvaal and the Free State do appreciate the Bill but we do not because we have all to lose and nothing to gain ...<sup>283</sup>

Ogle was of the same opinion.<sup>284</sup>

Other features of the Bill were criticised by the NCPWA. It was considered a great injustice, for instance, that a person born of European and African or Coloured and African parents after the commencement of the act would be classified as African.<sup>285</sup> Ogle did not wish to answer any questions as to differentiation between Coloured people and Africans.

... I am solely here to protest against this Bill as far as the coloured people are concerned. I do not want to get anything at

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<sup>279</sup> O. Ogle came from one of the leading families in the Natal Coloured community. No information relating to F. Swanby's background has been located.

<sup>280</sup> According to the 1921 census there were 11,007 Coloureds in Natal.

<sup>281</sup> In Natal there was no constitutional discrimination between Coloureds and whites. St. Helenas and Mauritians were registered as Europeans. Africans had been excluded by Law No. 11 of 1865 and Indians by Act No. 8 of 1896, from the enjoyment of political rights and privileges. UG 54/1937, p. 223.

<sup>282</sup> SC 10/27, p. 379.

<sup>283</sup> *Ibid.*

<sup>284</sup> *Ibid.*, pp. 373-374.

<sup>285</sup> *Ibid.*, p. 373.

the expense of the native. If the native has to lose anything at my expense I would rather have nothing at all.<sup>286</sup>

Swanby stressed that his organisation was

... not at all associated with the Indians in Natal or the natives. If there is a movement ... amongst the native and coloured people to amalgamate in order to create trouble in this country, we wish to say that we entirely dissociate ourselves from that.<sup>287</sup>

A further dimension in Coloured protest possibly lies in the support of the South African Malay Association for Hertzog's Coloured policy.<sup>288</sup> It could be argued that the ethnic consciousness of the Cape Malay community mitigated against political cooperation with Africans.

Finally, the Griquas appear to have had their own distinctive response to the Hertzog legislation. For instance, their paramount chief was of the opinion that both APO and ANB leaders were aspiring to European status - an outlook he considered myopic.<sup>289</sup>

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<sup>286</sup> *Ibid.*, pp. 376-377.

<sup>287</sup> *Ibid.*, p. 378.

<sup>288</sup> See e.g. Hertzog Papers, Vol. 28, Ely Byer, Senior President of South African Malay Association, to Hertzog, 24 March 1927.

<sup>289</sup> *Imvo Zabantsundu*, 13 December 1925.

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The opposition to the Hertzog Bills during the years 1925-28, was not a particularly coherent movement. While on the whole, attitudes toward the legislation seem to have clarified and hardened, this was not accompanied by a disciplined organisational response. Although the 1927 Non-European Conference represented a move for closer black cooperation, it was not overly successful. Moreover, the joint venture against the Hertzog proposals, planned by the ICU and the ANC, never materialised. And, by 1928, the ICU was beginning to disintegrate.

The fact that the opposition to the Hertzog legislation was to a large extent reactive and *ad hoc*, rather than the implementation of a well thought-out strategy, is underlined by the liberal experience during this period. While certain liberals like Pim and Roseveare initially found some merit in Hertzog's schemes, a growing disillusionment with the Pact Government, contributed to a tarnishing of theories of separate development. Although the *Outlook* 'defection' was viewed by Pim and others as a serious blow to the offensive against the Bills, the generally unfavourable reaction to Henderson's views (Brookes was the only liberal who wrote in support of the proposals) suggests that by 1928, most white liberals had either become convinced (if they were not so already) of the superiority of the principle of 'progressive' Africans voting on a common roll with whites, or were having second thoughts regarding the concept of a separate register.

In this chapter we have tried to give some idea of the tensions and nuances in the opposition to the Segregation

Bills. It has been argued, for instance, that the reaction of white liberals, Coloureds and Africans to the legislation, was not unaffected by regional considerations. Coloured protest also seems to have been influenced by ethnic and class interests. A strong élitist strain can be discerned in African protest. For example, though the ICU enjoyed the greatest mass support of all African organisations, its leaders for the most part, saw themselves as belonging to an African middle class.

## CHAPTER II

### 1929-1934: POSSIBILITY AND PASSIVITY

In February 1929 Hertzog submitted the Natives' Representation and Coloured Persons' Rights Bills, in an amended form, to a joint sitting of the two Houses.<sup>1</sup> Both Bills were again to be interdependent. The Native Council Bill was to be deferred until such a time as the African, especially in the north, had become accustomed to the working of the council system already provided by Smuts's Native Affairs Act of 1920.<sup>2</sup> The Land Bill was also dropped for the time being.

The revised Coloured Persons' Rights Bill was more restrictive than its predecessor in that ten years later (not seven as in the original Bill.) Coloureds outside the Cape were to vote with Europeans if Parliament so decided.<sup>3</sup> In addition, the Bill represented a possible threat to the security of Cape voters by placing their registration under the scrutiny of Coloured voters' registration boards. These boards, to be set up in each district, consisted of the magistrate and two appointed residents of the district.<sup>4</sup>

The new Natives' Parliamentary Representation Bill was more complicated than that of 1926. No longer were there seven MPs with limited powers. Instead, the Africans of Natal and of the Free State and Transvaal combined, voting in communities, were to elect two Senators to the Upper House. Ten years later, provided all went well, they were to elect

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<sup>1</sup> *Union of South Africa: Joint Sitting of Both Houses of Parliament: Natives' Parliamentary Representation Bill, Coloured Persons' Rights Bill*, 12 to 25 February 1929.

<sup>2</sup> *Ibid.*, cols. 54-55.

<sup>3</sup> *Union Government Gazette Extraordinary*, No. 1761, 19 February 1929, Section 9.

<sup>4</sup> Section 2.



two more.<sup>5</sup> Unlike the 1926 Bill, those Africans already on the voters roll could remain there.<sup>6</sup> A separate register was provided under which Cape Africans who satisfied a civilisation test would eventually elect two Senators<sup>7</sup> and three members of the Assembly with full Parliamentary rights.<sup>8</sup> In Hertzog's opinion the Bill was an improvement on the old one,<sup>9</sup> but African leaders and white liberals thought otherwise.<sup>10</sup>

The white opposition Press, on the whole, was critical of the 1920 instalment of Hertzog's segregation programme. Editorial comment concentrated on the Native Representation Bill, pointing out the illiberality of the new proposals as compared with those of 1926, accusing Hertzog of exploiting the 'Native question' for party political reasons and advocating the establishment of a national convention to consider the question of political representation for Africans.<sup>11</sup> However, there was little or no probing of the morality of denying Africans common citizenship. The *Cape Times* declared that

There is unquestionably a case for the revision of the Cape system. That has been common cause for years among patriotic South Africans, whatever their political views.<sup>12</sup>

The opposition of the South African Party to the Bills was partly conditioned by a realisation that Hertzog had timed the sitting with an eye on the coming election, and the

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<sup>5</sup> Section 1.

<sup>6</sup> Section 3.

<sup>7</sup> Section 4.

<sup>8</sup> Section 5.

<sup>9</sup> Tatz, *op. cit.*, p. 60.

<sup>10</sup> See e.g. the views of Plaatje in *Umteteli wa Bantu*, 2 March 1929; and Pim in *The Star*, 11 February 1929. Although communists probably found the 1929 Bill more illiberal than the 1926 version there is no critique *per se* of the Bill in the columns of *Umsebenzi*.

<sup>11</sup> See e.g. *The Star*, 7 January 1929.

<sup>12</sup> *Cape Times*, 12 February 1929.

debate on the Bills was marked by an intense party-political struggle.<sup>13</sup> Smuts found the Coloured Persons' Rights Bill 'a raw uncouth immature scheme'<sup>14</sup> and pressed for the establishment of 'a rational convention or commission' to explore the question of African political representation as 'part of a general enquiry into the economic and other relations of the European, Coloured and Native populations'.<sup>15</sup> Yet while Smuts declared his respect for existing African political rights, he stressed that this did not mean that they should be preserved forever:

We are prepared to negotiate ... We are not wedded to every detail of the Cape system.<sup>16</sup>

This debate apparently affected the ultimate outcome of the franchise issue, because the SAP leaders were persuaded that respect for existing rights did not entail Africans continuing to vote on the common roll.<sup>17</sup>

Hertzog congratulated Smuts and his supporters on the skilful way they had carried on the debate without saying anything at all.<sup>18</sup> Hertzog felt no need to temporise:

I shall not retreat in so far as the alteration of the Cape franchise is concerned. It is a fundamental requirement that it should be altered.<sup>19</sup>

The Representation Bill failed to secure the necessary two-thirds majority and both Bills were therefore withdrawn.

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<sup>13</sup> Tatz, *op. cit.*, p. 60.

<sup>14</sup> *Joint Sitting of Both Houses of Parliament*, 12 to 25 February 1929, col. 174.

<sup>15</sup> *Ibid.*, col. 70.

<sup>16</sup> *Ibid.*, cols. 68-70.

<sup>17</sup> G.H. Nicholls, *South Africa in My Time* (1961) pp. 281-282.

<sup>18</sup> *Joint Sitting of Both Houses of Parliament*, 12 to 25 February 1929, col. 126.

<sup>19</sup> *Ibid.*, col. 44.

'The Native Bills are dead even if General Hertzog recovers his Premiership', the *Umteteli* assured its readers.<sup>20</sup>

The general election of June 1929 saw the first systematic exploitation of the colour issue. The tenor had been set in January 1929 with the publication of a manifesto under the signatures of Hertzog, Tielman Roos and D.F. Malan<sup>21</sup> in which Smuts was branded as an 'apostle of a black Kaffir state'.<sup>22</sup> The Nationalists were returned with a majority of eight over all other parties. The efficacy of his Party's propaganda was not lost on Hertzog; he was after all a politician.

Between 1930 and 1935 the Native Bills were discussed and reformulated by Joint Select Committees.<sup>23</sup> It was agreed by Hertzog and Smuts that in Committee there was to be no party line - each member was free to propose anything he liked. It was also agreed that the 'Native question' should disappear from the parliamentary arena until the Committee reported back to the House.<sup>24</sup>

The Coloured Persons' Rights Bill was never discussed. And in its final report the 1935 Select Committee stated that the Government had informed the Committee 'that they do not intend to proceed with the Coloured Persons' Rights Bill'.<sup>25</sup>

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<sup>20</sup> *Umteteli wa Bantu*, 16 March 1929.

<sup>21</sup> Roos and Malan were the leaders of the National Party in the Transvaal and Cape respectively.

<sup>22</sup> See e.g. *The Star*, 29 January 1929, for the text of the manifesto.

<sup>23</sup> For a discussion of the proceedings of these Select Committees see Tatz, *op. cit.*, pp. 65-71; Davenport, *South Africa*, pp. 218-220; and Hancock, *Smuts*, Vol. II, pp. 262-265.

<sup>24</sup> Nicholls, *op. cit.*, pp. 284-285.

<sup>25</sup> Parliament of the Union of South Africa, Third Session Seventh Parliament: *Report and Proceedings of the Joint Committee on the Representation of Natives and Coloured Persons in Parliament and Provincial Councils and the acquisition of Land by Natives*, April 1935, Joint Committee No. 1 - 1935, p. 3.

In Committee, G. Heaton Nicholls, SAP member for Zululand and Colonel Stallard, SAP member for Rhoodepoort, did much of Hertzog's work for him. The crucial day in the history of the 1930-35 Joint Select Committees was probably 9th May 1930 when Hertzog moved 'that the Committee disapproves of common representation in Parliament for Europeans and Natives'.<sup>26</sup> The voting was 18 in favour, 8 against.<sup>27</sup> According to Nicholls, 'Never again was there any question raised of retaining the Cape native franchise'.<sup>28</sup>

By early 1930 Smuts was privately conceding that the African franchise was lost. A reactionary spirit was in the air, he said, and was even undermining his personal authority.<sup>29</sup> 'In fact', he observed, 'we are pretty well split ... Natal going even further than Hertzog'.<sup>30</sup>

While Sir Charles Crewe, part-owner of the *East London Daily Dispatch*, had argued in June 1926, that the African vote was decisive in 13 Cape Seats,<sup>31</sup> the outcome of the 1929 election had surely prompted SAP members to question whether the African vote did in fact give the Party an electoral advantage.

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<sup>26</sup> Parliament of the Union of South Africa : *Reports and Proceedings of the Joint Committees on Natives and Coloured Persons During the Period 1930-'34*. (Supplement to Joint Committee No. 1 - 1935) p. 19.

<sup>27</sup> Those in favour were E.G. Jansen (Chairman), Hertzog, N.C. Havenga, H.W. Sampson, Senators C.J. Langenhoven, C.J. Smit, A.T. Spies, F.C. Thompson, P.W. le R. van Niekerk, J.B. Wessels, Dr. A.J. Stals, J.G. Strydom, J.S. Marwick, Heaton Nicholls, T. Naude, Col. C.F. Stallard, P.C. de Villiers and S.P. le Roux. Those against were F.S. Malan, Col. W.R. Collins, P. Duncan, J.H. Hofmeyr, C.J. Krige, A.O.B. Payn, Smuts and Maj. G.B. van Zyl.

<sup>28</sup> Nicholls, *op cit.*, p. 288.

<sup>29</sup> Smuts to M.C. Gillett, 28 February 1930, Van der Poel (ed.), *Smuts Papers*, Vol. V, pp. 452-453.

<sup>30</sup> Smuts to Gillett, 30 April 1930, *Ibid.*, p. 459.

<sup>31</sup> Crewe writing in the *Daily Dispatch*, 19 June 1926. During the late 1920's it was argued by Nationalists as well as African leaders that the African vote was worth 12-13 seats. Estimates of the value of the African vote vary. Cf. Garson, *op. cit.*; and D. Welsh, 'The Politics of White Supremacy', Thompson and Butler (eds.), *op. cit.*, p. 54.

In January 1930, H.F.S. Fremantle<sup>32</sup> declared that Africans for certain were the decisive factor in one constituency (Aliwal) and that the outside possible number of seats affected by the African vote was seven.<sup>33</sup> As a result of two measures, the Women's Enfranchisement Act (1930)<sup>34</sup> and the Franchise Laws Amendment Act (1931)<sup>35</sup> which, collectively, had the effect of establishing universal suffrage for white of both sexes, the electoral power of Africans and Coloureds in the Cape was further diminished. Moreover, administrative and *ad hoc* measures were initiated to reduce the number of black, particularly African, voters on the Cape's registers.<sup>36</sup>

<sup>32</sup> Fremantle was a former Professor of Philosophy at the University of Cape Town. Until 1920 he was a supporter of the National Party. He was one of the founders and chairman of the Economic Society of South Africa.

<sup>33</sup> The other 6 seats were Tembuland, Kingwilliamstown, Port Elizabeth North, East London North, Cape Flats, and Fort Beaufort. Fremantle found the first 3 seats 'very doubtful' and the last 3 'improbable'. J.11. Hofmeyr Papers, Db, File 1, Memorandum by H.E.S. Fremantle on Natives and Parliament, 11 January 1930.

<sup>34</sup> The diminution of the African vote caused by the Women's Enfranchisement Act was as follows:

African voters on the Cape's common roll as a percentage of all registered voters in the Cape Province.

1929	1931
7.5	3.1

African voters on the Cape's common roll as a percentage of all registered voters in the Union.

1929	1931
3.5	3.1

(Figures cited Tatz, *op. cit.*, p. 64.)

<sup>35</sup> The Franchise Laws Amendment Act put approximately 10,000 new white votes on the Cape's common roll. By 1935, African voters in the Cape constituted 2.5% of the Provincial electorate and only 1.1% of the Union electorate. (Figures cited by Hancock, *Smuts*, Vol. II, p. 26.)

<sup>36</sup> For instance, the CNVC meeting in December 1933 passed this resolution: 'That owing to serious discrepancies that have occurred in compiling voters' rolls in the biennial registrations, which resulted in large numbers of non-European voters being deleted from the lists, the Government be asked to appoint non-European canvassers to do work amongst Natives.' *Imvo Zabantsundu*, 2 January 1934. See also the views of Archibald Linton MPC in *The Presbyterian Churchman*, November 1933.

It was no secret that the South African Party was divided on Native policy - a division which was accentuated after 1929. Most members from Natal and the Transvaal favoured abolishing the African franchise.<sup>37</sup> The remainder displayed various degrees of enthusiasm for the Cape system. Only a tiny group of Cape members were solidly committed to its defence.<sup>38</sup>

The SAP minority in the Select Committee were given something of a breathing space after mid-1931, when economic troubles began to crack the composure of the Government. Coalition was to follow in February 1933 and fusion in December 1934.

As Smuts saw the situation /Hancock writes/ fusion could produce nothing worse than the Joint Select Committee decisions of 1930. It might conceivably produce something better.<sup>39</sup>

Coalition and fusion, which made the required two-thirds majority for the removal of the Cape franchise more attainable, drew little criticism at the time from blacks<sup>40</sup> and even less from white liberals,<sup>41</sup> though communists

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<sup>37</sup> Welsh, 'The Politics of White Supremacy', p. 55.

<sup>38</sup> See Hancock, *Smuts*, Vol. II, pp. 214-215. Cf. also the counter-proposals of F.S. Malan, J.H. Hofmeyr and Maj. G.B. van Zyl in *Reports and Proceedings of the Joint Committees on Natives and Coloured Persons During the Period 1930-34*, pp. 15-17.

<sup>39</sup> Hancock, *Smuts*, Vol. II, p. 264.

<sup>40</sup> For example, the agenda for the annual general conference of the ANC in December 1934 contained no explicit reference to fusion. See also the editorial comment on coalition and fusion in *Umteteli wa Bantu*, 9 June 1934. Cape Africans, however, were fairly alarmed at the merger of the NP and SAP. See e.g. *Imvo Zabantsundu*, 3 July 1934.

<sup>41</sup> Many white liberals appear to have shared the belief of R.F. Currey and T.J. Haarhoff: 'Their most ardent champion would admit that until real national unity has been achieved between the two European races the question of the extent to which the Native and Coloured peoples are members of the nation must be held over.' Currey and Haarhoff, 'South African Nationality: Its Meaning Possibilities and Limitations', J.11. Hofmeyr *et. al.*, *Coming of Age: Studies in South African Citizenship and Politics* (1930), p. 19. (*Coming of Age* was a collection of essays by white liberals.)



condemned the move<sup>42</sup> there was certainly then move to form a united front against Hertzog's segregation legislation. It was only with the emergence of the Native Trust and Land Bill and the Representation of Natives Bill from the Select Committee in April 1935, that such a front was seriously considered.

A world-wide economic depression and the Government's reluctance to jettison the gold-standard, affected not only white party politics, parliamentary protest, but also extra-parliamentary protest. Protest activity in the early Thirties was further undermined by the refinement of state coercion spearheaded by the new Minister of Justice, Oswald Pirow. In 1930 Pirow piloted the Riotous Assemblies (Amendment) Bill through Parliament. This empowered the Government to exile persons from specified areas and to prohibit meetings.

While bearing in mind history is a complex interplay of causes, an analysis of the various organisations opposed to the Hertzog Bills in the years 1929-34, indicates that a poor economic climate and an intensification of state repression were not the only significant reasons for an overall ebb in protest activity in the early 1930's.

W.G. Ballinger,<sup>43</sup> who arrived from Britain in mid-1928, to be the adviser of the Industrial and Commercial Workers' Union, tried to instil some order into the administration and finances of the organisation and to run it along European trade union lines. However, his conscientious, though at times tactless efforts, were not enough to revive the mass movement as a whole.

Although it had reached its peak in 1927, before its session from the parent body, the ICU *Yase Natal* in 1929

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<sup>42</sup> See e.g. *Umsebenzi*, 8 December 1934.

<sup>43</sup> Ballinger was a young member of the Independent Labour party from Motherwell, Scotland.

seemed able to generate mass support, but opposition to the Hertzog Bills does not appear to have been a primary concern. The 1929 Constitution, Rules and Bye-laws of the Union contained no explicit programme of action with respect to the Bills beyond the intention.

To strive constitutionally for Political emancipation and the full rights of citizenship, free primary and secondary education, and ultimately equality in the Church, State and social life.<sup>44</sup>

In 1930 the Government, by banishing Champion from Natal for three years, emasculated the ICU *Yase Natal*, though not the militancy of Africans in the Durban area.<sup>45</sup>

By the early 1930's there were no less than eight ICU organisations, with little or no common link. These bodies were in most cases politically impotent.<sup>46</sup> The demise of the ICU, which at the height of its power commanded support throughout most of South Africa, left a void with respect to political activity which no other protest movement in the period 1929-34 quite managed to fill.

Despite the millstone of its commitment to the Native republic, the Communist Party stood poised in 1929 to take advantage of the disintegration of the ICU. The Party by 1929 comprised many African members who had little or no idea of Marxist theory and Moscow suggested that the Party should remain a small cadre of trained revolutionaries operating through a larger mass body. 'In this way, the communists would be enabled to preserve the purity of their doctrine while at the same time, through the larger organisation, giving a clear lead to the masses on all questions.'<sup>47</sup> An organisation, the League of Native Rights, which Bunting

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<sup>44</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 332.

<sup>45</sup> Durban, for instance, was the only centre receptive to the CAPSA's pass burning campaign in December 1930.

<sup>46</sup> Johns, 'The ICU of Africa', pp. 745-749.

<sup>47</sup> Roux, *op. cit.*, p. 226.

had tentatively founded, while campaigning in Tembuland for the 1929 Parliamentary elections, appeared to fit the bill. He described it as a 'decidedly innocuous organisation, with the preservation of the Native franchise and universal free education as the prime objectives.'<sup>48</sup> Consequently in August 1929 the League of African Rights was inaugurated by a public meeting in Inchcape Hall, Johannesburg. Gumede became the president and Doyle Modiakgotla of the Ballinger ICU, the vice-president.<sup>49</sup> Bunting was chairman and the secretaryship was held by the communists Albert Nzula and E. Roux. Charles Baker, also of the CPSA, was the treasurer. The League planned to collect a million signatures to a 'petition of rights' on the lines of the Chartist movement in England and to organise anti-pass demonstrations on 'Dingaan's Day', 16th December.<sup>50</sup>

The LAR appeared at the right time. The Natal beer riots in June had inflamed African public opinion. Also, with the disintegration of the ICU many Africans were looking for an alternative populist movement. However, in October 1929 a telegram from Moscow ordered the immediate dissolution of the league. This was ill-advised:

As a broad popular organization, with a limited and militant programme the league of African Rights served a useful educational function, suited to the current level of political consciousness.<sup>51</sup>

In a letter dated 29th October 1929, Bunting pointed this out to the British Party's colonial committee. Drawing on his Transkei experience, he argued that the African peasantry, having been materially and psychologically demoralised by whites, could hardly be cast as the basic

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<sup>48</sup> *Ibid.*

<sup>49</sup> *South African Worker*, 31 August 1929.

<sup>50</sup> Roux, *op. cit.*, p. 226; Simons, *op. cit.*, p. 418.

<sup>51</sup> Simons, *op. cit.*, p. 421.

'moving' force of revolution. Africans had no bourgeois propertied class to lead them. There was at best only an intelligentsia which tended to take the line of least resistance, to embrace peaceful methods and a moderate policy, 'because in the attempt to realize an immoderate one it will be immediately suppressed by force'.<sup>52</sup>

Bunting's unsuccessful bid for the Tembuland seat in the 1929 election indicates his awareness of the potential value of the Cape African franchise if only for propaganda purposes. Bunting had a certain disdain for theory and an empathy with the untutored African masses, which might have made him a most effective opponent of the Bills; but the doctrinaire approach of Douglas and Molly Wolton and Lazar Bach, who controlled the political bureau of the local Party, predominated in the period 1929-33. Douglas Wolton appears to have been too uncritical of Comintern directives and failed to take local conditions sufficiently into account. 'He insisted that the party should "go it alone", without compromising entanglements or commitments to less radical organizations.'<sup>53</sup> In 1931 Bunting, who had been under a cloud since 1928, was expelled from the Party, along with a number of other leading White Communists.

The C.P. and its industrial offshoot, the S.A. Non-European Fed. of T.Us./W.G. Ballinger wrote in 1931/, is defunct. The death blow came through a third degree or alleged chauvinistic right-wing tendencies of certain leaders. W.H. Andrews, Bunting and several others were expelled.<sup>54</sup>

The fortunes of the CPSA were at a low ebb in the early Thirties - and matters were not improved by witch-hunting -

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<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*, p. 449.

<sup>54</sup> Industrial and Commercial Workers Union Records (Univ. of Witwatersrand), File 3, Ballinger to Rheinallt Jones, 30 December 1931.

inhibiting protest against the Hertzog legislation. What activity there was in the period 1930-34 does not seem to have been directed against the Segregation Bills. The Party was preoccupied with instigating civil disobedience campaigns (pass burning in particular) and with threats to its ability to function, in the form of harsh police methods and the enforcement of the Riotous Assemblies (Amendment) Act.<sup>55</sup>

The ANC, like the CPSA, failed to develop any coherent and efficacious strategy of opposition to the Bills.

The delay, while Hertzog's Segregation Bills were being discussed by Joint Select Committees, did not, Walshe contends, 'modify the ANC's initial reactions; there was, if anything, a tendency for opinion to harden as the years and select committees slipped by'.<sup>56</sup> Part of Walshe's argument is based on the fact that editorial comment in *Abantu Batho* was becoming more strident.<sup>57</sup> Apart from the fact that the paper closed down on 26th July 1931, it does not seem to have followed the ANC's move to the right in April 1930: it is not a reliable reflection of the official ANC line.<sup>58</sup> Furthermore, the fact that by 1934 the ANC was virtually moribund, surely prevented the organisation from contributing, in any serious way, to a hardening of opinion.

Only Thaele's Western Cape ANC during 1929-30 undertook anything like militant mass action. His two lieutenants, Brandsby Ndobe and Eliot Tonyeni, communist-backed activists, were prime movers in establishing ANC branches between Cape Town and Port Elizabeth, and did much to radicalise African and Coloured rural workers. The agitation, however, was largely economic in its demands, for wages were very low;

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<sup>55</sup> This argument is based upon an analysis of reports and editorial comments in *Umsebenzi* during 1930-34.

<sup>56</sup> Walshe, *op. cit.*, p. 196.

<sup>57</sup> *Ibid.*, p. 197.

<sup>58</sup> SAIRR Archives, Box B47(d), Memorandum entitled 'Amalgamation of the Bantu Press', n.d.

the Hertzog Bills were a secondary consideration.<sup>59</sup>

J.T. Gumede's flirtation with the communists heightened tensions within the ANC, particularly after the local Communist Party declared itself in favour of an 'independent South African Native republic'. Walshe finds that the CPSA attempt to align itself with an assertive African nationalism was counter to established trends in ANC ideology:

Freedom which meant equality of opportunity and not African domination, as the predominant political power in a Native republic, was to be achieved by consultation and the growth of a more enlightened public opinion rather than by African political assertion and mass action.<sup>60</sup>

Yet it can be suggested, with the exception of a few committed African Communists, that most of the wrangling within Congress was really over means not ends. Garveyism, which contributed, in varying degrees, to the radicalism of Gumede and his supporters, was by no means antithetical to a multi-racial democratic society. Nor were they necessarily committed to working outside the system. As William Z. Foster points out:

Garvey's was the voice of the Negro petty bourgeoisie, seeking to secure the leadership of the Negro people by subordinating their national feelings and needs to class interests. It was trying to develop commercially, industrially, and politically. This was the significance of the whole string of co-operative enterprises - grocery stores, laundries, restaurants, hotels, printing plants, and above all, the Black Star line - which his movement built up.<sup>61</sup>

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<sup>59</sup> For a discussion of the activities of the Western Cape ANC, see Simons, *op. cit.*, pp. 430-433.

<sup>60</sup> Walshe, *op. cit.*, p. 178.

<sup>61</sup> W.Z. Foster, 'The Garvey Movement: A Marxist View', Clarke ed. *Marcus Garvey and the Vision of Africa*, p. 420.



According to Anthony Atmore and Nancy Westlake, 'The aim of all African struggles has been consistent bourgeois democracy and bourgeois right'.<sup>62</sup>

The League of African Rights was seen by the Congress 'Old Guard' as representing a challenge to the ANC's position as the prominent African political organisation. The fact that Gumede accepted the presidency of the League, ostensibly in his private capacity, was resented. Nevertheless, the League's demands coincided with those of Congress.<sup>63</sup> In fact, Doyle Modiakhotla, vice-president of the League, remarked in December 1929, that the Bills 'were extending to them certain franchise rights which they had not enjoyed before, and it would be wrong for them to refuse to have anything to do with the Bills'.<sup>64</sup>

The annual conference of the ANC in April 1930 was something of a showdown between the left and right wings. Taking a strong anti-Communist stance Dr. P. Ka I. Seme captured the presidency of the organisation.

The question of what methods to adopt against the Hertzog legislation, in particular the Representation of Natives Bill, lead to the activists' first defeat. Rev. Z.R. Mahabane tabled a resolution against the Bill, which merely asserted the ANC's position as *the* dominant African political organisation, and called for a round-table conference of

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<sup>62</sup> Atmore and Westlake, 'A liberal dilemma: a critique of the Oxford History of South Africa', *Race*, Vol. XIV, No. 2, (1972), p. 124.

<sup>63</sup> The League demands were:

- a) no tampering with the Cape vote and the extension of the vote to blacks throughout the Union on the same basis as whites in the northern provinces;
- b) universal free education for black children;
- c) abolition of the pass laws;
- d) the right of free speech and public meeting irrespective of race;
- e) no restriction on African acquisition of land and a radical increase in the African areas.

<sup>64</sup> *The Star*, 6 December 1929.

Europeans and Africans. Ndobe then moved a rider that should the Government fail to respond, the ANC would lead a one-day general strike and mass demonstrations. The chair, however, declined to accept this.<sup>65</sup>

By mid-1930 a struggle for the control of the Western Cape ANC was underway which, although complicated by the involvement of the CPSA, was essentially an attempt by a group of younger men led by Ndobe and Tonjeni to pursue a militant policy and replace Thaele. The latter, however, managed to hold on to the crucial Cape Town branch and in November 1930 the Independent ANC was formed with Communist Party backing and the declared intention of establishing branches throughout South Africa. The IANC's manifesto espoused a 'militant African liberation movement which will not bow the knee to British and Boer imperialism'. The Act of Union was to be abolished, full franchise rights granted and land returned to the African population.<sup>66</sup> Though the manifesto did not focus directly on the Hertzog Bills, it was implied that they would be strongly resisted. The IANC, however, was soon decapitated by the police, who deported Ndobe to Basutoland and banned Tonjeni from operating in the Western Province.

Seme presided over a continuing decline of Congress after April 1930.<sup>67</sup> He was intolerant of activists, and alienated moderates such as T.M. Mapikela, the leader of the Free State

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<sup>65</sup> Walshe, *op. cit.*, p. 180.

<sup>66</sup> *Ibid.*, p. 183.

<sup>67</sup> Unfortunately the overall decline of Congress (and periods of resurgence) cannot satisfactorily be charted in terms of membership figures. There were probably about 4,000 or more official members throughout the country in the earlier 1920's, a figure which seems to have dropped in the later 1920's. Mahabane in his evidence before the 1927 Select Committee on the Native Bills claimed a union-wide 'membership' of 100,000 (obviously not formed members, but rather supporters of Congress), admitting at the same time that there were no paying members at that moment. (SC 10/27, p. 299.) Membership in April 1930 was at least 1,325 - a higher figure, it appears, than in 1937. See Walshe, *op. cit.*, pp. 239-242.

Congress.<sup>68</sup> In November 1932 Mahabane proposed common action with organisations such as the Cape Native Voters' Convention and the African Ministers' Association,<sup>69</sup> particularly in regard to the Hertzog Bills, but Seme balked at the idea.<sup>70</sup> To Champion he wrote that

All organisations should fall in with the  
ANC ... I must command all under me.<sup>71</sup>

A reluctance or inability to work in harmony with other African leaders was a fault not confined to Seme. After the 1929 European Bantu Conference in Cape Town, Rheinallt Jones had urged those leaders present to get together and thrash out their problems. A meeting was held but 'there was no one there able to rally those men into unity'.<sup>72</sup>

In the period 1929-34 there was a good deal of discussion and debate on African leadership in the columns of African newspapers like the *Umteteli wa Bantu*. The concern, however, was not on how to mobilise the masses for militant action, but rather an attempt to secure a degree of consensus among moderate leaders. A common suggestion in the later half of 1929 was for a round-table conference of leaders to coordinate action against the Hertzog Bills,<sup>73</sup> and in early December sixty delegates, from various leading African organisations participated in a conference at Bloemfontein,<sup>74</sup>

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<sup>68</sup> For a discussion of the centrifugal forces within the National Congress see *inter alia* Imvo Zabantsundu, 23 January 1934.

<sup>69</sup> The African Ministers' Association held regular conferences in the provinces and was prepared to send delegates to Congress. There is little available evidence, however, on its origins, structure and aims.

<sup>70</sup> *African Leader*, 19 and 26 November 1932, 6 May 1933.

<sup>71</sup> Quoted Benson, *op. cit.*, p. 56.

<sup>72</sup> Pim Papers, B1 4/130, untitled memorandum by Rheinallt Jones on the Joint Councils and the South African Institute of Race Relations, 1930.

<sup>73</sup> See e.g. the columns of *Umteteli wa Bantu* for this period.

<sup>74</sup> *The Star*, 6 December 1929.

organised by the Non-European Ministers' Association.<sup>75</sup> Most of the representatives appeared to be firmly against Hertzog's 1929 Bills.<sup>76</sup>

In early March 1930 a conference of delegates from the CPSA, the Transvaal ANC, the Ballinger and Kadalie sections of the ICU,<sup>77</sup> and the South African Federation of non-European trade unions,<sup>78</sup> recommended that a vigorous campaign be conducted on a national basis by African legislation against the Riotous Assemblies (Amendment) Bill and the Native Bills.<sup>79</sup> But the initiative foundered when the CPSA announced that the proposed campaign was to take place under its auspices. African leaders on the Reef, wary of communist infiltration of their organisations, renounced any dealings with the CPSA.<sup>80</sup> Although there was a good deal of protest activity throughout the Union during 1930, it appears to have been largely organised on a local level and reactive in nature.

In December 1930 a Government Native Conference - the first since 1926 - was held in Pretoria. The chairman of the Conference, E.G. Jansen, the new Minister of Native Affairs, forbade discussion of the Native Bills. D.D.T. Jabavu, and one or two other delegates, displayed something of a different attitude in raising the issue. However, their opposition was registered in mild terms: there was no threat of mass campaigns if the Cape African franchise was abolished. There was no indication that moderate African leaders, with the possible exception of Jabavu, had seriously considered adopting new modes of protest against

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<sup>75</sup> No information has been found regarding this body. It may have been linked to the African Ministers' Association.

<sup>76</sup> Cf. the speeches of Seloape Thema and Mahabane at the conference.

<sup>77</sup> In mid-1920 Kadalie formed the Independent ICU.

<sup>78</sup> This was essentially a Rand-based organisation with CPSA backing.

<sup>79</sup> *The Star*, 3 March 1930.

<sup>80</sup> *The Star*, 13 March 1930.

discriminatory legislation.<sup>81</sup>

By 1932 activist and moderate African leadership, in the northern provinces at least, was virtually bankrupt. W.M. Macmillan, writing on 8th September of that year after addressing a meeting of Africans at Brakpan found leadership 'a disappointment':

The Africans are good to talk to, and following closely ... But ... we are learning more of and from them than they are from us. They had nothing to say; are not reading; have no power to do anything for themselves (their governments have crushed initiative and self-respect out of them); and I don't think they are really thinking, anyway not ahead. I was telling them the first thing to do is to want things and know what they want. I got the impression, which has been growing, that the few of us have been exaggerating the advance and preparedness of their educated few. The leaders are in chaos. *Despair* it may be has driven a man like Selope Thema to hopeless drinking. For years their amazing cogency in debate has carried us along ... But they are contributing nothing new - they are not moving clearly - their organisations and their leaders are in chaos.<sup>82</sup>

A lack of inspiration and direction among leaders of all shades of opinion was reinforced by economic recession. Moreover, state coercion put a damper on protest activities; but one suspects, for more moderate elements at least, that a major discriminatory legislative measure like the Segregation Bills was needed to focus their protest. But in the early 1930's, the Hertzog Bills were still in Committee and the Riotous Assemblies Bill and the Native Service Contract Bill did not really touch the raw of African élitist aspirations. (The Riotous Assemblies (Amendment) Act at least kept the CPSA in check.) The editor of the *African Leader* was disturbed at the failure

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<sup>81</sup> See reports of the proceedings of the Conference in *The Star*, 9-11 December 1930.

<sup>82</sup> W.M. Macmillan, *My South African Years* (1975), p. 228.

There is, of course, a difference between invoking and heading a mass movement, a fact which some African leaders might not have perceived.

Margaret Hodgson,<sup>84</sup> writing to Norman Leys<sup>85</sup> in 1933 not only found African leadership inadequate, but detected a certain passivity and apathy among the African population at large:

I really feel, and B. /W.G. Ballinger/ agrees, that we are at a very dangerous crisis in the affairs of the African race in this country. There is little doubt that the repressive legislation which has been in contemplation for the last few years is going on to the Statute Book in the near future with the consent of all political parties, and we have also little doubt that the Natives are going to take it lying down as they have taken all the rest ... there is a good deal that can be done short of rising and in any case, it would take a lot of moulding of political opinion done by voicing grievances and a good deal of good work done by organisation if the people could be found to risk the penalties of the Riotous Assemblies Act. But they're not; and I find it difficult to understand why, because the men go to gaol anyway, on all sorts of other charges, so why not in a decent cause?.<sup>86</sup>

Anthony Atmore and Nancy Westlake in their review of the Oxford History of South Africa, criticised Leo Kuper for maintaining that state repression was not necessarily the paramount cause in curbing the rise of African nationalism:

Repression, however, is unnecessary for a passive population. The fifty years from

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<sup>84</sup> Margaret Hodgson, a former student of W.M. Macmillan, was a senior lecturer in History at the University of the Witwatersrand until 1934 when she married W.G. Ballinger.

<sup>85</sup> Leys was a British liberal and authority on colonial policy.

<sup>86</sup> *ICU Records*, File 3, Hodgson to Leys, 12 July 1933. Cf. the following comment of A.W.G. Champion: 'The bulk of my native men in this town - Johannesburg - are for sports and other bodily amusements. The Government, the Employers of native labour and the native friends ... are certainly very happy to encourage this sporting spirit ...' Champion Papers (Unisa), Box 15.



of an African intelligentsia to respond to discriminatory legislation:

Yet the more stringent ... and heartless these laws are, the more we see African intelligence sinking down deep in the trough of despond (*sic*) unable to rise to the occasion ... Instead the best of our intelligence specialise in raising issues which carry nobody anywhere but serve to lull to everlasting sleep the instinct of self-preservation ... Perhaps it may be that the laws have not the desired effect on them or that the people who should appreciate their severity have not been affected and can therefore afford to be oblivious to their effects on their unfortunate compatriots who look to them for guidance.<sup>83</sup>

There seems to have been little recourse to the masses by the African élite in the opposition to the Segregation Bills in the period 1929-34. Resolutions passed in meetings of the ANC, the Non-European Conferences, the Joint Councils, the Bantu-European Conferences, and the Government Native Conference, were couched in respectful, even obsequious, terms and did not invoke the working classes. There was no real threat of militant mass action if the Bills were passed. The more conservative elements who predominated at these gatherings might have been motivated by a fear of being outbid, as in the French Revolution, by the left, if they set themselves up at the head of the masses. A mass movement could prejudice the eventual entry of an African élite into the white political and economic system. A desire to keep in the good books of white liberal sympathisers perhaps helped enforce a conciliatory stance. Furthermore, to threaten mass action would reinforce or confirm white fears of being swamped by the black vote. Finally, there were practical difficulties - organisational, financial and so on - in undertaking mass protest.

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<sup>83</sup> *African Leader*, 26 November 1932.

Committee, to promote the latter's Land Settlement Bill, a variation of Hertzog's envisaged legislation. Briefly, this provided for the allocation of seven million morgan of land, to be added to the areas already scheduled for release, and the provision of sufficient development funds. Linked to the land scheme there was to be representation of Africans by Africans in the Senate, up to eight in number.<sup>90</sup>

Dube, apparently with some financial aid from G. Armstrong, a Natal sugar planter, toured the Union seeking the support of African leaders in Johannesburg, Kimberley, Bloemfontein and the eastern Cape for Nicholls' Land Settlement Bill. Although censured for advocating the proposals, he succeeded in getting the signatures of Selby Msimang, Selope Thema, T.M. Mapikela, E.K. Royne<sup>91</sup> and two Natalians, W.W. Ndhlovu and Chief Gilbert Majozi,<sup>92</sup> to a document based on the proposals.<sup>93</sup>

It is difficult to assess why leaders such as Selby Msimang and Selope Thema signed the document touted by Dube. The Depression had doubtless accentuated land hunger and rural poverty, rendering the issue of political rights relatively less important. Perhaps they had resigned themselves to the fact that the Cape franchise was doomed. Possibly for some of them, it was a spur-of-the-moment decision. Thema, for one, acknowledged that he had made a *faux pas*.<sup>94</sup> The

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<sup>90</sup> Marks, 'The Ambiguities of Dependence', p. 178.

<sup>91</sup> No details have been found on E.K. Royne.

<sup>92</sup> W.W. Ndhlovu was one of the committee which drew the 1919 ANC constitution and was a member of the Vryheid Joint Council. Majozi appears to have been a minor Natal chief and only peripherally involved in African protest in Natal against Government policy.

<sup>93</sup> Marks, 'The Ambiguities of Dependence', p. 178.

<sup>94</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Jabavu, 20 April 1931: 'He /Thema/ says that the paper was to be kept by Mr. Dube as a basis of settlement when the Round Table Conference could be called, but I cannot believe that so experienced a politician could have been so ignorant of the possible effects of his signature to such a document. He seemed to be genuinely distressed when I explained to him the use that was being made of his signature. It seems to me that our enemies have gained a strategic advantage of the first importance.'

Union to Republic were punctuated - at times torn - by protests, often well organised, of African trade unions and political parties, against the mounting pace of discrimination, in particular against the operation and repercussions of the colour bars.<sup>87</sup>

However, in the early Thirties at least, as Margaret Hodgson observed, there was a reluctance to experience state action. There is a distinction between the actual application and experience of repressive force and the myth that the state holds the monopoly of coercive force. Africans themselves helped perpetuate white domination. The boundary between protest and collaboration is not always clear. With this thought in mind, an examination of John L. Dube's reaction to the Hertzog legislation is instructive.

In the early Thirties Dube was prepared to compromise on the franchise issue in exchange for extra land and some development funds, partly to accommodate an expanding and impoverished rural population.<sup>88</sup> He was also responding, Shula Marks contends, to the needs of the Natal African *petit bourgeoisie*, in particular a section of progressive African farmers.<sup>89</sup> Pessimistic about the franchise question and temporarily convinced that the land question was more vital to African interests, Dube entered into an alliance with Heaton Nicholls, a leading Natal segregationist and sugar planter and member of the Parliamentary Select

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<sup>87</sup> Atmore and Westlake, *op. cit.*, p. 124.

<sup>88</sup> For Dube's concern for land shortage and poverty see e.g. Archives of the Secretary of the Commission of Inquiry into Social and Economic Conditions of Natives in South Africa, 1930-1932: Record of Evidence, Vol. 7, Sitting at Durban, 2 April 1931, p. 6228 *et seq.*

<sup>89</sup> Shula Marks, 'Natal, the Zulu Royal Family and the Ideology of Segregation', *Journal of Southern African Studies*, Vol. 4, No. 2 (1978) pp. 179-183. For Marks' earlier viewpoint on Dube, cf. Marks, 'The Ambiguities of Dependence: John L. Dube of Natal', *Journal of South African Studies*, Vol. 1, No. 2 (1976), pp. 176-179.

whole business, however, is indicative of a certain confusion among some Africans as to what strategy and tactics to adopt against the Hertzog Bills.

Dube maintained that there was a discrepancy between Jabavu's public and private stance regarding the Cape African franchise:

They tell me /he wrote to Heaton Nicholls/ that there are others in the Ciskei who are prepared for the Compromise such as men as Pelem and others. Jabavu himself would be willing, but he fears that some might oppose him and thus he would lose his influence.<sup>95</sup>

There is some truth in Dube's remark: Jabavu appears to have been quite conscious of his preeminent position<sup>96</sup> in regard to the cultural and political activity of Cape Africans, though this does not necessarily imply that he was prepared to compromise, even under certain circumstances, on the franchise issue. However, he undoubtedly appreciated that if he did move to the right someone could gain support for a more radical line against the Bills.

Jabavu appears to have been seen by white politicians as the lynch pin in African opposition to the Hertzog proposals. While he was attending the 1930 Government Native Conference in Pretoria, Jabavu was approached by Nicholls and J.S. Marwick, who urged him 'to take Pelem's line' and made 'all sorts of meretricious financial offers'<sup>97</sup> including a promise of £30,000,000 for African agricultural development,

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<sup>95</sup> G. Heaton Nicholls Papers, KCM 3350d, Dube to Nicholls, 13 May 1931.

<sup>96</sup> SAIRR Archives: Rheinallt Jones Papers, Jabavu to Rheinallt Jones, 13 May 1931: 'Mr. Dube has no authority to cadge for Cape signatures, as I have vound out he has already done so in the Transkei, as I am the recognised President of the Cape Native Voter's Convention and head of the Cape.'

<sup>97</sup> Pim Papers, Bl 1, Jabavu to Pim, 18 February 1931.

if he surrendered the Cape African vote.<sup>98</sup> Jabavu replied that he

... would never accept the disappearance of the present Native franchise in the Cape on any account, for there I would be a traitor to further generations black and white, who, in a more favourable atmosphere, will find rapprochement easier than the present age that is still obsessed by mutual distrust and lack of mutual knowledge. I prefer to die holding the fort of non-discrimination between citizens on grounds of race alone until the forces of Christianity, justice and civilisation become strong enough to overpower mutual suspicion. The process is already perceptible in the S.C.A. and Bantu Study circles in our Universities, and I am not always prepared to assume that present circumstances will persist for always.

He pointed out to Nicholls and Marwick that with the enfranchisement of women the 'old fear of the Native franchise with its swamping bogey is now a dead letter'. Also, he found it impossible to believe that Parliament, and much less the *platteland*, would agree to vast sums for African agricultural development.<sup>99</sup>

Smuts was of the opinion that Jabavu would only compromise if Africans were given the right to represent their fellows in the Assembly.<sup>100</sup> And it is possible that Jabavu was prepared to negotiate provided Cape Africans retained the right of direct (but not token) representation in the Assembly and the opportunity of eventual political equality with whites. These conditions were not fulfilled in the 1929 Representation Bill:

The Bill informs the Native /Jabavu wrote/ that no advance which he may make in civilisation, education or culture will place him on a footing of political equality with his

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<sup>98</sup> Hofmeyr Papers, Jabavu to Hofmeyr, 8 April 1931.

<sup>99</sup> *Ibid.*

<sup>100</sup> Smuts to M.C. Gillett, 8 April 1930, Van der Poel (ed.) *Smuts Papers*, Vol. V, p. 458.

European, or even with his Coloured fellow citizen. It is permanently relegated to a position of inferiority. That is described as political segregation.<sup>101</sup>

A dichotomy between the public and private views of Cape African leaders on the franchise issue, can be detected, but analysis of the complexities of such a hiatus is handicapped by insufficient evidence. In March 1930, W.G. Bennie, ex-Chief Inspector of Schools in the Cape, wrote to certain leading Cape Africans - D.D.T. Jabavu, Plaatje, Sakwe, J.D. Ngojo<sup>102</sup> and Uda<sup>103</sup> - proposing that a solution to the difficulty be sought along the lines of a scheme suggested by Edgar Brookes in the *Cape Times*.<sup>104</sup> In a subsequent letter to Smuts, Bennie quoted excerpts from the replies<sup>105</sup> but unfortunately did not identify the writers of the particular quotes. Two of the Africans were adamant that there should be no compromise on the existing Cape franchise. One favoured separate representation. The fourth (D.D.T. Jabavu?) wrote as follows:

I think your /Bennie's/ views have all reason and logic and wisdom on their side, and I hope you will get a sufficient number of supporters to carry them within the walls of the Select Committee ... *I do not want General Hertzog to quote me as being in*

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<sup>101</sup> D.D.T. Jabavu Papers, 3.3, Rough note on Native Disabilities, C 1931. These words are identical to those in a speech by Sir James Rose Innes given on 26 January 1931 in the Cape Town City Hall.

<sup>102</sup> J.D. Ngojo was a leader of the Cape African Congress.

<sup>103</sup> No details have been found about Uda.

<sup>104</sup> D.L. Smit Papers, 19/60, Copy of letters to Cape African leaders, dated 8 March 1930. Brookes had proposed that there should be a separate voters' roll for the mass of Africans in the Union and that provision should be made whereby Africans who were definitely 'civilised' might be registered on the general roll as full citizens. The qualifications were to be an income of at least £100 per annum, or ownership of property worth at least £150; and the attainment of at least a standard five level pass.

<sup>105</sup> Plaatje failed to reply.



*favour of change whatsoever ... My inmost feeling is that, if Englishmen feel that they must give way to the Transvaal policy, we Natives should not do so but struggle on to the bitter end. (emphasis added)*<sup>106</sup>

As indicated in the above remark, some African leaders considered it tactically unsound to show a willingness to negotiate. James A. Calata,<sup>107</sup> in a letter to Rheinallt Jones, maintained that he quite sympathised with the views expressed by the *South African Outlook*, but declared that 'all native voters in the Cape know full well that a bird in the hand is worth two in the bush'.<sup>108</sup>

In the Cape, organised agitation against the Hertzog Bills devolved on the Cape Native Voters' Convention, led by D.D.T. Jabavu. By the early Thirties the Bantu Union was a spent force.<sup>109</sup> A tactic favoured by the CNVC, or individuals or organisations connected with the Convention, appears to have the calling of meetings of a formal or informal nature and on a regional or local level, at which the Segregation Bills and related legislation was to be condemned. These meetings, largely held during 1929-31, attracted Africans of different classes and attendance figures were quite often in the vicinity of 400.<sup>110</sup> The CNVC appears to have regarded its own annual conference as a crucial factor in African opposition to the Bills. In 1932, a year of little political activity,<sup>111</sup> the CNVC

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<sup>106</sup> Smit Papers, 19/60, Bennie to Smuts, 12 April 1930.

<sup>107</sup> Calata was born in 1895 near King William's Town, and trained as a teacher at St. Matthews College and then as a priest in the Anglican Church. He joined the ANC in 1930 and in the same year was elected provincial president for the Cape.

<sup>108</sup> SAIRR Archives, Box B72(b), Calata to Rheinallt Jones, 23 September 1928.

<sup>109</sup> There is no mention in *Imvo*, during the early Thirties, of any protest being organised by that body. See also Pim Papers, B1 1, W.G. Ballinger to Pim, 14 February 1933.

<sup>110</sup> See e.g. *Imvo Zabantsundu*, 27 January 1931, 24 November 1931.

<sup>111</sup> 1932 was a particularly hard year economically. In March, for example, the De Beers diamond mines in Kimberley temporarily closed down, swelling African unemployment.

annual conference held in December, attracted approximately 400 people, including delegates.<sup>112</sup> Fewer, however, had attended the December 1931 conference.<sup>113</sup> These conferences, while strongly critical of the Hertzog legislation, do not seem to have devoted much attention to the possibilities of passive resistance and mass activity.

Allied to the efforts of the CNVC was the journalism of the Jabavu brothers.<sup>114</sup> *Imvo*, still edited by A.M. Jabavu, was distinctly more outspoken in its criticism of the Government's segregation programme and the South African Party than newspapers such as the *Umteteli wa Bantu* (Transvaal) and *Illanga lase Natal* (Natal). In March 1930, for example, the paper maintained that the only remedy against Hertzog's Bill was

... that advocated by Gandhi in India ... A change in tactics has to be considered and adopted by the various Native organisations combined and speaking as one man, in order to meet the new political situation which dangerously threatens their well being ... The time to build a foundation to this political agitation for franchise rights has never been more opportune (*sic*) ...<sup>115</sup>

Although *Imvo* in 1932 felt the Native Bills were something of an election bogey,<sup>116</sup> Cape Africans, particularly those in the eastern districts, seem to have been alive, during 1929-34, to the threat of disfranchisement. This is indicated by their opposition to the Status Bill,<sup>117</sup> and

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<sup>112</sup> *Imvu Zabantsundu*, 27 December 1932. This attendance figure is roughly the same as that of the ANC conference in April 1930. Attendance at the CNVC conference might have been stimulated by South Africa's abandonment of the gold standard.

<sup>113</sup> *Diamond Fields Advertiser*, 25 December 1931.

<sup>114</sup> D.D.T. Jabavu contributed a number of articles to the white English-speaking press during this period. He also brought out a pamphlet in 1932 entitled *Native Disabilities in South Africa*.

<sup>115</sup> *Imvo Zabantsundu*, 4 March 1930.

<sup>116</sup> *Ibid.*, 16 February 1932.

<sup>117</sup> *Ibid.*, 17 and 24 April 1934, 22 May 1934.

their annoyance with those Cape MPs, like A.O.B. Payn (member for Tembuland) who uncritically supported fusion in 1934.<sup>118</sup> A further example lies in the assistance of Ciskeian Africans to an attempt by the Government, under the authority of the 1927 Native Administration Act, to substitute a uniform land title for the various existing titles. It was felt that this was a move which would affect property qualifications for the franchise,<sup>119</sup> and a special fund was set up to enable one of the landowners affected by the move, an African clergyman Hezekiah Ndobe, to appeal to the Supreme Court.<sup>120</sup> Although the appeal was lost,<sup>121</sup> in the judgement, de Villiers C.J. warned that the Courts would not uphold any Act of Parliament or condone any government proclamation that infringed Section 35 of the South Africa Act.<sup>121</sup> This was a clear answer to those supporters of Hertzog who contended that Africans could be disfranchised without a two-thirds majority of both Houses of Parliament sitting together.<sup>122</sup>

While 'continual violent pressure, excepting revolution and unconstitutional methods',<sup>123</sup> may have been the aim of D.D.T. Jabavu and his colleagues, this was not achieved in practice. Apart from the contradictions inherent in the phrase, the Cape African élite were very conscious of their status<sup>124</sup> and hesitant about working with the masses. A number stood to lose their jobs if branded as 'agitators'. Moreover, constitutional protest, if it was to be at all effective,

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<sup>118</sup> *Ibid.*, 3 July 1934.

<sup>119</sup> *Ibid.*, 18 November 1930.

<sup>120</sup> Ndobe was granted leave to appeal to the Privy Council but does not appear to have pursued the matter.

<sup>121</sup> See *Rex vs. Ndobe* 1930 AD; and J.W. Horton, 'The South Africa Act and the Entrenched Clauses: An Historian's Perspective', *Natal University Law Review*, Vol. 1, No. 4. (1975), pp. 174-175.

<sup>122</sup> Hertzog, with his legal background, was opposed to this course of action. See e.g. Hertzog Papers, Vol. 27, Hertzog to A.S. van Hees, 7 December 1925.

<sup>123</sup> *Imvo Zabantsundu*, 18 March 1930.

<sup>124</sup> See e.g. Smit Papers, 19/60, Bennie to Smuts, 12 April 1930.

demanding the active cooperation of African organisations, on a national as opposed to a provincial scale, under a central leadership. But such a cooperative venture was inhibited *inter alia* by a proliferation of protest groupings, and ideological differences - real and imagined - and personal rivalries among African leaders. Non-European Conferences, if anything, seemed to underline the difficulties involved in forming a black opposition front.

Three further meetings of the Non-European Conference were held during 1929-34 - in 1930, 1931 and 1934. On all occasions resolutions were passed against the Hertzog Bills.

By and large an idealised version of the old Cape principle was the touchstone of these gatherings. Divergent political approaches, however, were evident, particularly in 1930 when some Coloured radicals demanded passive resistance on issues such as the poll tax and Hertzog's civilised labour policy.<sup>125</sup>

Efforts to establish a permanent organisation to coordinate black political activity failed because a number of existing organisations feared that their autonomy would be lost. Moreover, Indians still remained on the periphery. Nevertheless, as Karis and Carter see it, the Conferences had their relevance:

Despite disagreements and the inability to advance beyond discussions and resolutions, the conferences did highlight the extent to which different nonwhite groups held common positions of opposition to government policies, in particular to the Native Bills and to legislation of the first years of the second Hertzog government. As was often emphasised, the delegates felt that their meetings were not a substitute for, but a supplement to, joint cooperation with sympathetic South

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<sup>125</sup> Report on proceedings and resolutions of the Non-European Conference (extracts), Karis and Carter (eds.) *From Protest to Challenge*, Vol. II pp. 267-273.

None of the Joint Councils appears to have been particularly active in the early Thirties regarding the Bills. In a reply to allegations by Heaton Nicholls about the Joint Council Movement,<sup>134</sup> the Johannesburg Joint Council, on behalf of the movement, maintained that:

It is untrue that the Johannesburg Joint Council, or, so far as is known, any other Joint Council in the country has carried on an intensive propaganda during the years 1930 to 1935. In 1927, the Johannesburg Joint Council had declared itself against General Hertzog's original proposals, but thereafter it waited, like the rest of the country, for the outcome of the deliberations of the successive Committees appointed by Parliament. So far from engaging in intensive propaganda, the Johannesburg Joint Council remained completely silent on the Bills whilst they were before the Select Committee.<sup>135</sup>

This is not to say, however, that the Joint Councils were completely quiescent. For instance, in October 1932, the Johannesburg Joint Council wrote to the Minister of Native Affairs pointing out the dangerous apathy and discontent among Natives, partly due to the situation in regard to the Bills. Since 1927 when evidence had been given to the Select Committee, all further evidence had been behind closed doors. There had been no consultation with the Africans who were so directly affected, and no information. While white MPs were working to compose difference and have an agreed policy, the principle of African agreement and goodwill had been ignored, in spite of the implicit promise to take all steps to achieve this.<sup>136</sup> The correspondence this letter sparked off was published in *The Star*.<sup>137</sup>

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<sup>134</sup> Nicholls accused the Joint Councils of not observing the ban of silence which the members of the 1930 Select Committee imposed upon themselves. See *Union of South Africa: Joint Sitting of Both Houses of Parliament, Representation of Natives Bills*, col. 1198.

<sup>135</sup> Johannesburg Joint Council, Memorandum CC 17/36.

<sup>136</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Chairman of JJC to Minister of Native Affairs, 20 October 1932.

<sup>137</sup> *The Star*, 2 November 1932.

African whites.<sup>126</sup>

Contact with white liberals and philanthropists was decidedly a mixed blessing for Africans. In 1930 Rheinallt Jones made an interesting observation:

I see in *Umteteli* that 'Enquirer' ... charges the Joint Councils with having destroyed Native leadership. There is just enough truth in this to make it a dangerous statement and I do feel, and have felt for some time, that I must give thought and action to this aspect of the Joint Council movement. I have always felt that the Joint Council should not eliminate bodies like Congress ...<sup>127</sup>

The tendency of some African bodies to abrogate their responsibilities is not altogether strange. Even when economic conditions were more favourable they were very much part-time politicians. In Joint Councils the burden of work and leadership usually fell on whites:

The whites had the money; they had or could make time available; they usually had greater experience in political and welfare work, and they tended to be more effective, in the western sense in committee and in conference.<sup>128</sup>

It should be borne in mind, however, that the efficacy of the Joint Council in opposing the Segregation Bills varied with time and place. Councils in major centres were usually more active and politically orientated and of these the

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<sup>126</sup> *Ibid.*, p. 152.

<sup>127</sup> Pim Papers, B14/130, Memorandum by Rheinallt Jones on Joint Councils and the SAIRR, 1930.

<sup>128</sup> Horton, 'Joint Councils', p. 31. Although Joint Councils operated on tight budgets they were probably better off financially than most African organisations.



Johannesburg Joint Council was prominent.<sup>129</sup> Most of the smaller councils were virtually social welfare bodies. Success of individual councils tended to depend on the personality and influence of key members.<sup>130</sup>

Besides the efforts of Rheinallt Jones the activities of Joint Councils were inadequately coordinated. An Inter-Racial Council covering the whole of the Union was set up for this purpose in 1929 but the formation of the South African Institute of Race Relations in that year detracted attention from the IRC, leaving it in limbo until 1933, when it was reconstituted as the Consultative Committee of Joint Councils.

In their opposition to Hertzog's Bills the position of the Joint Councils was not dissimilar to that of the ANC.<sup>131</sup> Both stressed the need to move away from colour discrimination, by legislating for black and white as individuals in a common political system. In addition to delegations and resolutions, however, the Joint Councils were able to work with European politicians. For example they attempted to bolster Cape MPs against any compromise on the Cape franchise.<sup>132</sup> As W.M. Macmillan remarked:

Despite /a/ lack of faith in leading politicians one had to work with them. Among the Africans themselves there may have been movements of which we knew very little; these are now being explored by research workers, but I can only say that at the time they appeared wholly ineffectual and to cut even less ice than the orthodox political approach.<sup>133</sup>

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<sup>129</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, E.W. Grant to Rheinallt Jones, 3 January 1931: 'Our extensive correspondence with other Joint Councils, with Govt. Departments etc., reveals the fact ... that the Johannesburg Joint Council is still regarded as the premier body of its kind in this country.'

<sup>130</sup> Horton, 'Joint Councils', p. 38.

<sup>131</sup> Walshe, *op. cit.*, p. 190.

<sup>132</sup> *Ibid.*, p. 189.

<sup>133</sup> Macmillan, *op. cit.*, p. 205.

into the framework of the SAIRR, and dealt with most questions of concern to the African community. In addition to leading white and African members of Joint Councils, these conferences also attracted a fairly wide spectrum of prominent African personalities.

The African franchise featured prominently in the proceedings of the 1929 Conference, and a resolution deprecating 'any alteration of the law which would result in depriving the Natives of the Cape Province of the franchise in its present form' was passed.<sup>142</sup> The Hertzog Bills were the subject of one of a number of special resolutions passed at the 1933 Conference in Bloemfontein. It reads as follows:

In view of the magnitude and complexity of the subjects dealt with by the Prime Minister's Native Bills and the desirability of securing, so far as possible, the acceptability to every section affected by any decisions to be taken, and the proved success of the Conference method as a means for the fruitful exchange of opinion between European and Bantu, this Conference requests the Government to give serious consideration to the possibility and advisability of summoning a special Consultative Committee on which the Bantu themselves shall be adequately represented, for the full consideration of the Bills before the final submission to Parliament.<sup>143</sup>

A few of the more militant Joint Council members had decided reservations about the value of such conferences. Margaret Hodgson, for example, thought the 1933 Conference 'a farce'.<sup>144</sup>

In May 1929 C.T. Loram, a member of the Native Affairs Commission, and Rheinallt Jones, assured of financial support from the Phelps-Stokes Foundation and the Carnegie Corporation of the USA, called together a small *ad hoc* committee, which between 1929-31 founded the South African Institute of Race

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<sup>142</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 247.

<sup>143</sup> *Ibid.*, p. 256.

<sup>144</sup> ICU Records (University of Witwatersrand), File 3, M. Hodgson to Winifred Holtby, 16 July 1933.

The Cape Town Joint Council in January 1931 had in conjunction with the Non Racial Franchise Association called a public meeting to discuss aspects of the Native Question, particularly the Representation Bill.<sup>138</sup> However, the overall performance of the Joint Councils in the Cape with respect to the Bills, in the early Thirties, left something to be desired. In a letter on the subject of the Cape franchise to the secretary of the Queenstown Joint Council in 1931, Rheinallt Jones remarked:

I do not know what Native members wish me to say about this. The Johannesburg Joint Council has issued pamphlets ... opposing the elimination of the Cape Franchise. *It is for the Cape Joint Councils to be far more active than they have been in this matter.* I myself cannot now conduct a campaign on this matter, and the Institute must be non-political, but every Joint Council is absolutely free to take whatever line it likes. (emphasis added)<sup>139</sup>

Even the Johannesburg Joint Council was prone, at times, to a certain sluggishness. In January 1931 the Secretary of the Council complained that

The chapter of recent meetings has been disappointing. Attendance has been poor, particularly on the native side, and there is obviously need for considerable work to be put in among the native members.<sup>140</sup>

From 1929 onwards national European-Bantu Conferences were called periodically by a committee representing the Joint Councils.<sup>141</sup> The conferences were subsequently incorporated

<sup>138</sup> J. Rose-Innes *et. al.* *Native Disabilities in the Union of South Africa: Speeches delivered in the City Hall, Cape Town at a crowded meeting of citizens on 28 January, 1931*, n.d.

<sup>139</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council Records, Rheinallt Jones to Eric F. Bowman, Sec. of Queenstown Joint Council, 22 January 1931.

<sup>140</sup> *Ibid.*, E.L. Grant to Rheinallt Jones, 3 January 1931.

<sup>141</sup> Conferences, during the period 1929-34, were held in 1929 and in 1933. In 1930 the European-Bantu Conference appears to have been merged with the SCA Conference at Fort Hare.

Relations.<sup>145</sup> The majority of the foundation Committee were leading Joint Council members.

Rheinallt Jones was appointed 'Adviser on Race Relations' and his relationship to the Institute required circumspection in regard to political issues. The Joint Councils were not obliged to adopt the Institute's apolitical line,<sup>146</sup> but lacked coordination. For this reason, the Council of the Institute passed in January 1933 the following resolution:

The Institute of Race Relations feels that the making of pronouncements of national issues of a political or semi-political character is beyond the scope of its present activities. For this and other reasons the Institute, whilst ready and anxious to render any service in its power to the Joint Council movement, as in the past, would welcome the resuscitation of the Inter-Racial Council formed in Cape Town in 1929, or the formation of some similar body and commands this to the attention of the Conference of Joint Councils to be held in Bloemfontein in 1933.<sup>147</sup>

Thus, in 1933, the Consultative Committee of Joint Councils was formed with the Institutes' assistant secretary, A.L. Saffery, as secretary. This Committee was to play a prominent

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<sup>145</sup> The original *ad hoc* Committee consisted of Rheinallt Jones, Brookes; Ray E. Phillips; Pim; Rev. Prof. J. de Plessis; D.D.T. Jabavu; T.W. Mackenzi (editor of *The Friend*); J.H. Nicholson, a former mayor of Durban; and Loram. Mackenzie and Nicholson subsequently died. In 1930-31 Dr. J.G. van der Horst of Cape Town; R.F.A. Hoernlé; Leo Marquard; and Lewis Byron of Durban were added.

<sup>146</sup> The Institutes' purpose was four-fold: (1) to accumulate facts on all aspects of race relations in a disinterested and scientific manner; (2) to wean the public from its racial prejudices by constantly publishing the results of its researches; (3) to connect and coordinate all organisations and individuals involved with race relations, welfare societies, missionary bodies, universities, student organisations, official bodies, municipalities and especially the Joint Councils; and (4) to function as a non-political body.

<sup>147</sup> SAIRR Archives: Rheinallt Jones Papers, Minutes, First Annual General meeting of Council of South African Institute of Race Relations, 13-14 January 1933.

part in organising the agitation against the Segregation Bills in 1935-36, though for the period 1933-34 there is no record of it doing anything constructive in regard to the Bills. Between 1929 and 1933, when a long term strategy could have been evolved, and when a more thorough opposition to the Bills was needed, the Institute sidetracked many white liberals and inhibited any possible development of the Joint Councils into more effective vehicles for constitutional protest against segregatory and repressive legislation.<sup>148</sup>

By 1928, if not earlier, Howard Pim, one of the founders of the Joint Council Movement, and Rheinallt Jones, felt the need for a separate pressure group aimed at defending the Cape African franchise.<sup>149</sup> Rheinallt Jones appears to have written to certain Cape African leaders, pointing out the need for concerted and coordinated effort if the Cape franchise was to be retained, but the response was disappointing.<sup>150</sup> More enthusiastic about the proposal was a group of white liberals in Cape Town among whom were Sir James Rose-Innes, Chief Justice of the Union until 1927; Henry Burton K.C. and ex-Cabinet Minister; H.E.S. Fremantle; the Rev. H. Booth Coventry, a Presbyterian minister; and Sir Clarkson Tredgold, former Judge of the Supreme Court of Southern Rhodesia.

Early in 1929 Pim and Rheinallt Jones were urging the Cape Town group to establish an organisation as soon as was possible, to counter a possible exploitation of the colour issue by Hertzog in the forthcoming general election. It was desired that the eastern Cape be actively associated with an organisation based in Cape Town. Pim had written to Sir Charles Crewe on this point, but the latter did not share Rheinallt Jones' and Pim's sense of urgency:

... it appears to me somewhat difficult to get together any sort of organization to deal

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<sup>148</sup> Macmillan, *op. cit.*, p. 214.

<sup>149</sup> See correspondence in SAIRR Archives, Box B72(b), for details of the origins and formation of the NRFA.

<sup>150</sup> *Ibid.*, Jabavu to Rheinallt Jones, 19 August 1928.

with the Native question. You see in the Cape our people are pretty well all agreed to stand by the present Cape franchise for Natives.<sup>151</sup>

On 18th March a manifesto of the Cape Town group was published in newspapers around the country.<sup>152</sup> They argued that the defence of the Cape franchise transcended party lines, and praised the Cape system which stood for full civic rights for all civilised men and recognised that all sections of the population had common interest. The Cape policy was 'the only possible solution' for South Africa's racial problems. The sincerity of the Prime Minister in conceding the principle that Africans in all parts of the Union should be represented in Parliament was appreciated, but it was considered 'profoundly mischievous' to bargain away a right in the south for only half a right in the north. Fears of swamping the black votes was illusory. Yet even if these were a danger, the remedy lay in raising the franchise qualifications. The statement urged all who sympathised or were willing to cooperate, to get in touch with the Native Franchise Vigilance Committee.

Pim and Rheinallt Jones continued to give assistance to the group, but both were busy men, and felt that the Cape should be in the forefront in the fight to retain the African franchise.

On 26th April 1929, at a meeting convened by the Committee, the Non-Racial Franchise Association was formed. Its aims were two-fold:

1. To resist any measure differentiating  
between franchise rights of the Cape Province

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<sup>151</sup> *Ibid.*, Crewe to Pim, 21 February 1929. Also Crewe to Pim, 7 March 1929: 'After the general election we can review the situation.'

<sup>152</sup> See e.g. *The Star*, 18 March 1929. The signatories of the Manifesto were Sir James Rose-Innes, Archbishop William Carter of Cape Town, W. Duncan Baxter, Emilie Solomon, Sir Clarkson Tredgold, P.K. Weiner, Henry Burton, H.E.S. Fremantle, Ramsden Balmforth, H.L. Currey, P. Ross Frames and Mary Brown (born Solomon). Pim thought the list of signatures 'admirable'. SAIRR Archives, Box B72(b) Pim to Burton, 19 March 1929.



on account of race or colour;

2. To stimulate consideration by the public and to promote a policy of making a certain standard of civilisation a qualification for the franchise throughout the Union.<sup>153</sup>

The NRFA was not an activist body as the Rev. H. Booth Coventry observed:

Respectability seems to be the craze. We must not offend etc. etc.<sup>154</sup>

As the election approached the NRFA gathered momentum. A manifesto published on the 18th May 1929 detected signs that General Hertzog was at one with them in regarding civilisation as 'the only possible qualification for the franchise'.<sup>155</sup>

On 21st May the first public meeting of the Association was held, and on 3rd June a further manifesto was published, criticising Smuts's inconsistency and vagueness in regard to the Cape franchise and the status and political rights of Coloureds in South Africa.<sup>156</sup> The proposal to call a National Convention to deal with the position of Non-Europeans was valueless unless it was agreed to to work out a scheme on the basis of civilisation.

Whether prompted by naïveté or tactical considerations, the praising of the 'good' points in Hertzog's segregation programme was of questionable value. Hertzog certainly never thanked them.

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<sup>153</sup> *The Star*, 27 April 1929.

<sup>154</sup> SAIRR Archives, Box B72(f), Coventry to Pim, 29 April 1929.

<sup>155</sup> *The Star*, 18 May 1929.

<sup>156</sup> The Johannesburg Joint Council dissociated itself from the criticism of Smuts.

Smuts felt that the NRFA undermined the SAP in the 1929 Election:

It has been most annoying that Sir James Rose Innes, Burton, and some others have formed a franchise Association in support of the Cape Native franchise and for its extension to the north. Their manifestoes have been a godsend to Hertzog and he has continually pointed out that the Saps want the extension. Finally, The Association has proceeded to belabour me for my national convention proposal. And they pose as friends of the Cape franchise! If I had followed their tactics, Hertzog would have won handsomely and the Cape Franchise would have been finished for good and all. Can you understand how such clever men can really do such a stupid thing?<sup>157</sup>

Though its leadership was largely white,<sup>158</sup> the NRFA seems to have been in good standing with moderate African opinion. *Umteteli wa Bantu* went as far as to remark that:

None can deny the weight of the influence wielded by a body such as this and the African National Congress should hasten to place its organisation and conduct under the Association's direction.<sup>159</sup>

A public meeting on 28th January 1931 convened jointly by the NRFA and the Cape Town Joint Council possibly indicates a growing awareness by the Association that a defence of the Cape Franchise involved more than merely protesting against the Representation Bill. Unless reactionary measures in general, such as the Riotous Assemblies (Amendment) Act and the Native Service Contract Bill were opposed, the passage of the Hertzog Bills would be that much more easier. Flank attacks on the franchise in the form of the Women's

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<sup>157</sup> Smuts to M.C. Gillett, 11 June 1929, van der Poel (ed.), *Smuts Papers*, Vol. V, p. 409.

<sup>158</sup> Rev. A. Mtimkulu was one of the few Africans who played any meaningful rôle within the Association. No evidence has been found to suggest that Coloureds had much to do with the body.

<sup>159</sup> *Umteteli wa Bantu*, 6 July 1929.

Emancipation Act were also to be condemned.<sup>160</sup>

1929 was the Association's most hectic year though it had its moments of activity during 1930-31. The NRFA appears to have been disbanded or to have suspended operations after 1931. Nevertheless, in its short-lived existence, the Association has opened up a new dimension in white liberal thought and action. For the first time since Union a campaign had been openly waged for the extension of the Cape franchise to the other provinces. Yet there were anomalies in NRFA policy. It is unclear, for example, whether an authentic qualified franchise envisaged or desired or whether whites were to retain a universal franchise.<sup>161</sup>

By 1930 the principle of 'progressive' Africans voting on a common roll with whites had become a key liberal criterion.<sup>162</sup> This was symbolised in Edgar Brookes' 'recantation' of his segregationist beliefs<sup>163</sup> at the multi-racial Conference of the Students' Christian Association held at Fort Hare in

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<sup>160</sup> See Rose-Innes *et al.* *Native Disabilities in South Africa*.

<sup>161</sup> Cf. the following remarks of Henry Burton: 'The natives do not object to the raising of the qualification so long as the qualification is raised for everybody ... irrespective of race or colour.' and: 'there seems to be one course left as a minimum of fair treatment to the non-European sections of the people. We must take it that adult suffrage assumes a status of civilization in the European - a sufficiently wide assumption in all conscience. On that basis, and assuming that, we must fix a standard of civilization artificially, either the existing Cape qualification or some other fair and reasonable test, and then all non-Europeans who can satisfy that test should be admitted to the common Voters' Roll.' *Ibid.*, pp. 6-7.

<sup>162</sup> Margaret Ballinger, personal interview, 14 April 1977. See O.D. Schreiner and W.H. Ramsbottom, 'The Franchise', *Coming of Age*, pp. 110-128.

<sup>163</sup> Individual liberals, however, were by no means unanimous in their conception or interpretation of the short and long term objectives of a qualified franchise. Brookes, for example, was not as committed to the Cape franchise as were Cape Town liberals like Sir James Rose-Innes or Johannesburg liberals like Macmillan and Schreiner.

that year.<sup>164</sup> Also, the Durban Joint Council which had favoured Hertzog's 1926 Representation Bill, was by 1929, opposed to Hertzog's schemes.<sup>165</sup> However, the liberalism of the 1930's was more than a carbon copy of Cape liberalism: it was informed, among other things, by new economic and anthropological schools of thought, new developments in British colonial policy, local permutations of Fabian socialism, as well as the Oxford Group movement.<sup>166</sup>

Even if one accepts that liberals by definition are committed to working within the system, it is doubtful if liberals in their opposition to the Hertzog Bills between 1929-34, fully explored the limits of constitutional protest. Those willing to attempt this made little headway in the early Thirties.<sup>167</sup> Macmillan left South Africa at the end of 1932. W.G. Ballinger, considered by Margaret Hodgson as the best man to coordinate opposition to the Hertzog Bills in the early 1930's,<sup>168</sup> was refused a post on the *Bantu World* (a new African newspaper launched in 1932 by Howard Pim, the Argus Group and other interests), because of his unwillingness to toe a line which he thought would compromise his integrity.<sup>169</sup> Ballinger and Hodgson then busied themselves with a survey of the British Protectorates in Southern Africa and consequently had little time to devote to opposing the Hertzog Bills.

White liberals gave little thought to the possibilities

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<sup>164</sup> The Fort Hare Conference which demonstrated to a number of the participants the viability of moving in the direction of a common society, was an important event in the history of 20th century white liberalism. See R.J. Haines, *Dr. Edgar Brookes and the Liberalism of the 1930s*. (Honours long essay, 1975) pp. 34-39.

<sup>165</sup> SAIRR Archives, Box B72(b), Mabel Palmer to Rheinallt Jones, 20 March 1929.

<sup>166</sup> For a discussion of the liberalism of the 1930's see Haines, *Brookes and the Liberalism of the 1930s*.

<sup>167</sup> The frustration experienced by W.G. Ballinger and M. Hodgson is reflected in the correspondence in ICU Records (Wits.), File 3.

<sup>168</sup> ICU Records (Wits.), File 5, W. Holtby to Hodgson, 16 November 1932.

<sup>169</sup> For details see correspondence in ICU Records (Wits.), File 3.

of encouraging a black opposition front against the Bills.<sup>170</sup> In part, this was probably due to a fear of invoking an anti-white black consciousness movement. Also, whether intentional or not, they tended to perceive Coloured interests as distinct from those of Africans. By 1934 separate Coloured-European Joint Councils had been established in Cape Town, East London and Durban.<sup>171</sup> In June 1933 the first Coloured-European Conference was held, and it is perhaps significant that the proceedings were almost entirely devoted to social and economic matters.<sup>172</sup>

The period 1929-34 saw a shift in the response of Coloured people to the Hertzog legislation. By 1930 the Afrikaner National Bond seems to have passed into obscurity. The more restrictive nature of the revised Coloured Persons' Rights Bill, the Government's unwillingness to pass the Bill independently of the Representation Bill, together with the enactment of the Women's Enfranchisement Bill and the franchise laws Amendment Bill, are among the possible reasons. These factors all made a mockery of Hertzog's promise to treat Coloureds on a basis of equality with whites politically. Intensified discrimination against Coloureds in the economic field also rankled.<sup>173</sup>

A more militant mood can be perceived among Coloureds in general during 1929-31. After a protest meeting held on the night of 10th March 1930, in the Cape Town City Hall, under the auspices of the African Peoples' Organisation, about 2,000

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<sup>170</sup> There is no evidence, for instance, in the records of the Coloured-European Joint Councils of Johannesburg and Cape Town, of such a front being considered.

<sup>171</sup> These councils, however, were not only a product of a general lack of enthusiasm by whites to promote closer cooperation between the different black groups, but also due to a reluctance on the part of Coloureds to undertake common action with Africans. They feared they might lose the few 'exclusive' privileges they possessed. See views of J.R. Rathebe and Akena on this point in *Report of Conference of Joint Councils, Cape Town, 31 January 1936*.

<sup>172</sup> See *Report of the Coloured-European Conference, Cape Town, June 26-28 1933*, RR 36/33.

<sup>173</sup> *Ibid.*

Coloureds and Africans marched to Parliament. A deputation of three <sup>174</sup> sought an interview with the Prime Minister to express the hostility of Coloured women towards the Enfranchisement Bill, and the resentment of blacks in general towards the Segregation Bills.<sup>175</sup> In May of the following year, an APO organised meeting of 1,400 Coloureds, held in the Cape Town City Hall, unanimously urged the secession of the Cape Province from the Union, protested against the Women's Enfranchisement and the franchise laws Amendment Act, and condemned Hertzog's segregation programme. The highlight of the evening was a powerful speech by 'Cissie' Gool, Dr. Abdurahman's daughter:

I am afraid that I am slowly going Red and this is the last time I shall address you from a political platform ...

In the face of so much political oppression it is hard to keep one's temper, although often it is better to be patient and reap the benefit in the end. The fact is that we are not politically thirsty enough to rise to a man and a woman and demand our rights ...

But you are the workers - in your hands lie the power! But look for your white friends. We must have white friends.<sup>176</sup>

These complex sentiments were symptomatic of the crystallizing thought of a new generation of Coloured radicals and activists, which emerged in the western Cape in the early 1930's.

Abdurahman's leadership of the APO was soon challenged by this new group. Abdurahman held off the challenge, but the consequent loss of young blood from the organisation, and the tensions engendered, contributed to the decline of the APO after 1931.<sup>177</sup>

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<sup>174</sup> The three were Mrs. Z. Gool, Mrs. de Vries and Mr. S. Reagon.

<sup>175</sup> *The Star*, 11 March 1930.

<sup>176</sup> *Imvo Zabantsundu*, 20 May 1931.

<sup>177</sup> Simons, *op. cit.*, p. 486.



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Instead of the opposition to the Hertzog Bills mounting during the period 1929-34, there was in fact a wavering in protest. In the years 1929-30 there were signs that the opposition movement would become more assertive. There appears to have been an intensified mood of resentment among blacks towards white rule and the short-lived LAR showed that there was scope for a mass movement among Africans. By the end of 1931, however, African protest was in the doldrums, and although Coloureds were loud in their condemnation of the Women's Enfranchisement Act, the APO was reluctant to focus and exploit this hostility. A poor economic climate and a streamlining of state repression were factors central to a slump in protest activity. But there were other causes. These included a lack of flexibility on the part of the CPSA, heightened internal tensions in the ANC on a national and provincial level, and a lack of initiative among established black leaders.

Of all the protest groupings during 1929-34, white liberals, relatively speaking, were probably the most enterprising. The NRFA, though certainly no activist body, partly filled the need for a specialist organisation to coordinate a campaign against the Hertzog Bills - the Representation Bill in particular. However, it became dormant after 1931. The Consultative Committee of Joint Councils also represented an attempt to give moderate protest more cohesiveness, but operated in the shadow of the SAIRR. A number of liberals appear to have regarded the Institute as the embodiment of a long-term strategy - the education of white public opinion along Fabian lines. Some of the more left-wing liberals

argued that the emphasis should rather be placed on converting the Joint Council into more militant bodies. Their advice, however, went unheeded.

During 1929-34, there was little or no advance in methods of constitutional protest. Although a few moderate Africans suggested that the possibility of passive resistance be explored, such proposals seem to have found little enthusiasm among the African élite.

CHAPTER IIITHE 1935-36 CRISIS: THE FIRST PHASE

At the end of April 1935 Hertzog's two 'Native Bills' were laid on the table of Parliament in their final form.<sup>1</sup> The Native Trust and Land Bill provided additional land for African occupation to that scheduled in the 1913 Act.<sup>2</sup> These additional areas were not set apart as areas in which Africans only could acquire land, but were 'released' from the prohibition imposed by Section 1 of the Natives' Land Act of 1913, and within them, under certain specified conditions, land could be purchased or leased or otherwise acquired by Africans or by the Native Trust for Africans. Without the approval of the Governor-General, no land could be acquired outside the scheduled areas by an African from a European, when such land was wholly surrounded by land held by Europeans, and, on the other hand, no European could, in like circumstances, acquire land in a released area from an African.<sup>3</sup> This provision, aimed at furthering territorial segregation by preventing the creation of white or black islands, was supplemented by additional machinery, which provided the means for the removal of such islands.<sup>4</sup>

The released areas were detailed in a schedule to the Bill but their total extent was not indicated. The maximum amount of land, over and above land already provided by the 1913 Act, which the Africans and the Trust could acquire, was seven and a quarter-million morgen,<sup>5</sup> some of which would

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<sup>1</sup> *The Parliament of the Union of South Africa: Reports and Proceedings of the Joint Committee on the Representation of Natives and Coloured Persons in Parliament and Provincial Councils and the Acquisition of Land by Natives*, April 1935, Joint Committee No. 1 - 1935; *The Star* 30 April 1935. For detailed analyses of the two Bills see *Race Relations*, August 1935.

<sup>2</sup> Sections 1, 2 and 3.

<sup>3</sup> Section 12.

<sup>4</sup> Sections 13, 14 and 15.

<sup>5</sup> Section 10 (1).

conceivably have been outside the released areas, since the Trust could acquire land outside both the scheduled and released areas, if the land was adjacent to Trust or African-held land.<sup>6</sup> The maximum morgenage allowed by the Bill was nearly a million morgen more than that provided for in the recommendations of the Local Committees and in General Hertzog's 1927 Land Bill, but almost two million morgen less than the recommendations of the Beaumont Commission of 1916.

If Africans were assured of getting all the specified seven and a quarter-million morgen, the total amount of the land held by them would be 17,660,290 morgen (i.e. scheduled African areas 10,410,290 and released areas 7,250,000) - approximately 12.3% of the total area of the Union.<sup>7</sup>

Chapter II of the Bill established the 'South African Native Trust', a corporate body with the Governor-General as Trustee.<sup>8</sup> The powers of the Trust were stated in rather general terms. It could acquire land in the same areas as an African could; develop such land; assist in developing African agricultural land pastoral interests; make advances to individual Africans or African tribes; and generally 'to assist and develop the material, moral and social well-being of Natives' living in scheduled or released areas or on land held from the Trust.<sup>9</sup>

The Trust was vested with all Crown lands reserved or set aside for Africans anywhere, and all Crown lands in scheduled and released areas, except such land which might have been reserved for public purposes or in the actual and legal occupation of whites.<sup>10</sup>

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<sup>6</sup> Section 10 (2).

<sup>7</sup> The Tomlinson Commission estimated that when all the land in the released areas was acquired, African areas would consist of 13.7% of the total area of the Union. See D. H. Houghton, *The Tomlinson Report* (1956), p.7.

<sup>8</sup> Section 4.

<sup>9</sup> Section 9 (1)

<sup>10</sup> Section 6

The Bill stipulated that the Trust could not acquire more than seven and a quarter-million morgen of land, and laid down the maximum extent of land which the Trust could acquire in each province.<sup>11</sup>

Chapter IV of the Bill laid down a series of measures intended to restrict and control the presence of Africans in areas other than the scheduled and released areas. The Chapter was applicable to land in white areas and white owned land in released areas.<sup>12</sup> Under this Chapter the only Africans who could reside on land so proclaimed would be:

- a) the registered owner of such land; or
- b) a servant;
- c) an African male adult labour tenant whose services were required by the owner under a contract to render labour services;
- d) an African who was a registered squatter (i.e. a male African over 18 years who was neither a servant nor a labour tenant); or
- e) the families and actual dependents of the above (except males over 21);
- f) an African specially exempted from the prohibitions of the Chapter (i.e. any specially exempted minister, evangelist, teacher, aged, chronically infirm and destitute).<sup>13</sup>

A progressive scale of fees for each squatter was to be imposed on white landholders (thus applying to the whole country the system applied to the Transvaal and Natal under the Native Service Contract Act of 1932).<sup>14</sup> Unlicensed

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<sup>11</sup> The area was divided as follows:

Transvaal	-	5,028,000 morgen
Natal	-	526,000 morgen
OFS	-	80,000 morgen
Cape Province	-	1,616,000 morgen

<sup>12</sup> Section 24.

<sup>13</sup> Sections 25 and 33.

<sup>14</sup> Section 32.

squatters would either have to be engaged as full-time domestic servants (or other employees) or as labour tenants (if permitted by a control board), or leave the area.

The number of labour tenants permitted on a farm was to be limited by a Labour Tenant Control Board to the actual labour requirements.<sup>15</sup> (It was assumed that every labour tenant rendered at least six months' service in each year to the owner, and that unless otherwise proved, five labour tenants were sufficient for any one farm.)<sup>16</sup>

The Second Schedule to the Bill laid down the circumstances in which Europeans or Africans (or the Trust) might be called upon to fence their adjoining lands. Section 21 indicated that it was intended that the Trust be able to act for African owners. While the provisions in the Second Schedule were not as stringent as those contained in the same Schedule to the 1927 Bill, onerous duties regarding fencing were imposed upon Africans who owned land outside released areas i.e. outside the Trust's theoretical sphere of operations.

Section 47 of Chapter V provided for the repeal of several laws or portions of laws, as mentioned in the Third Schedule. Probably the most crucial provision of the Schedule was the repeal of Section 8(2) of the 1913 Land Act which had absolved Cape Africans from the provisions of the Act.

The Representation of Natives Bill prohibited any further registration of Africans as voters on the ordinary parliamentary voters' roll, although those already on the rolls were to remain unless they lost their qualification.<sup>17</sup> The Union was to be divided into four electoral areas for the purposes of African representation in the Senate and in the proposed Native Representative Council.<sup>18</sup> (After seven years these

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<sup>15</sup> Section 28.

<sup>16</sup> Section 29.

<sup>17</sup> Section 1.

<sup>18</sup> Section 2.



areas could be extended to a maximum of six.) Four white senators, one for each electoral area, would be elected by the electoral college of that area.<sup>19</sup> (These senators were additional to those prescribed by the South Africa Act.)<sup>20</sup> The electoral colleges were set up as follows:

- a) In the Transkei - the African members of the United Transkeian General Council.
- b) In the remaining three areas: the Transvaal and Orange Free State (combined); Natal; and the Cape Province (excluding the Transkei) - chiefs of tribes where there were no local councils, African members of local councils, reserve boards and urban advisory boards, and (in the Cape) headmen of rural locations not under a chief or local council.<sup>21</sup>

The Natives Representative Council - a purely advisory body - comprised eleven members, sixteen of whom were Africans: twelve elected by the above-mentioned electoral colleges (three from each electoral area), and four nominated by the Government. Six were Europeans: five Chief Native Commissioners without voting power and the Secretary for Native Affairs with a casting vote only.<sup>22</sup> The functions of the Council were to consider and report to the Minister on:

- a) proposed legislation insofar as it might affect the African population;
- b) any matter referred to it by the Minister; and
- c) any matter specially affecting the interests of Africans in general.

The Reports of the Council were to be laid on the Tables of both Houses of Parliament. In addition, the Council could

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<sup>19</sup> Section 3.

<sup>20</sup> Section 4.

<sup>21</sup> Section 6.

<sup>22</sup> Section 13.

recommend to Parliament or any Provincial Council, legislation which it deemed necessary in the interests of Africans.<sup>23</sup>

The African members of the Council were to hold office for a period of five years and a salary of £120 per annum paid, together with a travelling and subsistence allowance.<sup>24</sup> Sections 16 and 17 gave the Government wide powers to disqualify, or remove, African members for a great variety of causes.

The Bill also made provision for Cape Africans to elect two members, European or other, one for the Transkei and one for the rest of the Cape Province, to the Cape Provincial Council<sup>25</sup> so long as that body controlled African education, health and roads.<sup>26</sup> These Provincial Councillors were also to be elected through electoral colleges.<sup>27</sup>

Section 28 of the Bill contained a special definition of African and Section 26 provided the machinery for the hearing and granting of applications for exemption from the operation of the definition. All pure or full-blooded Africans were to be subject to the Bill but the definition created a class of 'law-made' Africans, *viz.* all persons, one of whose parents - or even one of whose grandparents - was a pure or full-blooded African. Thus a person might have passed as white, but who was known to have had one African grandparent, was an 'African' for the purposes of

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<sup>23</sup> Section 18.

<sup>24</sup> Section 14.

<sup>25</sup> Section 20.

<sup>26</sup> Section 24.

<sup>27</sup> Section 23.

the Bill, unless specially declared a 'Non-African' under Section 26.<sup>28</sup>

Editorial comment in most English-speaking newspapers<sup>29</sup> was not particularly critical of the two Native Bills. *The Star* regarded the proposed eventual abolition of the Cape franchise 'with regret' but felt that the African voters of the Cape had exercised a negligible influence on the course of political events and since the granting of the vote to women, the influence was less than ever.<sup>30</sup> Moreover, the existing Cape system fostered prejudice in the minds of a number of whites. Furthermore, the Representation Bill gave representation to the entire Union and the Land Bill proposed to confer 'very definite and overdue advantages to the native population as a whole'. The paper thought that the Cape Africans would be 'well advised to acquiesce in the new legislation'. After all, they would continue to enjoy representation in the Cape Provincial Council which was more direct and effective.<sup>31</sup>

*The Friend* saw the bills as the 'considered results of many hours of discussion and negotiation' and maintained that the underlying principle would gain support of a 'commanding majority' in Parliament and in the country.<sup>32</sup>

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<sup>28</sup> Section 26 was initially regarded by the odd white liberal and some Africans as a loophole for certain progressive Africans: 'The immediate point is this most interesting provision that, after much tribulation it is going to be possible for certain Natives, educated, "civilised standard of life" etc. to be declared non-Natives so far as the franchise Bill is concerned. Does this mean that they are to be admitted to the full franchise?' SAIRR Archives: Rheinallt Jones Papers, Kroonstad Joint Council Records, Martin Knight to Rheinallt Jones, 16 May 1935.

<sup>29</sup> With the exception of the *Daily Dispatch*, English-speaking newspapers usually supported the United Party.

<sup>30</sup> In 1935 there were 10,628 African voters in the Cape. *Official Year Book of the Union of South Africa*, No. 18 - 1937, p. 144.

<sup>31</sup> *The Star*, 1 May 1935.

<sup>32</sup> *The Friend*, 3 May 1935.

The *Cape Argus* deplored the proposed abolition of the Cape African franchise:

What will men like Sir James Rose-Innes, Senator F.S. Malan, Mr. Henry Burton say to the new ideas? No doubt they still believe, as we do, that to deprive the natives of a suffrage which they have never misused, and which offers no menace to the European, is both a political injustice and a political blunder that cannot be palliated by phrases.

yet went on to say that:

The Cape native franchise has been, perhaps can still be, preserved against attack: it cannot be extended. And meanwhile the natives in the rest of South Africa have no say in affairs at all and no prospect of ever obtaining such a thing.

Also, though senatorial representation was of little or no use, the Native Representative Council was 'a different proposition':

In spite of its lack of effective power, in spite of its scanty numbers, and in spite of its complicated method of election, it does seem to contain the seeds of a real advance for natives in the political sphere. Even as they stand the proposals give the Transvaal native for the first time the right to express his opinion on matters that concern him, and even to a voice in the expenditure of native moneys. But the chief advantage lies in the creation of a training ground for which there is no precedent outside the Transkeian territories. To secure this training ground it may be worth while to sacrifice the Cape franchise in order to open up a limit of advance for the natives of the Transvaal and Free State.<sup>33</sup>

*The Natal Mercury* viewed the impending legislation with complacency:

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<sup>33</sup> *Cape Argus*, 2 May 1935.

The Bills are perhaps not as liberal or progressive as adaptionists hoped ... But they *do* represent an honest attempt to formulate for the Natives of the Union a system of administration and political representation that, without being repressive, will not be inconsistent with the continued advancement of white civilization.<sup>34</sup>

Africans reacted equally promptly and considerably less equivocally to the Bills, those in the eastern Cape and on the Rand leading the chorus.<sup>35</sup> J.R. Rathebe, a member of the Johannesburg Joint Council and the Executive Committee of the SAIRR, soberly expressed the disillusionment of the growing African élite on the land:

After ten years waiting we expected to find at least some progressive step in the Government's Native Bills. Instead there has been actual retrogression ... The one asset on which we had pinned all our hopes for the future was the Cape native franchise, which might some day be extended to the northern provinces. Now it is being removed by a gradual process.

Rathebe saw the senatorial representation as little more than 'an attempt to bluff the native people into believing they have representatives in Parliament' and thought there were far too few African members on the envisaged Native Representative Council. Representation on the Cape Provincial Council was a 'real step forward', particularly if it could be extended to other provinces, but the stipulation that this representation would last as long as certain African interests

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<sup>34</sup> *The Natal Mercury*, 2 May 1935.

<sup>35</sup> For the initial reactions of Cape Africans see e.g. *Imvo Zabantsundu*, 7, 14 and 28 May 1935. For the views of Transvaal Africans, especially those on the Rand, see e.g. *The Bantu World*, 4, 11, 18 and 25 May 1935. Cf. *Umsebenzi*, 18 May 1935. A fair reflection of 'moderate' African opinion throughout the Union is seen in D.D.T. Jabavu (ed.), *Criticisms of the Native Bills* (1935). Unfortunately, copies of *Ilanga lase Natal* for the period May-August 1935 are missing. There is, however, a report of interviews with educated Africans in northern Natal in *The Star*, 13 May 1935.

remained in the hands of the Provincial Council, appeared to be 'an excuse to end it at any moment'.

The definition of an African was a further handicap because

... no matter how enlightened a native may be, no matter how he may rise in the scale of civilisation, because of his birth from African parents he must ever remain in the position of a subject race.<sup>36</sup>

Selope Thema endorsed Rathebe's sentiments and added:

The principle of these Bills will be the beginning of endless trouble. The African people finding themselves left completely outside South African national life, will have to organise a national life of their own.

If the Government is in earnest about representing us, it should go the whole hog, and put natives in the House of Assembly, not in the Senate; in any case there should be no colour bar about the Senate representatives.<sup>37</sup>

D.D.T. Jabavu, a moving spirit in the ensuing campaign against the Bills, entertained few illusions as to the ability of Africans and white liberals to check the passage of the Hertzog legislation, in particular the abolition of the Cape franchise. In a confidential letter written to Rheinalt Jones on 2nd May, he remarked:

I feel exactly as Rathebe and Thema say in today's wires in the papers. Briefly,

- 1) I see no hope of saving the franchise, now that it has been abolished by agreement in the Fusion party.
- 2) The one hope for it lay in party government, where reactionaries could not get

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<sup>36</sup> *The Star*, 1 May 1935.

<sup>37</sup> *Ibid.*



the two-thirds majority. Directly coalition was compassed I knew it was the beginning of the end, and I quietly resigned myself to the inevitable fate.

- 3) We lost our battle as soon as the Britishers caved in to the Boer adamant attitude in the Select Committee or Commission.
- 4) Of course the action of Dube and Thema in signing away the claim to the vote in favour of land promises is, in my opinion, a real betrayal of our case, but we cannot use this now, for it is too late and useless even to mention it.
- 5) Nevertheless I am prepared to give the government a full run for their money by dying hard so that we may go down still fighting. To this end I would suggest that we go on with the plan we talked about when you were here a few weeks ago, namely to organise a movement for the preservation of existing franchise rights, in order to bring pressure on our English friends in England to censure the South African government on the matter as appertaining to the demand of the inclusion of the protectorates in a Union that has abolished Bantu citizenship.<sup>38</sup> This move will then be of value as a jumping-off ground for those who may, a century hence, fight under more favourable circumstances for the grant of citizenship rights to the Bantu when we are all dead and buried.

The clock has certainly been set back centuries.<sup>39</sup>

Jabavu was not alone in his diagnosis that the Cape franchise was lost: veteran liberals such as Senator F.S. Malan and Sir James Rose-Innes privately shared this view.<sup>40</sup>

A proposal by *The Bantu World* of 20th April, that a national convention be held, was enthusiastically seconded by the Rev.

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<sup>38</sup> Hertzog was due to discuss the possible transfer of the Protectorates with the British Government in May 1935.

<sup>39</sup> SAIRR Archives, Box B 100(e), Jabavu to Rheinallt Jones, 2 May 1935.

<sup>40</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Brookes, 13 May 1935.

Z.R. Mahabane,<sup>41</sup> and found immediate and widespread support.<sup>42</sup> The idea appears to have been the result of discussions between Dr. A.B. Xuma, a young Johannesburg medical practitioner, and R.V. Selope Thema:

I discussed the possible plans and strategy of organizing the country with Mr. R.V. Selope Thema and agreed that Dr. I.P. Ka Seme (*sic*), President General of the Congress and Professor Jabavu, be approached to become Joint Convenors of a Convention of African leaders to consider the bill. Mr. Thema was to introduce the idea in the *Bantu World* and as I was to go to Fort Hare, I was to see Professor Jabavu and explain the idea fully.<sup>43</sup>

An informal committee, comprising Xuma, Selope Thema, J.R. Rathebe, H. Kumalo, L.L. Radebe, M. Matebula and J.S. Kokozela,<sup>44</sup> was set up in Johannesburg to help coordinate the initiative.<sup>45</sup>

It may not have been mere coincidence that the thrust for a Union-wide convention emanated from the Rand. There had been a resurgence of political activity in this area after the stagnation of the early Thirties.<sup>46</sup> This was possibly linked to the rapid economic development, especially in the industrial sector, after 1933, which contributed to the growth, particularly on the Rand, of a permanent urban

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<sup>41</sup> *The Bantu World*, 18 May 1935, for Mahabane's views.

<sup>42</sup> For an idea of the enthusiasm generated by the proposal see e.g. D.D.T. Jabavu's letter to the editor of *Imvo Zabantsundu*, 18 May 1935. See also letters to the editor in *The Bantu World*, 11 and 25 May and 1 June 1935; and *Umteteli wa Bantu*, 18 May and 1 June 1935.

<sup>43</sup> A.B. Xuma Papers, Box P, Folder 24, Draft autobiography (incomplete), pp. 41-42.

<sup>44</sup> L.L. Radebe seems to have been a member of the JJC. No details have been found regarding H. Kumalo, M. Matebula and J.S. Kokozela.

<sup>45</sup> *The Bantu World*, 18 May 1935.

<sup>46</sup> An examination of the columns of *Umteteli wa Bantu* and *The Bantu World* reveals that there were more reports of meetings of political and quasi-political bodies on the Rand during the early months of 1935 than in the corresponding period of the preceding year.

African population.<sup>47</sup>

At a June meeting in Pimville Native Township, called by the Transvaal African Congress, over a hundred representatives of African organisations including local vigilance associations, advisory boards, *Ikaka Labasebenzi*,<sup>48</sup> remnants of the ICU, and the Communist Party, gave further impetus to the scheme of a national convention 'to consider the Government's new Native policy and the incorporation of the Protectorates'.<sup>49</sup>

On 13th July 1935, an emergency meeting of the Executive Committee of the Cape Native Voters' Convention, representing the group most threatened by the proposed legislation, appealed for a retention of the existing franchise and a year's delay to enable Africans to offer 'constructive criticism'.<sup>50</sup> Jabavu, President of the CNVC during the

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<sup>47</sup> It is difficult to accurately assess the numbers of the permanent African urban population in South Africa or on the Rand. In absolute terms i.e. including migrant labour, African urban population in South Africa had increased from 607,000 in 1921 to 1,106,000 in 1936, with a relative decline in its migrant labour contact indicated by a change in the ratio of men to women from 3:1 to 2:1. In manufacturing industry, which was concentrated on the Rand, African workers doubled from 66,503 in 1934-35 to 134,233 in 1936-37. For further statistics on the African workforce in the 1920's and 1930's, see *inter alia* G.M.E. Leistner, 'Non-Whites in the South African Economy', N.J. Rhodie (ed.), *South African Dialogue: Contrasts in South African Thinking on Basic Race Issues* (1976), pp. 275-277; D. Hobart Houghton, *The South African Economy* (1964) pp. 115-117; and S.T. van der Horst, *Native Labour in South Africa* (1942) p. 263 *et seq.* Economic development also led to the growth of the African middle class. O'Meara estimates that this increased from 0.2% of adult Africans in 1921 to 0.9% in 1936. Dan O'Meara, 'The 1946 African Mine Workers' Strike and the Political Economy of South Africa', P. Kallaway and T. Adler (eds.), *Contemporary Southern African Studies: Research Papers*, Vol. II (1978), p. 64.

<sup>48</sup> *Ikaka Labasebenzi* (The Workers' Shield) was set up by the CPSA in 1931 as a successor to the League of African Rights. Its function was to assist political prisoners and to 'organize mass campaigns against all forms of White Terror', but it gained little support from Africans. See Simons, *op cit.*, p. 444 *et seq.*

<sup>49</sup> Report of Conference called by the Transvaal African Congress, June 8, 1935, Karis and Carter (eds.) *From Protest to Challenge*, Vol. II: *Hope and Challenge 1935-1952* (1973), p. 14.

<sup>50</sup> Resolution of the Executive Committee of the Cape Native Voters' Convention, July 13, 1935, *Ibid.*, pp. 14-15.

was that:

Natal and Zululand Natives do not want European senatorial representation in Parliament, as proposed in the Draft Native Bills. They prefer to make their representations direct to the Government.

There was no criticism of the Land Bill.<sup>53</sup>

Albert Luthuli's comments on the conference suggest that John L. Dube attempted to 'regulate' African protest in Natal. The Acting Paramount Chief of the Zulus was supposed to be chairman, though Dube acted for him. Rev. A. Mtimkulu,<sup>54</sup> Dube's right hand man and one of the 'old guard', was appointed to head a committee to report on the findings of the conference, but Luthuli acted in his stead. When the completed report was presented to Mtimkulu, he rejected it and replaced it with a report of his own, 'inspired unofficially by a clerk<sup>55</sup> in the Native Affairs Department':

... he substituted his own report and the Committee's findings were discarded. The upshot was that Natal Africans appeared completely indifferent to the fate of their disenfranchised brothers in the Cape, and the conference appeared to accept without criticism the proposals relating to land.

... we younger men were shocked and taken aback, but we did not see how to make an issue of it with a politically entrenched older man.<sup>56</sup>

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<sup>53</sup> Reuter's report of Conference at Pietermaritzburg cited in Jabavu, (ed.), *Criticisms of the Native Bills*, p. 5.

<sup>54</sup> A.W.G. Champion's description of Mtimkulu in 1930 is interesting: 'I find Mtimkulu is an old man who believes that he knows everything. When he discusses matters he is always inclined to be autocratic ... He appeared to me to be afraid of European Authorities ...' *Champion Papers* (Wits.), A922/B, Note by Champion entitled 'My Capetown Exile'.

<sup>55</sup> The 'clerk' was Charles Faye, a translator in the Native Affairs Department.

<sup>56</sup> Albert Luthuli, *Let My People Go* (1963), pp. 86-87.

second half of 1935, visited various parts of the Union, drumming up support, contributed articles to the African and white English press, and published two pamphlets - *Criticisms of the Native Bills* and *Native Views on the Native Bills* - which presented the views of African middle class elements and progressive chiefs. The pamphlets represented a 'humble attempt' to counteract the elaboration and legitimisation of an ideology of segregation, a process in which, Jabavu realised, the white media played a crucial part:

Our Government, like all other civilised legislative bodies, is supported by influential daily journals that defend and justify its measures good or otherwise. The case for the inarticulate Bantu is either never heard or is severely handicapped by the lack of a strong press to educate public opinion, and the only public opinion that matters for parliamentary purposes in this country is European public opinion.<sup>51</sup>

The Hertzog Government seemed unaffected by the agitation. It made no move to call a national conference of African leaders in accordance with the Native Affairs Act of 1920, nor did it postpone consideration of the Bills as Jabavu and others requested. The Government did, however, convene, at the last minute, a series of five regional conferences - at Pietermaritzburg (Natal), Pretoria (Transvaal and OFS), Umtata, Mafeking and Kingwilliamstown - to which African chiefs and other selected Africans were invited. The Secretary for Native Affairs and members of the Native Affairs Commission were to explain the Bills at these meetings.<sup>52</sup> The first of these conferences was held at Pietermaritzburg on 4th September 1935. The bland Reuters report of the conference gave no hint of the undercurrents present. The 'main point' that emerged from the meeting

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<sup>51</sup> Jabavu *et al.*, *Criticisms of the Native Bills*, p. 7.

<sup>52</sup> The members of the Commission were Dr. A.W. Roberts, J.B. Wessels MP, and Senator P.W. le Roux van Niekerk.

A group of younger intellectuals, including Selby D.B. Ngcobo and Luthuli,<sup>57</sup> largely centred around Adams College, in Amanzimtoti, emerged as a political force in Natal in the mid-Thirties, but even if they had the power base to challenge Dube's authority (presuming that they had such an ambition) they had not yet developed a political *savoir faire*. Moreover, like Dube, they were concerned with the preservation and enhancement of Zulu culture - a factor which probably delayed the eventual confrontation between the groups.<sup>58</sup>

Edgar Brookes, who was then Principal of Adams College, showed concern at the inability of Dube and Mtimkulu to give the right lead:

On Sunday the thirteenth of this month /he wrote to Rheinallt Jones/ I called to see John Dube at Ohlange and tried to point out to him as tactfully as I could the unfortunate character of the decisions taken at Maritzburg and the grave danger of his "selling the Pass" and of the creation of violent differences of opinion between the responsible leaders at the Congress Meeting to be held at Bloemfontein on December 16th.

He suggested a possible conciliatory course for Dube:

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<sup>57</sup> Selby B. Ngcobo was born in 1909 in Pietermaritzburg and studied at Adams College and Fort Hare. He appears to have been on the staff of Adams College during the mid-1930's. Albert Luthuli born about 1898 began training as a teacher at Adams College in 1920 and subsequently joined the training college staff. In 1935 he accepted the chieftancy of Groutville reserve.

<sup>58</sup> Haines, 'Reflections on African Protest in Natal'. See also e.g. Luthuli's presidential address at the 17th annual conference of the Natal Native Teachers' Union, 2 July 1935, which included this remark: 'While as Bantu people we must avoid the inferiority complex attitude, yet we should not be unduly forward in our seeking points of contact with Europeans. We must maintain the Zulu's traditional self-respect for law, order, authorities and seniors.' *Natal Native Teachers' Journal*, January 1936, p. 74.



In the course of our conversation it became clear that there was one formula which would enable John Dube to come to agreement with the other Bantu leaders without having to eat his words. That formula was to press for the immediate bringing into being of the Natives' Representative Council, if possible in an amended form, and the holding over of all the other contents of the Bills - Cape Franchise, Senators, and Land alike - to be worked out gradually by the Government with this Representative Council.<sup>59</sup>

The Natal Regional conference on the Hertzog Bills was in effect held again on 22nd October 1935, and Z.K. Matthews<sup>60</sup> attended as an additional delegate with instructions to take over the leadership of the conference if Mtinkulu and Dube were to fail again.<sup>61</sup> The second conference was more successful, although as Matthews noted, educated Africans were poorly represented.<sup>62</sup> Also, it took a 'soft' line - similar to Brookes' advice to Dube - on the franchise issue. Again there was no criticism of the land proposals. It was felt that Natal's quota of three members on the Native Representative Council was inadequate in view of the large African population of Natal and Zululand, and that the number of representatives be 'appreciably increased' in order to provide adequate representation for the opinion of rural, urban and educated Africans of the province.<sup>63</sup>

The conference of Transvaal and OFS Africans, held on the

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<sup>59</sup> SAIRR Archives, Box B 100(e), Brookes to Rheinallt Jones, 27 October 1935.

<sup>60</sup> Z.K. Matthews, the first African to obtain a B.A. degree from Fort Hare, was appointed head of the high school at Adams College in 1925. In 1933 he went to Yale where he completed an M.A. After spending a year in Britain he returned to Natal in 1935 and in 1936 was appointed lecturer at Fort Hare in Social Anthropology and Native Law and Administration.

<sup>61</sup> SAIRR Archives, Box B 99(e), Brookes to Rheinallt Jones, 22 October 1935.

<sup>62</sup> *Ibid.*, Z.K. Matthews to Brookes, 27 October 1935.

<sup>63</sup> *Ibid.*, Box B 99(a), Resolutions of the meeting of representative Bantu Chiefs, Headmen, and leaders of educated Natives of Natal and Zululand, signed by Regent Mshiyeni on 24 October 1935.

6th and 7th September, according to a press report, 'declined to express any definite opinion on the Bills' and 'adopted a policy of caution and passed a resolution asking for more time to consider the Bills and consult their people'.<sup>64</sup> But the conference was not as tame as it appeared. A.B. Xuma maintains that the Government tried to pressurise the delegates to come to a quick and acceptable decision. D.L. Smit, the Secretary of Native Affairs and the Chairman of the Native Affairs Commission during the tour of the regional meetings, addressed the delegates along the following lines:

Chiefs and people! We have come here to get your opinion on the important question of the Government Native Bills. After explaining we shall leave you alone for a few moments and we see no reason why we should not be able to receive your considered view by noon. The great people of Natal have accepted the bills and we do not consider you to be less reasonable than the Zulus.

Xuma pointed out that there were no copies of the bills, and even if there were, he, as a mere layman, 'could not digest the text in days'. As Xuma recalls,

That was a green light for the delegates. They jumped from all over the hall. The commission was there without lunch and without tea until three o'clock in the afternoon, when the Native Affairs Commission abandoned the fort in disgust and told us to continue the discussion and report to them the next day.

The delegates discussed the bills until about midnight when an *ad hoc* committee was appointed to draft a statement expressing the wishes of the conference. Xuma continues:

We decided to stall for time and refused

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<sup>64</sup> *Ibid.*, News Report and Resolution of the Conference of Chiefs and Leaders in the Transvaal and Orange Free State convened by the Government, September 6-7 1935.

to be stamped to a decision. It was hoped that we would then contact leaders in Mafeking, Kingwilliamstown and Umtata by wire and hitherto not to commit themselves until a National Conference of African leaders had been called together to nullify the effort of the Government to divide and rule the Africans through their separate consultation of Regional Leaders.

The Secretary of the Commission, on receiving the statement the following day, argued that it did not represent the view-point of the chiefs. According to Xuma,

The document was read - Chief Sekukumi got up and moved it as the considered opinion of the delegates and Chief Mohlaba seconded and demanded that some of these young men here should go to the countryside and explain the bills to the people and not the Government official. Chief Charles Mopedi of Witzieshoek got up and supported.

The Commission was silent and thunder-struck and one member, a Mr. Van Niekerk, picked up his papers and briefcase and marched out in disgust.<sup>65</sup>

The Mafeking Conference held on 14th September, declared its 'emphatic and uncompromising' opposition to that part of the Representation Bill aimed at abolishing the Cape franchise. It was felt that the Land Bill, although welcome, provided insufficient land. The Native Representative Council was found acceptable, but it was suggested that the personnel of the Council consist of fifty members 'so that the Native people may have more adequate and satisfactory representation in the Council'.<sup>66</sup>

The Kingwilliamstown Conference, which took place a few days later, was perhaps the most forthright in its condemnation

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<sup>65</sup> Xuma Papers, Box P, Folder 24, Draft autobiography, pp. 40-41.

<sup>66</sup> SAIRR Archives, Box B 99(a), Resolution adopted by the Conference of Chiefs and Leaders at Mafeking on 14 September 1935.

of the proposed removal of the individual franchise in the Cape. The delegates stressed that

The biggest danger to South Africa as a whole is not the political freedom of the Africans, but the creation today of a disgruntled ex-voter population in future generations, better educated than their present fathers. They will feel more grieved than we who in all conscience feel sore consternation at the gloomy prospect.

and warned that

The removal of this vote will resuscitate bitter feelings against the White race as a whole and compel us to identify ourselves with all anti-White propaganda, especially that already generated in all Africa by the Italo-Ethiopian conflict ...<sup>67</sup>

The regional conference for the Transkei held on 24th September, after 'dispassionate consideration' of the Bills, concluded that white South Africans had, 'by arriving at the principles embodied in them, surrendered to the dictates of race prejudice'. The conference declared itself 'definitely opposed' to the proposed abolition of the Cape African franchise and reiterated the complaints of the Mafeking gathering in regard to the Land Bill and the Native Representative Council.<sup>68</sup>

With the exception of the Natal meeting, all regional conferences requested copies of the Bills in the vernacular.

A somewhat different response to the Native Bills than that of the regional conferences and of leaders like Jabavu and Seloape Thema, but one which was still within the parameters

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<sup>67</sup> *Ibid.*, News Report and Resolution of Conference of Chiefs and Leaders in the Cape Province convened by the Government, 18 September 1935.

<sup>68</sup> *Ibid.*, News Report and Resolutions of Conference of Chiefs and Leaders in the Transkeian Territories convened by the Government, 24 September 1935.

of African élitist protest, was that of Gilbert Coka, the editor of *The African Liberator*. Writing at the start of the Italo-Ethiopian War, Coka located the opposition of Africans to the Hertzog legislation in a broad tradition of African resistance and achievement, and declared the birth of a new Africa to be imminent:

The hour of African freedom has struck.  
That for which Toussaint L'Ouverture  
suffered and died, that for which Menelik,  
Shaka, Makana, Lewanika, Lobengula,  
Langalibalele and other great sons of  
Africa, lived, suffered and died for.  
The complete liberty of Africans to shape  
their own destiny in their own way, has  
come ... In the present confusion of class  
and national interests, the African under-  
dog is coming to his own ... The dreams and  
prophecies of Marcus Garvey, the solidarity  
of Africans throughout the world, is becom-  
ing a fact. And but for a few traitors,  
Africans had reached the land of Promise -  
liberty, equality, opportunity and justice.

But this new era would not come of its own volition. Africans had to rid themselves of an inferiority complex or slave mentality, sink petty jealousies and organise themselves through economic cooperation and trade unions. He favoured an essentially activist programme:

An economic boycott against unjust and tyrannical employees (*sic*), coupled with a persistent struggle for more wages and shorter working conditions, as part of a national consumers' league, supplying all African buyers with the necessities of life, a national liberation movement for equal democratic rights for all South Africans irrespective of colour, creed or race and an independent national newspaper of Africans for Africans by Africans to tell the truth about our conditions in the Union, will be worth tons of pious hopes.<sup>69</sup>

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<sup>69</sup> Editorial, *The African Liberator*, October 1935, Karis and Carter (eds.), *From Protest to Challenge*, pp. 17-18.

Coka had been expelled from the Communist Party in July 1935 for questioning its dogma. This sensitivity is, in retrospect, somewhat ironical, in view of the Party's subsequent plan of campaign against the Hertzog Bills. Indeed, by 1934 the CPSA had showed definite signs of moving away from the 'ultra-left' and isolationist policy of the Woltons and Lazar Bach. (Though Bach was still on the political bureau, the Woltons had left for England in early 1933.) *Umsebenzi*, according to E. Roux, took on a new lease of life at the end of 1933. More attention was paid to the African middle class and the paper became 'more informative, less vituperative and less violently dogmatic' and began to interest a number of African teachers.<sup>70</sup> The communists also started a small cyclostyled magazine *Indlela Yenkululeko* (The Road to Freedom) for African teachers and students.<sup>71</sup>

On 20th April 1935, shortly before the Bills were published, the Party called for 'united front demonstrations and mass action throughout the country against the passing of the bills and in defence of the Cape Native franchise'.<sup>72</sup> However, in the earlier months of 1935 there was uncertainty in the Party as to the character of this united or peoples' front. This is exemplified, for example, in the debate within the columns of *Umsebenzi* on whether there was in any meaningful sense an African bourgeoisie and whether African middle class elements could be coopted in a struggle against the state, or whether such a class constituted part of the system of exploitation.<sup>73</sup> Although the debate was inconclusive, it appears that the proceedings of the 7th Congress of the Communist International at Moscow held in July and August 1935, which emphasised the need for a popular front against fascism and war, strengthened the hand of those prepared to cooperate with 'moderate' Africans.<sup>74</sup>

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<sup>70</sup> Roux, *op. cit.*, p. 275.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Umsebenzi*, 20 April 1935.

<sup>73</sup> Cf. *Umsebenzi*, 2, 9 and 16 February 1935; 13, 20 and 27 April 1935.

<sup>74</sup> For example, in October 1935 the CPSA was in contact with the JJC.



While editorial comment in *Umsebenzi* probably does not reveal the complexity of the response of CPSA members to the Bills, it does indicate a certain pessimism regarding the outcome of the Hertzog legislation programme. It was argued that the Bills, by exploiting class divisions among Africans and offering them the 'illusion of freedom and land', would perpetuate and reinforce the *status quo*.<sup>75</sup>

The Representation Bill was denounced as a fascist measure intended to take away the only remaining democratic rights possessed by Africans in the Union. The Native Representative Council was castigated as a 'mere puppet council'. The only 'democratic' element of the members of the electoral colleges were members of advisory boards who, in turn, were elected by a limited number of location representatives. These members, in any case, formed a small minority in electoral colleges. Therefore, it concluded, the twelve 'elected' members would neither be elected by the people nor reflect the views of the people. The four Senators, for the same reason, were considered unlikely to be good champions of the African cause. This was apart from the fact that they had no power except to talk.<sup>76</sup>

It was also maintained that the new scheme of representation was

... intended to make in the eyes of the British Government a great display of an enlightened and progressive policy on the part of the imperialist rulers of this country. The object of this display being to secure the immediate transfer of the Protectorates to the control of the Union Government, an aim which has also failed its mark.<sup>77</sup>

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<sup>75</sup> *Umsebenzi*, 15 June 1935.

<sup>76</sup> *Ibid.*, 18 May 1935.

<sup>77</sup> *Ibid.*, 8 June 1935.

The Party disagreed with the resolution of the CNVC that the loss of the franchise would rouse deep resentment against white domination:

The oppressors are few and the workers are many. Such tricks as the new Native Representation Bill are intended to split the ranks of the workers and to prevent them from standing solid, black and white together, for their rights.<sup>78</sup>

In regard to the Land Bill, a pertinent question was asked:

On what conditions will Natives be settled on the land, who will get it - the Native toilers or chiefs and exploiters? ...<sup>79</sup>

Surprisingly, however, no mention was made of the restrictive provisions of Chapter IV of the Bill.

On a number of occasions in the second half of 1935, the CPSA added its voice to the clamour for a broad popular mass movement, but differed in its insistence that white labour had a place in the struggle. An *Umsebenzi* editorial gives some idea of the Party's diagnosis of the situation and the proposed prescription:

All over South Africa meetings have been held especially against the loss of the franchise of the Cape Native voters. It must be the task of all progressive elements in South Africa to rally all possible forces to make the protest a United wave that will make the Government change its mind. A broad united front movement must be started now of all revolutionary liberal organisations, trade unions and of all political parties who are sympathetic, and of all elements who are prepared to unite against the reactionary oppressive legislation of the Government of South Africa. The

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<sup>78</sup> *Ibid.*, 28 September 1935.

<sup>79</sup> *Ibid.*, 15 June 1935.

programme of this movement must be:  
 1) Against the Government's Native Bills.  
 2) The preservation of the present Cape Native franchise. 3) The right of any voter to be nominated as candidate to Parliament. 4) The extension of the franchise to all people in South Africa irrespective of their race, colour or creed.<sup>80</sup>

Despite a new fluidity in outlook the CPSA did not make any marked gains in membership, nor did its call for a 'broad united front movement' hold much authority.<sup>81</sup>

A new generation of Coloured radicals, concerned at the relative lack of organised protest among the Coloured community, developed in the western Cape in the 1930's. 'Though attracted to communism', R.E. and H.J. Simons write, 'they could not square its class concepts with social realities'.<sup>82</sup> They were also doubtless aware of the deep-seated suspicion of many African leaders and white liberals for the CPSA. In December 1935, possibly synchronised with the burgeoning African opposition to the Hertzog Bills, they set up their own organisation, the National Liberation League, with 'Cissie' Gool as president and James la Guma as secretary.<sup>83</sup> The League's programme was essentially a demand for 'bourgeois' democratic rights:

The aims included demands for equal voting rights and parliamentary representation; no bars to employment in public services or private enterprise; an end to discrimination in school, games, the army and social services; and the removal of bans on sex or marriage which 'legalise the fiction of race inferiority'. Radical in terms of

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<sup>80</sup> *Ibid.*, 5 October 1935.

<sup>81</sup> There was, for example, no discussion of the CPSA's proposals in African newspapers like *Imvo Zabantsundu* and *The Bantu World*.

<sup>82</sup> Simons, *op. cit.*, p. 486.

<sup>83</sup> James la Guma was prominent in the ICU until December 1926 when he was expelled for being a member of the CPSA. It is thought that he was largely responsible for persuading the local Party to adopt the 'Native Republic' thesis.

orthodox liberalism, the programme showed no trace of socialist thinking apart from a homily addressed to white workers on 'wage slavery'.<sup>84</sup>

The League saw the salvation of the psychologically and economically depressed Coloured community in militant mass action, but also realised that the Coloureds, as a group, would achieve little through independent action. The Coloured radicals explicitly looked to the African for mass support and appear to have envisaged their rôle as one of a shaping force within an all-inclusive black nationalism.<sup>85</sup>

White liberals, on the other hand, claimed to be against overt interferences in African protest. They did, however, exercise a considerable influence over a number of moderate African leaders.<sup>86</sup> Nevertheless, their response to the Hertzog Bills during 1935 indicates their willingness to play second fiddle to African protest.

In the early days of May 1935, the majority of white liberals seemed in no hurry to articulate their opposition to the Bills. Rose-Innes, however, in a speech given at an SAIRR luncheon in Cape Town on 9th May, condemned the Representation Bill as being even more illiberal than its predecessors, and found little to enthuse over in the Land Bill.<sup>87</sup>

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<sup>84</sup> Simons, *op. cit.*, p. 488.

<sup>85</sup> *Ibid.*

<sup>86</sup> Jabavu, Selope Thema and J.R. Rathebe, for example, actively sought white liberal opinion on the question of African strategy against the Bills.

<sup>87</sup> *The Star*, 9 May 1935.

On 20th May 1935, the Executive Committee of the Institute of Race Relations,<sup>88</sup> in which Rheinallt Jones and R.F.A. Hoernlé were the moving figures,<sup>89</sup> after consultation with F.S. Malan, Sir James Rose-Innes, Major J.F. Herbst and the Cape Town Joint Council,<sup>90</sup> came to a number of decisions. The Government was to be asked to convene a 'Native Conference' to consider the Bills and 'to urge that every effort be made to secure the adequate representation of every point of view at the Conference'.<sup>91</sup> Joint Councils and other bodies concerned about the Bills were to be advised that public action on the Bills be delayed until the Government had explained the Bills to the Africans and gauged their opinions. This would 'give no opening for criticism that the views expressed by the Natives had been moulded by European sympathisers'.<sup>92</sup>

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<sup>88</sup> The SAIRR Executive for 1935 consisted of Prof. R.F.A. Hoernlé (Chairman), D.D.T. Jabavu (Vice-Chairman), John L. Hardy (Honorary Treasurer), Rheinallt Jones (Adviser on Race Relations), Mrs. Edith Rheinallt Jones (Honorary Organiser, Women's Section), Dr. E.H. Brookes, Prof. C.M. Doke of the University of the Witwatersrand, Rev. H.P. Junod of the Swiss Mission, Prof. F. Postma of the University of Potchefstroom, J.R. Rathebe, Prof. H.A. Reyburn of the University of Cape Town. There was also W.R. Caley, H.C. Peacock, M. Webb, P.S. Conradie, Leo Marquard and E.C. Niemeyer - regional representatives for the Eastern Province, East London, Natal, Northern Natal, OFS and Pretoria respectively. There was never a full complement at meetings of the Executive - the average attendance during 1935-36 was seldom more than ten.

<sup>89</sup> R.F. Alfred Hoernlé, Professor of Philosophy at the University of Witwatersrand, had been a prominent member of the JJC in the 1920's. With the death of Howard Pim in 1934, Hoernlé moved more into the limelight. Perhaps the most penetrating social thinker in South Africa during the 1930's, Hoernlé was held in high esteem in academic circles in South Africa and overseas.

<sup>90</sup> Rheinallt Jones had travelled to Cape Town to consult the group. See SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Brookes, 13 May 1935.

<sup>91</sup> SAIRR Archives, Box B99(a), SAIRR memorandum on activities of the Executive Committee in regard to the Native Bills, n.d.

<sup>92</sup> SAIRR Archives: Rheinallt Jones Papers, Minutes of the meeting of the Executive Committee of the Institute of Race Relations, held at Johannesburg on 20 May 1935. The idea that white sympathisers should hold their fire until after a Union Native Conference called under the 1920 Act, and do nothing to give the Government the excuse of saying that whites had come between the Government and the Africans, came somewhat surprisingly from F.S. Malan.

The Adviser on Race Relations (Rheinallt Jones) was to have detailed objective memoranda prepared on the Bills, presenting the issues raised 'in such a form as to assist the intelligent citizen in forming his opinion on the merits of the Bills'.<sup>93</sup>

Rheinallt Jones was granted an interview with General Smuts, the Acting Prime Minister, on 26th May, at which the latter expressed his approval of the Institute suggestion that the Bills be submitted to a General Native Conference under the 1920 Act. Smuts advised that the suggestion be put to R. Stuttaford, the Acting Minister of Native Affairs. On 4th July, Hoernlé and Rheinallt Jones met Stuttaford as well as D.L. Smit (Secretary for Native Affairs) who were in principle prepared to explain the Bills to Africans but doubtful as to the best method. They favoured sectional conferences rather than a single Union-wide Native Conference but had not yet made up their minds on the details of the scheme of sectional conferences e.g. who should be invited to participate. Their objections to a national conference were:

- a) that its membership would include certain obnoxious 'agitators'; and
- b) that the interests of the Natives themselves in the Bills were too diverse, that for the Cape Natives all other features of the Bills would be overshadowed by the abolition of the Cape Native Franchise, whereas the Northern Natives would be interested mostly in the provisions for more land.<sup>94</sup>

A meeting of the Council of the Institute, held in Durban on 9th and 10th July, discussed the report of the interview at length and the gist of the discussion was conveyed to

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<sup>93</sup> SAIRR Archives, Box B99(a), SAIRR memorandum on activities of the Executive Committee in regard to the Native Bills, n.d.

<sup>94</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Smuts, 27 May 1935; R.F.A. Hoernlé to Smuts, 13 July 1935.



Stuttaford. While sectional conferences were welcomed, it was felt that they 'should be regarded only as the first step in the enlightenment of the Native people, and not as their only and final opportunity of expressing their considered views to the Government. The African members of the Council strongly urged that, at the proposed sectional meetings, the Bills should be merely explained and that ample time should then be given for the leaders to explain the Bills, in their turn, to their followers, and for African opinion to crystallise itself after adequate opportunity for discussion among the Africans themselves. The Council stressed the desirability of postponing parliamentary action on the Bills until the 1937 session and that a General Native Conference be convened either on the lines of the old Native Conference under the 1920 Act or on the lines of the proposed Native Council under the Representation Bill.<sup>95</sup>

Smuts was also informed of the Council's decisions in the hope that he might see fit to defend the desirability of calling a national conference of Africans.<sup>96</sup>

One gains the impression that Rheinallt Jones and Hoernlé, during mid-1935, were almost too fastidious in attempting to keep the Institute on a neutral course. This is indicated, for instance, in the Executive's decision, in June, to seek closer cooperation with the *Rasseverhoudings Bond van Afrikaners* - a body committed to the principle of political segregation.<sup>97</sup>

Although the line of action recommended by the Institute was

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<sup>95</sup> *Ibid.*, Rheinallt Jones to R. Stuttaford, 12 July 1935; Minutes of the meeting of the Council of the Institute of Race Relations, held at Durban on 9-10 July 1935. Although the Council of the SAIRR was the bigger body, policy making was largely the prerogative of the Executive.

<sup>96</sup> *Ibid.*, Hoernlé to Smuts, 13 July 1935.

<sup>97</sup> *Ibid.*, Minutes of the meeting of the Executive of the Institute of Race Relations, held on 28 June 1935.

generally adopted by Joint Councils and other interested parties, it was not achieved without some rumblings of discontent. Shortly after the publication of the Bills, Edgar Brookes had been asked by a newspaper to write an article on the Bills. Considering it desirable that liberals show a degree of consensus in their criticism of the Bills, he temporarily refrained from public comment until he had ascertained the attitudes of fellow liberals in other centres.<sup>98</sup> On 13th May prior to the May meeting of the Institute Executive) Rheinallt Jones wrote to Brookes, stating that in view of advice given by Malan, Rose-Innes, Herbst and others,

... we ought to consider very carefully whether pronouncements by individuals like yourself at this present stage are likely to detract from the value of the proposed action ... Major Herbst said that on previous occasions the value of criticisms has been vitiated because they have come in the first place from Europeans, and unfriendly quarters lost no opportunity of emphasising that Europeans were manufacturing grievances and criticisms for the Natives.<sup>99</sup>

But Brookes was unconvinced of the wisdom of withholding fire on the Bills:

After reading your letter /he replied to Rheinallt Jones/, and checking my views and /Maurice/ Webb's, I have come to the conclusion that I ought to go ahead. The reasons are two. In the first place, as several people *have* spoken, the silence of others may be taken for consent or sitting on the fence, especially by the Natives themselves. In the second place, a point entirely missed by Major Herbst and the others, *European* opinion must be educated. Pressure on a certain number of fusionists, if it does not save the Cape franchise, may result in better terms ...

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<sup>98</sup> SAIRR Archives, Box B 100(e), Hoernlé to Rheinallt Jones, 3 May 1935.

<sup>99</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Brookes, 13 May 1935.

Webb and I feel that if the Government is capable of using the argument that 'Europeans are manufacturing criticisms and grievances for the Natives', they are likely to give scant respect to the Natives' representatives in any case. As it happens, some Natives have already expressed their opinion.<sup>100</sup>

It was Brookes' 'intention' to advocate careful consideration and formulation of amendments, not mere opposition, and to advise against all policies of non-cooperation - a criticism of the standpoint of old school Cape liberals like F.S. Malan and Rose-Innes.<sup>101</sup>

Brookes subsequently gave 'an extensive and dispassionate review of the Native Bills' to a large audience in St. Paul's Hall in Durban on 27th May. He regretted the fact that the machinery for the election of four Senators did not permit the election of an African, and added that had that provision been included in the Representation Bill, it might have permitted the Governor-General's signing them away with less of a feeling that Victoria's grandson was taking away what Victoria had given - the Cape franchise.<sup>102</sup>

Rose-Innes was also, though for different reasons than Brookes, dissatisfied with the Institute, and by July he was contending that the studied neutrality of the organisation would inhibit vigorous and concerted action by white liberals. On receiving a copy of a preliminary draft of the Institute's 'objective' memorandum on the Representation Bill, he wrote to Rheinallt Jones:

It may be a good thing to examine these bills 'impartially' but I do not feel that

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<sup>100</sup> SAIRR Archives, Box B 100(a), Brookes to Rheinallt Jones, 10 May 1935.

<sup>101</sup> Brookes, in fact, singled out Malan for criticism: 'Senator Malan is asking the impossible. You cannot, and ought not to try to, curtail discussion on measures of this nature. *Ibid.*

<sup>102</sup> *The Natal Mercury*, 28 May 1935.

I am the man for the job. In regard to the Franchise bill especially I am dead against it on principle. I am convinced of the folly and iniquity of the measures as a whole. They are the coping stones of a policy intended to reduce the Natives to the position of serfs. The process which I would like to assist would be that of collecting information to rake the bills fore and aft. In the course of that process I would, both as a matter of principle and of policy, acknowledge whatever mitigating circumstances the bills contain ... I think the measures should be fought tooth and nail. Let us deliver our consciences.

I have for some time feared that our Institute, in its endeavour to rope in all sections of opinion, may be a little in danger of becoming all things to all men. This is a matter in which we cannot run the risk of holding a candle to the devil. I do not agree that at any stage of this contest we shall set out to be impartial. That implies that the basis of the bills is not wholly bad - I think it is. Do you really think that you are going to do any good by dealing gently with Pirow and Co?<sup>103</sup>

George Findlay, a lawyer and a leading member of the Pretoria Joint Council, thought in similar terms of the memorandum:

If there is the slightest truth in my comments /on the memorandum/ it illustrates the trend to either fascism or communism as inevitable, and I cannot interest myself in the detail of fascist contrivances or blind myself to the concomitant humbug - nor resign myself to the Institute lending itself to the process.<sup>104</sup>

Replying to Findlay on behalf of her husband, Edith Rheinallt Jones stressed that the memorandum was not an expression of the Institute's criticism of the Bills, and declared that

The whole of our educational and social uplift policy is of course making the exploitation of cheap labour more and more difficult.

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<sup>103</sup> SAIRR Archives, Box B 100(a), Rose-Innes to Rheinallt Jones, 15 July 1935.

<sup>104</sup> SAIRR Archives: Rheinallt Jones Papers, G. Findlay to Rheinallt Jones, 5 July 1935.

Every additional educational grant by the authorities is a tombstone in the coffin of oppression as long as we watch that the money isn't diverted to useless instruction. I'm quite a last ditch fighter for ordinary Native franchise, but if we lose then there is a lot we can do the educational and development way.<sup>105</sup>

Findlay remained unconvinced:

I fear the policy of nibbling at the labour-exploitation system under-estimates its strength and can only force its maintainers to take the fascist strangle-hold on the position ...<sup>106</sup>

The Institute's memoranda on the Bills aroused concern in another question. On 10th August D.L. Smit asked Rheinallt Jones not to publish the memoranda in the August number of the *Race Relations* journal, as he felt that these analyses would influence the African delegates at the forthcoming regional conferences. Rheinallt Jones pointed out that the Institute had managed to persuade the Joint Councils to hold back their criticisms of the Bills, but to delay supplying them with a detailed examination of the Bills, as promised, would create tension between the Institute and Joint Council movements, and he hinted, would conceivably lead to some Councils taking a militant line against the Bills. Many of the Joint Councils, he declared, were already 'straining at the leash'. Moreover, he stressed, the Institute had 'endeavoured to make the Memoranda as objective and impartial as possible'.<sup>107</sup>

From mid-September onwards, white liberal opinion began to

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<sup>105</sup> *Ibid.*, E. Rheinallt Jones to Findlay, 9 July 1935.

<sup>106</sup> SAIRR Archives, Box B 100(e), Findlay to E. Rheinallt Jones, 10 July 1935

<sup>107</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Smit, 20 August 1935.

make itself heard.<sup>108</sup> A number of bodies, especially in October, drew up statements on the Bills. Yet this is not to say that there was a flood of resolutions and statements by Joint Councils, the English churches, missionary societies, and kindred bodies.<sup>109</sup> Indeed, in its report for January-December 1935, the Consultative Committee remarked that

Joint Councils throughout the country have given much thought to the new Native Bills, and though so far very few have published their views, this must by no means be taken as an attitude of acceptance or resignation on the part of Joint Councils.<sup>110</sup>

And of these few Joint Councils, the Bloemfontein Joint Council had drawn up its memorandum on the Bills prior to the regional conferences.

The Bloemfontein body, while opposed to political segregation on racial lines, and regretting that there were no African representatives in the Assembly, nevertheless recognised that such representation was, at that moment, 'politically impossible', and was therefore 'desirous of giving every assistance in order to ensure the maximum success of the proposed new method of representation' i.e. in the Senate. It suggested certain amendments to the Representation Bill, to make the proposed Native Representative Council more

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<sup>108</sup> During the second half of September, for example, Clarkson Tredgold criticised the Bills in a speech given to the League of Nations Luncheon Club in Johannesburg, and the Presbyterian Church passed resolutions condemning the proposed abolition of the Cape franchise and urging its members to use all their influence with their parliamentary members to defeat the Representation Bill.

<sup>109</sup> During October, statements on the Bills were released by, *inter alia*, the JJC, the Johannesburg and Pretoria Diocesan Synods, the Annual Assembly of the Congregational Union, the Methodist Church of South Africa, the Ciskei Missionary Council, and the Annual Assembly of the Baptist Union and Baptist Missionary Society of South Africa. For copies of these statements see SAIRR Archives, Box B 99(a).

<sup>110</sup> SAIRR Archives: Rheinallt Jones Papers. Consultative Committee of Joint Councils: Report for January-December 1935, CC 2/36.



representative of African opinion.<sup>111</sup> Whether the Bloemfontein Joint Council memorandum on the Hertzog legislation would have been more critical had it been formulated after the regional conferences, is open to question.

The most detailed critique of the Bills, and one which gives a fair indication of white liberal opinion, was that of the Johannesburg Joint Council, which was published in late October 1935. The Council endorsed the requests expressed at nearly every one of the regional conferences:

- a) that copies of the Bills, preferably in the chief Native languages, be made available, so as to assist the Natives in familiarising themselves with the content of the Bills.
- b) that further time be given to the leaders of the Natives to study the Bills and consult their followers; and
- c) that a National Conference of Native leaders be convened for the final expression of Native opinion.

The Council was 'deeply impressed' by the fact that at the three regional conferences held in the Cape, African opinion was emphatically against the proposed abolition of the Cape African franchise, and urged the Government to consider the 'grave embitterment of race relations' which would result from abolishing the Cape African franchise against the wishes of the Cape African leaders. It felt that African leaders in the other three provinces were against purchasing the new scheme of representation offered to them in the Representation Bill, at the price of the loss of the franchise.

The Council was opposed to the principle of political segregation on a racial basis as embodied in the Representation

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<sup>111</sup> *Ibid.*, Bloemfontein Joint Council: Memorandum on the Native Bills, n.d.

Bill, and favoured the policy proposed by F.S. Malan in the Joint Select Committee, *viz.*, the extension of the Cape African franchise to the whole Union, subject to a raising of the qualifications to be possessed by African voters, male or female, for admission to the same register as whites.

Chapters I and II of the Trust and Land Bill were welcomed, insofar as they acknowledged the obligation of the Union to provide additional land for African occupation by releasing further areas from the restriction of the Native Land Act of 1913, and insofar as they proposed the setting up of a trust to administer funds for the purchase of land in released areas and for the promotion of African welfare in other respects. In regard to the redemption of the promise of more land for African occupation 'as a debt of honour to be unconditionally discharged', the Council condemned the attempts of certain advocates of the Bills to make the provision of additional land conditional on the abolition of the Cape franchise. More particularly, white members of the Council pledged themselves to awaken

... by every legitimate means, the conscience of white South Africa to the iniquity of a bargain by which a cherished right is to be wrested from an unwilling people in return for the discharge of a moral and legal debt which to the shame of white South Africa - has been outstanding for nearly a quarter of a century.

The wisdom of fixing any maximum to the land, let alone the proposed seven and a quarter-million morgen, was questioned. Firstly, it was common knowledge that considerable portions of the areas to be 'released' were already occupied by Africans and that some of the best portions of the land which the Beaumont Commission of 1916 and the Local Committees of 1918 had scheduled for release, had since then passed into white occupation. Secondly, no African census had been held

since 1921, and reliable figures of the African population and its probable rate of increase would become available only through the proposed census of 1936. Thirdly, and finally, the economic pressure on the African population in the existing reserves had increased considerably since 1913 and yet the area to be released was nearly two million morgen less than the areas proposed by the Beaumont Commission.

The Council regarded it as a 'grave defect' of the Bill that no definite funds were to be placed at the disposal of the Trust and urged the raising of a large public loan of at least £10 000 000 to be incorporated in the Bill to enable the Trust to work out a long-range plan of land-purchase and African development.

While recognising that the system of African squatting and labour tenancy was often uneconomic, and accepting the principle of control of African squatters and labour tenants underlying Chapter IV, the Council was 'deeply disturbed' by a number of the details of the chapter, more especially:

- a) by the failure to recognise the claim for consideration arising from the fact that, in many instances, the Native population which will be affected by this chapter, has been living on the land since long before the White man assumed ownership, and
- b) by the further disintegration of Native family and kinship-organisation, inevitably resulting from the displacement of Native squatters whose licence fees the White owner is no longer able or willing to pay; of labour-tenants declared to be redundant; of the sons of legitimate labour-tenants who are compelled to leave the farms on attaining the age of twenty-one years;
- c) by the lack of any adequate guarantee of proper provision elsewhere for these displaced Natives.<sup>112</sup>

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<sup>112</sup> The Johannesburg Joint Council Memorandum, finalised at a meeting on 21 October, was published in *The Star*, 29 October 1935.

In its draft form, the JJC memorandum had stated that if the adoption of F.S. Malan's proposal was regarded as impractical, then the new proposed communal franchise should be extended to all Africans in the three northern provinces and those Cape Africans not qualifying for the individual franchise, and that the individual Cape franchise be left alone until it was seen how the new system worked.

The JJC also requested that Africans be given white representatives in the Assembly rather than in the Senate. Regarding the details of the proposed communal African franchise, it endorsed the criticisms and suggestions of the Bloemfontein Joint Council.<sup>113</sup>

E. Roux felt that the proposed resolutions whittled down the opposition to the removal of African voters from the common roll. He stressed that the JJC should not at that stage put forward alternative proposals, as if assuming that the Cape vote would in fact be abolished. It was also unsound to acquiesce in the idea that Africans be represented by whites:

Surely the Joint Council will not hold that Africans are incapable of representing their own people in Parliament, and that they require to be represented by European 'experts' - professional 'negrophiles' from the Joint Council I presume!

Roux maintained that the JJC should also state its disagreement with the basic principle of the 1913 Land Act and should ask for differential and preferential treatment for Africans, as compensation for despoilation in the past i.e. much more land exclusively for their own use, and equal rights with Europeans outside the reserves.<sup>114</sup>

In its reply to Roux, the JJC expressed its agreement with

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<sup>113</sup> SAIRR Archives: Rheinallt Jones Papers, Johannesburg Joint Council: Draft Resolutions on the Native Bills, 14 October 1935.

<sup>114</sup> *Ibid.*, Roux to JJC, (?) October 1935.

all points except the last one on land and stated that the resolutions had been amended accordingly.<sup>115</sup>

It is interesting to note that Rheinallt Jones and Hoernlé were largely responsible for drawing up the JJC memorandum (both in its original and final form).<sup>116</sup> They also assisted other bodies, such as the Johannesburg and Pretoria Diocesan Synods and the Congregational Union in drafting resolutions,<sup>117</sup> but in these they did not argue for the extension of the Cape franchise.<sup>118</sup>

Rheinallt Jones and Hoernlé, key members of the Institute Executive, found themselves in a dilemma: How could the integrity of the SAIRR, as an apolitical fact-finding body, be preserved when they were convinced that the proposed legislation was unjust? They were obliged to act out a Jeckyll and Hyde rôle, to work through agencies such as the JJC (of which they were both leading members) and even, on occasions, through other liberals who were not representatives of the Institute.<sup>119</sup> Despite the ambiguities of their position, Rheinallt Jones and Hoernlé appear to have felt, even after September 1935, that liberals should endeavour to be moderate and reasonable in their opposition to the Hertzog Bills. And, in the closing months of 1935, in conjunction with Brookes and Maurice Webb in Durban, Leo Marquard in Bloemfontein, and leading members of the Johannesburg and Cape Town Joint Councils, among others, they searched for appropriate tactics to adopt.

On hearing, in late September, that a small informal group

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<sup>115</sup> *Ibid.*, JJC to Roux, 22 October 1935.

<sup>116</sup> *Ibid.*, Rheinallt Jones to Hoernlé, 26 October 1935.

<sup>117</sup> *Ibid.*

<sup>118</sup> See copies of resolutions of these bodies in SAIRR Archives, Box B 99(a).

<sup>119</sup> For instance, W.H. Ramsbottom's letter to the editor of the *Rand Daily Mail* which appeared on 16 October 1935, was actually written by Rheinallt Jones. See SAIRR Archives: Rheinallt Jones Papers, for the original draft of the letter.

had been established in East London to discuss the Hertzog Bills, Rheinallt Jones wrote to Leo Marquard, Brookes and Maurice Webb,<sup>120</sup> and presumably to one or more of the Cape Town liberals,<sup>121</sup> suggesting that such groups be set up in their respective areas. It is not quite clear what the structure and functions of these groups were to be. Rheinallt Jones explained himself to Marquard in the following terms:

... there are a number of technical matters in the Bills which require the most careful consideration and it seems to me that if we can get groups at various centres to go into the Bills in some detail it might be possible to get them to agree to possible alternatives ...

Later it may be possible to gather together the local Members of Parliament to enlighten them on the Bills. I am inclined to think that the groups might well be all European, as the Natives should be left free to make their own contributions.<sup>122</sup>

In a letter to Brookes, Rheinallt Jones mentioned that a small group, including Hoernlé, O.D. Schreiner and W.H. Ramsbottom,<sup>123</sup> had met in his (Rheinallt Jones') house and had considered, among other things, the possibility of publishing articles in the press, particularly in the small country newspapers.<sup>124</sup>

The East London group, headed by E.J. Evans,<sup>125</sup> included two

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<sup>120</sup> Leo Marquard was the SAIRR regional representative for the OFS and a key figure in the Bloemfontein Joint Council. Maurice Webb was a leading member of the Durban Joint Council and SAIRR regional representative for Natal.

<sup>121</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to L. Marquard, 1 October 1935.

<sup>122</sup> SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Marquard, 1 October 1935.

<sup>123</sup> W.H. Ramsbottom was a lawyer and a leading member of the JJC.

<sup>124</sup> SAIRR Archives: Rheinallt Jones Paper, Rheinallt Jones to Brookes, 26 October 1935.

<sup>125</sup> E.J. Evans was a member of the East London Joint Council.



local MPs, R.M. Christopher and J.A. Bowie, as well as B.A. Steer, editor of the *East London Daily Dispatch*. However, far from setting a precedent for similar groups in other centres, the group had a brief and unproductive existence.

Evans' description of the group's preliminary conference suggests a fundamental disagreement within liberal and philanthropic circles in the Border area, which was later to manifest itself in the sponsorship by some eastern Cape MPs of the 'Compromise' Bill:

Most of the discussion centred round the latter /Representation Bill/ and I am afraid I must record the fact that little agreement was found excepting on the vital need for delay, in order that the request made by Bantu opinion for the bills in their own languages be issued shall be met.<sup>126</sup>

Evans, in favour of a compromise on the Representation Bill, along the lines of a separate register, canvassed support during October for his viewpoint, on the basis of a letter Rheinallt Jones had written to him on 30th September in which he reputedly stated that 'the Cape franchise ... *as it is today will have to go*, and that the sooner possible acceptable alternatives are worked out the better'.<sup>127</sup>

Jabavu, obviously disturbed by Evans' activities, wrote to the editor of the *Dispatch* (Steer), stating that he had the authority of Rheinallt Jones 'to say that his views on the Native Bills are identical with mine and those expressed by the King Williams' Town Conference on the Native Bills - namely, no compromise whatever nor weakening in the Cape Native Note'.<sup>128</sup> Steer wrote to Rheinallt Jones asking for

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<sup>126</sup> SAIRR Archives, Box B 100(e), Evans to Rheinallt Jones, 22 October 1935.

<sup>127</sup> SAIRR Archives, Box B 100(e), B.A. Steer to Rheinallt Jones, 28 October 1935.

<sup>128</sup> *Ibid.*, Jabavu to editor of *East London Daily Despatch*, 26 October 1935.

clarification in the matter and adding that Sir Charles Crewe would be shocked if Jones did indeed intend to yield on 'such a grave question of principle' as the disfranchisement of the Cape African voter.<sup>129</sup> Rheinallt Jones promptly wrote to Evans declaring that he was 'not in favour of considering any alternative to the idea of a common citizenship based upon either the Cape Franchise as it is today or as it may be tightened up insofar as qualifications are concerned'.<sup>130</sup> He also wrote to Steer explaining the misunderstanding:

Reading over my letter again, I can see that what was in my mind was probably not conveyed to Mr. Evans. It was this: I am entirely and completely in favour of fighting for the retention of the Cape Franchise. But I have had in mind that it may be necessary, as a second line of defence, to agree to a stiffening up of the conditions, say on the lines of Senator Malan's motion in the Select Committee, especially if we are to hope for an extension of the franchise in time to the Northern Provinces. The third line of defence that I had in mind was that it might be necessary to agree to the Native vote bearing some ratio to the European vote, again on the presumption that the vote would be extended to other Provinces. When I wrote to Mr. Evans I assumed that my communication would be regarded, as I have regarded his, as a confidential communication.

He added that it was possibly unwise at that stage to think of anything at all in the way of second and third lines of defence. However, if the Bills came before Parliament events could move quickly, and friends of the Cape African franchise would be unable to consult with each other in moments of crisis. He emphasised that these were his own views and not those of the Institute. He did not think it desirable to communicate with the press on the matter, unless Steer and others considered that such a policy would

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<sup>129</sup> *Ibid.*, Steer to Rheinallt Jones, 28 October 1935.

<sup>130</sup> *Ibid.*, Rheinallt Jones to Evans, 30 October 1935.

harm the cause of the Cape African vote.<sup>131</sup> Steer and Crewe thought a 'very short clear letter' to the *Dispatch* would be a wise move<sup>132</sup> and Rheinallt Jones accordingly complied.<sup>133</sup>

The Evans episode undoubtedly brought home to Rheinallt Jones the difficulty of achieving a consensus among those whites sympathetic to the African cause.

On 22nd October Brookes had written to Rheinallt Jones stressing the need to find a formula which would secure unanimity among 'liberally-minded people' throughout the Union.<sup>134</sup> Rheinallt Jones wrote back saying that he and Hoernlé 'strongly supported' the idea and cited the resolutions of the Pretoria and Johannesburg Synods and the Congregational Union, as evidence that they had been working in such a direction.<sup>135</sup> And, by the end of October, in Rheinallt Jones' opinion, there was already 'a strong movement' pressing for

- 1) Establishment of the Native Representative Council only, insofar as the representation question is concerned;
- 2) To press for the postponement of the Cape Franchise question for a period of years until the Native Representative Council shall have been tried out, and the Council shall have helped in working out some possible scheme of representation (this might either be on the lines of Senator Malan's proposal or something else not at present contemplated);
- 3) The disassociation of the Land Bill from

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<sup>131</sup> *Ibid.*, Rheinallt Jones to Steer, 30 October 1935.

<sup>132</sup> *Ibid.*, Steer to Rheinallt Jones, 1 November 1935.

<sup>133</sup> *Ibid.*, Rheinallt Jones to editor of *East London Daily Dispatch*, 7 November 1935.

<sup>134</sup> SAIRR Archives: Rheinallt Jones Papers, Brookes to Rheinallt Jones, 22 October 1935.

<sup>135</sup> *Ibid.*, Rheinallt Jones to Brookes, 26 October 1935.

the Franchise question on the ground that the provision of additional areas for Native occupation is a moral obligation imposed by and accepted in the Native Land Act of 1913.<sup>136</sup>

However reasonable such a formula might have seemed to the average white liberal, it was by no means supported by all white Joint Council members and other philanthropic whites.<sup>137</sup> Also, it seemed to have had little appeal to most United Party members of Parliament, and does not appear to have influenced the standpoints of the editors of the various white English-speaking newspapers. Furthermore, many moderate African leaders doubted the wisdom of pressing for the implementation of the 'advantageous' provisions of the Representation Bill:

The Native leaders /wrote Rheinallt Jones in early December/ - chiefs and educated men - are united (as I haven't seen them since 1913) in opposition to the abolition of the Cape Franchise, and this issue is poisoning everything.<sup>138</sup>

But Rheinallt Jones persevered with the idea of a formula, and on 5th December, in a letter to Webb in connection with a scheduled meeting between the Durban branch of the SAIRR and the Local MPs, he put forward a slightly modified scheme:

Can you suggest to the MPs re Native Bills  
(1) that all franchise proposals be dropped except Union Native Council, and even that be modified to territorial councils ...  
(2) that Chapter IV of the Land Bill be dropped?<sup>139</sup>

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<sup>136</sup> SAIRR Archives, Box B 100(e); Rheinallt Jones to Evans, 26 October 1935.

<sup>137</sup> See e.g. correspondence in SAIRR Archives: Rheinallt Jones Papers, Joint Council Records.

<sup>138</sup> *Ibid.*, Rheinallt Jones Papers, Rheinallt Jones to Webb, 5 December 1935.

<sup>139</sup> *Ibid.*

The Durban meeting, held on 11th December, was something of a disappointment to Brookes and Webb:

Brookes took up the question of the Native Bills, /Webb wrote/ outlining the activities of the Institute with regard to the Bills and then, on the invitation of the MPs, outlined his personal views on the Bills suggesting particularly that the Native Representative Council be set up and the rest of the Bills delayed until the Council was in being and could be consulted.

A good but inconclusive discussion followed. Both Brookes and I confessed to being depressed by it. We could get no support for Brookes' proposal. The basis of (the) objection being a conviction on the part of the MPs that the abolition of the Cape Native Franchise is the first condition and that no compromise on this will be accepted. All the MPs present<sup>140</sup> appeared to me either to agree with this or acquiesce in it even if reluctantly. Mr. Robinson put the question directly as to whether in our opinion it would be advisable to oppose section 1 of the Representation of Natives Bill knowing that if this section were defeated both Bills would be wrecked. In the light of our discussions this question seems to me to be in the affirmative.<sup>141</sup>

A few weeks earlier, on 25th November, the Johannesburg Joint Council had arranged a private meeting between representatives of all the Joint Councils on the Reef, and Rand MPs; but of the latter, only Patrick Duncan, J.H. Hofmeyr<sup>142</sup> and three others turned up and nothing constructive

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<sup>140</sup> There was a full attendance of Durban MPs: Leir Egeland (UP), T.M. Wadley (UP), J.G. Derbyshire (Dominion Party), S.S. Sutton (Independent), Burnside (Labour), C.P. Robinson (SAP). Senators Brisker and Whytock were unable to attend, and Senator Clarkson declined to attend.

<sup>141</sup> SAIRR Archives, Box B 100(e), Webb to Rheinallt Jones, 12 December 1935.

<sup>142</sup> Patrick Duncan was the Minister of Mines. Hofmeyr had three portfolios at the time: He was Minister of the Interior, of Public Health and of Education.

was achieved.<sup>143</sup> The Cape Town Joint Council appears to have held a meeting or two with local MPs, though no record is available of the proceedings.<sup>144</sup>

These two meetings are indicative of white liberal tactics in the closing months of 1935: Mass protest was to be left to the Africans, while they, on a personal and informal level, were to concentrate - at least for the time being - on bringing pressure to bear on the Government, the Native Affairs Department and members of both Houses of Parliament (especially those irresolute ones) in order to deny Hertzog his two-thirds majority. They would also attempt, on Fabian lines, to educate white public opinion.

However, on 21st November, the Rev. Arthur W. Cragg, Secretary of the Missionary Society of the Methodist Church, feeling that there was a 'rising tide of concern' about the Native Bills, had written to Rheinallt Jones maintaining that this concern should find embodiment in 'something stronger' than resolutions of bodies like the Joint Councils, Church Assemblies, Branches of the National Council of Women, and African organisations, as their resolutions 'generally find their way into the Departmental W.P.B'. He suggested the calling of

... great Provincial Public Meetings in the City Halls of Pretoria or Johannesburg, at Durban, at Bloemfontein and a final Public Meeting at Cape Town on the eve or immediately after the Opening of Parliament addressed by the leading men of the country as representing the Chr. Community and those men and women voters who have the welfare of the Natives at heart and also representatives of the Bantu National Conference ...

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<sup>143</sup> SAIRR Archives, Box B 100(e), Rheinallt Jones to Webb, 13 December 1935.

<sup>144</sup> Unfortunately, the records of the Cape Town body, officially termed the Cape Peninsula Joint Council, are very scanty.



These meetings 'would surely have some weight especially if deputations could be sent to the Prime Minister etc. and resolutions forwarded'.<sup>145</sup>

In reply Rheinallt Jones stated that he had given Cragg's proposals 'a good deal of thought' and had discussed the situation with the Executive of the JJC. The Executive had requested the Institute, as the Secretariat of the Consultative Committee of Joint Councils to sound out the views of all the Joint Councils on the desirability of holding a European-Bantu Conference in Cape Town in early February. The feeling in the JJC Executive, Rheinallt Jones continued, was that it was 'most desirable that there should be agreement on the lines to be taken in regard to the Native Bills and once this agreement is reached it would be easier to organise propaganda in favour of the point of view taken'.<sup>146</sup>

The various Joint Councils were enthusiastic about the proposed conference, and during December, Rheinallt Jones (operating through the Consultative Committee of Joint Councils) and Donald Molteno<sup>147</sup> (representing the Cape Town Joint Council) seem to have been in close contact in finalising arrangements.<sup>148</sup>

While Rheinallt Jones, Hoernlé, Molteno and others were giving thought to matters such as the choice of a suitable chairman, African representatives from all over South Africa (and from the Protectorates) were converging on the African township of Bloemfontein for the All African Convention.

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<sup>145</sup> SAIRR Archives: Rheinallt Jones Papers, A.W. Cragg to Rheinallt Jones, 21 November 1935.

<sup>146</sup> *Ibid.*, Rheinallt Jones to Cragg, 13 December 1935.

<sup>147</sup> D.B. Molteno was a Cape Town advocate.

<sup>148</sup> See SAIRR Archives: Rheinallt Jones Papers, Rheinallt Jones to Molteno, 14 December 1935.

The regional conferences and a number of unofficial African meetings revealed a steady hardening of opinion as 1935 drew to a close and Thema and Xuma's *ad hoc* committee began to exercise some influence.<sup>149</sup> And by mid-December 'the existence of a genuine African consensus was indisputable'.<sup>150</sup>

There were over 400 delegates at the All African Convention - about 200 from the Cape Province, 100 from the Transvaal, 70 from the Orange Free State, 30 from Natal, 10 from Basutoland and one (representing the Paramount Chief) from Swaziland. Among the delegates were chiefs (some members of the Transkei Bunga), clergymen, professional men (some recently returned from study in Europe and America), elected members of urban advisory boards, prominent women and representatives of a number of local organisations and Coloured radicals from the western Cape.<sup>151</sup> Jabavu was elected President and Xuma Vice-President.

On Monday, 16th December, Jabavu rose to open the official

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<sup>149</sup> According to Walshe, Mahabane had also become part of this *ad hoc* committee. Walshe *op. cit.*, p. 119.

<sup>150</sup> *Ibid.*

<sup>151</sup> The following organisations were represented at the Convention: Vigilance Association, Port Elizabeth; Cape Native Voters' Convention; OFS United ICU; African Reef Traders Association, Johannesburg; Natal Native Congress; Western Native Township Co-operative Society; Basutoland Teachers' Association; Cape African Congress; Basutoland Progressive Association; Kimberly Voters' Association; Port Alfred Voters' Association; South African Native Farmers' Congress (40 branches); African Ministers' Association; Clothing Workers' Union, Johannesburg; *Ikaka Labasebenzi*; *Kgolla la Dipalase*, Potgietersrust; African Dingaka Association; Piet Retief Landowners Association; Advisory Boards; AME Church; Joint Councils; Transvaal African Congress; Pimville Traders' Commercial Union; Ciskei Native Chiefs' Convention; Pimville Women's League; Transkei Native Chiefs' Association; Cathcart Voters' Union; Transkei Vigilance Association; Communist Party; Cape ICU; International Labour Defence, Cape Town; African Motor Drivers' Union; Transvaal African Teachers' Association; African Women's Self-Improvement Society; The Athlone Blind School; The Natal Catholic Farmers' Union; and Graaf Reinet Vigilance Association. The following communities were also represented: Ladysmith; Orlando; Vereeniging; Randfontein; Lindley; Willowvale; Taungs; Kuruman; Villiers; Rustenburg; Zeerust; Burgersdorp; Pretoria; Middleburg; Harrismith; Heilbron; Reitz; Ventersdorp; Beaufort West; Matatiele; Naauwpoort; Standerton; and Bothaville.

proceedings. It was a poignant moment: sitting on the platform behind him were Drs. Xuma, Moroka, Molema and Sishuba,<sup>152</sup> the Revs. Dube, Mtinkulu and Mahabane, and Messrs. Selby Msimang, Selope Thema and Z.K. Matthews.

After two days of discussion a series of resolutions were passed.

'The diversity of the delegates', Thomas Karis remarks, 'made the unanimity of their views all the more striking'.<sup>153</sup> According to Roux, there was 'only one outstanding traitor':

... the Rev. John Dube publicly declared himself in favour of the Bills. But who cared for Dube? He was known to be a Government man.<sup>154</sup>

Yet to have branded Dube as a quisling is to ignore the contradictions and complexities of his opposition to the Hertzog legislation during 1935. The Native Bills fell considerably short of Heaton Nicholls' proposals, and in June 1935, at a meeting of the Natal Debating Society, Dube attacked the Government's policy:

The Government is trying to replace what it has already destroyed - our tribal system. Our tribal system has been disorganised and the power of our chiefs has been taken away ... In this /Native Representative Council/ enlightened Natives are pushed aside.

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<sup>152</sup> James S. Moroka born in 1891 established a practice at Thaba 'Nchu in the Free State. He first entered politics in 1935. S.M. Molema, the author of the book, *The Bantu - Past and Present*, had his practice in the Mafeking area. After a limited involvement in African protest in the 1920's and early 1930's, he became more politically active with the introduction of the two Native Bills in 1935. Sishuba was a Cape ANC leader.

<sup>153</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 7.

<sup>154</sup> Roux, *op. cit.*, p. 288.

How many chiefs in Natal know what type of European to send to the Senate to represent them? But the enlightened Native with access to the Native and European press would be able to decide ... We want to be represented in the Lower House, preferably by our own people, but we feel that that would never be allowed.<sup>155</sup>

However, as we have seen, Dube's subsequent performance in the first regional conference of Natal African chiefs and leaders left much to be desired.

A few days before the mass convention at Bloemfontein Dube accompanied a deputation of Natal chiefs (including the Regent Mshiyeni Zulu) to the Minister of Native Affairs. Dube pointed out that he hoped to have a moderating influence at the conference. Later on, he and Mshiyeni spoke to the Minister in private and Dube asked for funds for his Ohlange Institute.<sup>156</sup> His request was subsequently granted.<sup>157</sup> The evidence is thin but perhaps there is some indication of a *modus vivendi* between Dube and white officialdom. There is no record of any outward hostility being displayed towards Dube at the Convention; he was even appointed to the Executive Committee of the Convention.<sup>158</sup> He did not oppose

<sup>155</sup> This speech as reported in *The Bantu World*, 15 June 1935, is contained in Jabavu, (ed.), *Criticisms of the Native Bills*, pp. 16-18. There are evident inconsistencies in the speech.

<sup>156</sup> Hertzog Papers, Vol. 80, Note of Proceedings of a Deputation of Native Chiefs and Followers from Zululand and Natal to the Minister of Native Affairs at his office in the Union Buildings on the 11th of December, 1935.

<sup>157</sup> *Ibid.*, Postscript to Note of Proceedings of Deputation to Minister of Native Affairs, 11 December 1935.

<sup>158</sup> The AAC Executive Committee consisted of D.D.T. Jabavu (President), Dr. A.B. Xuma (Vice-President); H. Selby Msimang (General Secretary); R.H. Godlo (Record Secretary); Z.K. Matthews and S.D. Ngcobo (Clerk-Draughtsmen); Dr. J.S. Moroka (Treasurer); Rev. J.L. Dube (Phoenix), Rev. A.S. Mtinkulu (Durban), W.W. Ndlovu (Vryheid); A.W.G. Champion (Durban); J. Kambule (Ladysmith); C.R. Moikangoa (Bloemfontein); Keable Mote (Kroonstad); R.A. Sello (Kroonstad); R. Cingo (Kroonstad); T.M. Mapikela (Bloemfontein); R.V. Selope Thema (Johannesburg); L.T. Mvabaza (Johannesburg); P.A.M. Bell (Johannesburg); T.D. Mveli Skota (Johannesburg); E.T. Mofutsanyana (Pretoria); Rev. Z.R. Mahabane (Kimberley); C.K. Sakwe (Idutywa); A.M. Jabavu (King William's Town); J.M. Dippa (Port Elizabeth); and P. Mama (Cape Town). All chiefs were *ex officio*.

a resolution rejecting the Representation Bill and during the proceedings of the Convention he indicated his opposition to the Bills, but without committing himself:

The Rev. John Dube (Natal) said that the Natives of South Africa were passing through a crisis. These Bills were supposed to be the basis of the Government's policy towards the Natives ... In Natal the Natives had passed a resolution urging that their introduction should be deferred, pending their being submitted to a national Native council for full consideration. It had taken a Select Committee of Parliament eight to nine years to come to its recommendations; the Natives were being given only three months to consider them. On that Select Committee no Bantu had served.

He trusted that the Convention would express itself in moderate terms, that it 'would not be productive of inflammatory oratory, and that the best brains would be used in drafting resolutions'.<sup>159</sup>

Though discussion at the All African Convention centred on the Hertzog Bills, there was marked antipathy towards all the segregationist and repressive legislation of the post-Union period. The delegates concentrated particularly on the franchise, arguing that the common franchise had enhanced racial harmony.<sup>160</sup> A resolution condemning the proposed abolition of the Cape African franchise was unanimously opposed.<sup>161</sup> Moreover, the envisaged Union Representative Council was dismissed as an unacceptable substitute for the

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<sup>159</sup> Jabavu, *Findings of the AAC* (1935), pp. 27-28.

<sup>160</sup> *Ibid.*, p. 6 *et seq.*

<sup>161</sup> *Ibid.*, p. 9. It is not clear whether the report distinguishes between 'unanimous' and *nem con.* Jabavu remarked that 'the harmony of the Convention was remarkable, when one considers its conflicting elements of extremists, die-hards, moderates and those who actually favoured the Bills. *Ibid.* Cf. W.G. Ballinger's reference to undercurrents at the Convention in SAIRR Archives, Bos B 100(a), Hoernlé to Rheinallt Jones, 27 February 1936.

Cape African franchise.<sup>162</sup> It was held that the 1920 Native Affairs Act, which was capable of improvement, provided the Government with a means to consult Africans on matters and legislation affecting their interests. The Convention opposed the creation of a colour bar in the Provincial Councils under the guise of Provincial Council representation of Africans and stated that the system of representation then in vogue in the Cape Provincial Council, which placed no restrictions on the participation of non-Europeans in Provincial Council matters, was a model which would well be adopted, not only in the provincial systems of other provinces but also in the Union Parliament.<sup>163</sup>

The Native Land and Trust Bill was not rejected; the Convention regarded

... the proper adjustment of the land problem as fundamental to the so-called 'Native question', and therefore welcomes the attempts of the Government to deal with this matter.

However, the 'gross inadequacy' of the proposed maximum of seven and a quarter-million morgen and the failure to take into account the future needs of an increasing African population was slated:

The true aim of land adjustment we maintain, should be to provide the bulk of the Native population, which is predominantly rural, with sufficient land to allow of their making a livelihood.

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<sup>162</sup> *Ibid.*, p. 10. In the special committee responsible for resolutions on the Representation Bill, the voting was 26 in favour of the Representative Council and 3 against. (This committee comprised A.M. Jabavu, Sakwe, R.H. Godlo, J.S. Mazwi, J.M. Dippa, Chiefs J. Moshesh, L.G.E. Bam, Mahabane, Molema, Mtinkulu, Rev. E. Mdolomba, Xuma, T.M. Mapikela, Chief H. Bikitsha, and Champion.)

<sup>163</sup> *Ibid.*, pp. 10-11.



The fact that this aim is ignored by the Native Land and Trust Bill can only be interpreted by the African people as a vague attempt to force them out of their reserves into a position of economic dependency.<sup>164</sup>

The restrictive provisions of Chapter IV of the Bill were considered 'not only unnecessary but negative in effect'.<sup>165</sup> The Government was asked to drop the Chapter and certain steps were suggested to determine the actual amount of land which was being made available for African occupation under the Land Bill.<sup>166</sup>

Though welcoming the suggested SA Native Trust, the Convention recommended that the powers of such a Trust be 'definitely defined' and urged that, in the event of the Bill becoming law, 'definite financial provision be made to enable the Trust to secure sufficient land for the needs of the African people within five years from the date of the commencement of the Act, and also adequate additional funds to enable the proposed South African Land Trust to carry out its functions'.<sup>167</sup>

The AAC also demanded the redress of grievances arising from oppressive laws like the Riotous Assemblies Act, the Native Service Contract Act, the Poll Tax Act and the Pass Laws.<sup>168</sup>

In what amounted to a statement of principles, the Convention pointed out that the political segregation of the black and white races, envisaged in the Representation Bill, could only be justly carried out by the creation of separate states which, beside being undesirable and impractical,

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<sup>164</sup> *Ibid.*, p. 12.

<sup>165</sup> *Ibid.*

<sup>166</sup> *Ibid.*, pp. 12.13.

<sup>167</sup> *Ibid.*, p. 13.

<sup>168</sup> *Ibid.*, pp. 16-17.

was not contemplated under the Land Bill. Denying Africans participation in the Government of the country of which they were an integral part, on the basis of common citizenship, was not only 'immoral and unjust' but would promote discontent and racial hostility. The thrust of the Bills was to set up the white man as the trustee of the Africans and to consign Africans permanently to the position of a child race. But whites were incapable of 'disinterested tutelage': trusteeship in South Africa merely placed the 'destinies of the under-privileged in the hands of the dominant group'. The assumption that South African and British concepts of trusteeship were identical, was erroneous; the issue for South Africa was, as the Convention saw it, not that of ultimate responsible government and dominion status as in India, Nigeria, the Gold Coast, Uganda and Tanganyika, but the 19th century European problem of providing 'constitutional channels' for the advancement of a people within the parameters of a single state.<sup>169</sup>

The Convention recommended that the policy expressed in the Native Bills be closely studied by the African inhabitants of the Protectorates of Basutoland, Bechuanaland and Swaziland 'particularly in regard to the proposed future incorporation of such protectorates in the Union'.<sup>170</sup> It is interesting to note that during 1935, African opposition to the Native Bills was linked to the Protectorates' issue. This was partly due to a fear that the Government would maintain that these territories represented the additional land 'released' under the Land and Trust Bill. In addition, by retaining their independence, Africans in the Protectorates could either intercede on behalf of their brethren in the Union, or oblige the South African Government to pursue a more generous line in Native policy, in order to convince H.M. Government of its intention to administer these

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<sup>169</sup> *Ibid.*, pp. 3-5.

<sup>170</sup> *Ibid.*, p. 8.

territories in an enlightened fashion.<sup>171</sup>

The AAC favoured a policy of 'political identity' and 'full partnership' which would prevent one racial group dominating the other. It qualified these aspirations by stating that it was not opposed to the imposition of voting qualifications on African voters. A civilisation test was equitable, but the criterion of race or colour was contrary to democratic government. The Convention accepted social segregation, proposing that while 'various racial groups may develop on their own lines, socially and culturally they will be bound together by the pursuit of common political objectives'.<sup>172</sup>

Although AAC declarations were unequivocal in their opposition to government legislation, the delegates stressed their loyalty to South Africa and the British Crown.<sup>173</sup> The Convention appealed to the four senators nominated by the Government 'for their special knowledge of the reasonable wants and wishes of the Native population', as well as the members of the House of Assembly to oppose the passage of the disfranchisement clause in the Representation Bill and to use their vote to 'defeat other objectionable features in the Native Bills'.<sup>174</sup> It also emphasised the need to invoke the assistance of the Governor-General, the King and the British Parliament.<sup>175</sup> Furthermore, as the ANC and the non-European conferences had done in the past, the AAC called on all Africans in the Union to observe Sunday 19th January as a 'day of universal humiliation and intercession' during which 'prayers must be offered up for the Almighty's guidance and intervention in

<sup>171</sup> See e.g. editorial comment in *The Bantu World*, 25 May 1935; and SAIRR Archives, Box B 100(e), Jabavu to Rheinallt Jones, 2 May 1935.

<sup>172</sup> Jabavu, *Findings of the AAC*, pp. 5-6.

<sup>173</sup> *Ibid.*, p. 8.

<sup>174</sup> *Ibid.*, p. 7.

<sup>175</sup> *Ibid.*

the dark cloud of the pending disfranchisement of the Cape Natives'.<sup>176</sup> This recourse to traditional tactics in the emotional atmosphere of the mass meeting, according to Karis and Carter, 'highlighted the peaceful and constitutional nature of African protests on the eve of a historic defeat for African political representation'.<sup>177</sup>

Yet the delegates were not averse to calls for a more activist programme. Loud applause was evoked by the reading of a telegram from Moscow exhorting the Africans of the Union 'to set about their historic task and assist in the struggle of the Negro peoples against exploitation and oppression'.<sup>178</sup> A motion by J. Gomas, a Coloured radical from Cape Town, to the effect that mass protest be organised throughout the Union, appears to have been unanimously passed.<sup>179</sup> Dr. G.H. Gool,<sup>180</sup> another Coloured delegate from Cape Town, went further in exhorting the Convention to 'lay the foundations of a national liberation movement to fight against all the repressive laws of South Africa'.<sup>181</sup> J. Marks, an African communist from Johannesburg, proposed that Africans should refuse to pay their taxes until their rights were recognised.<sup>182</sup> However, neither Gool nor Marks' suggestions were taken up and the only positive steps adopted were to make the All African Convention a permanent body<sup>183</sup> and send a deputation to the Prime Minister.<sup>184</sup> Kadalie warned from past experience that the deputation would fail.<sup>185</sup>

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<sup>176</sup> *Ibid.*, p. 7.

<sup>177</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 7.

<sup>178</sup> Jabavu, *Findings of the AAC*, p. 9

<sup>179</sup> *Ibid.*

<sup>180</sup> Both Gool and Gomas were involved in the formation of the National Liberation League.

<sup>181</sup> Jabavu, *Findings of the AAC*, p. 34.

<sup>182</sup> *Ibid.*, p. 35.

<sup>183</sup> *Ibid.*, p. 18.

<sup>184</sup> *Ibid.*, p. 20.

<sup>185</sup> *Ibid.*, p. 9.

The AAC, it has been argued, filled a need for a synoptic national organisation under which all existing African protest groupings could be linked.<sup>186</sup> Many progressive Africans, especially the Cape African voters, who, like Jabavu, had previously tended to remain aloof from national bodies, joined for the first time with leaders of the ANC, members of the CPSA, and others who had been active in the once powerful ICU. However, one should not forget that the non-European conferences held between 1927 and 1934 did establish some sort of precedent for the AAC.

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<sup>186</sup> See e.g. Karis & Carter (eds.), *From Protest to Challenge*, Vol. II, p. 6.



## CHAPTER IV

THE 1935-36 CRISIS: THE SECOND PHASE

Although part of the campaign against the Bills was literally being run from the offices of SAIRR, most white liberals felt that its 'neutrality' should be preserved. At a meeting of the Institute Council in Cape Town on 20th and 21st January 1936 it was agreed to discuss the Bills, but only in regard to their effect on Race Relations. No resolutions were to be passed as it was argued that Institute members held many differing views. Since the Council therefore found it impossible to draw up a statement on the Bills acceptable to all present, none was issued.<sup>1</sup> Nevertheless, Hoernlé and Rheinallt Jones, prior to this meeting, had already publicly criticised the Hertzog legislation.<sup>2</sup> And, in the weeks to follow, they were to find it increasingly difficult to keep the Institute unsullied by the fray, while they played prominent rôles in the defence of the Cape African vote.

A new assertiveness in white liberal opposition to the Hertzog Bills found its expression in the multi-racial conference of protest held under the auspices of the Consultative Committee of Joint Councils, in Cape Town on the 29th and 30th of January. The English speaking churches, a few missionary bodies, various Joint Councils, the Institute, the National Council of Women,<sup>3</sup> the APO, *Ikaka laba Sebenzi*,

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<sup>1</sup> SAIRR Archives: Rheinallt Jones Papers, Minutes of the meeting of the Council of the Institute of Race Relations held in Cape Town, January 20-21, 1936.

<sup>2</sup> See e.g. report of Rheinallt Jones speech at Cradock in *The Star*, 13 January 1936. See also SAIRR Archives, Box B 52(a), J.F. Herbst to Hoernlé, 13 January 1936.

<sup>3</sup> The National Council of Women was formed in 1909 after efforts by the South African Council of Women Workers in Cape Town. The first branch was formed in Cape Town and endeavoured to act in accordance with the maxim, 'Do unto others as ye would that they should do unto you'.



J.M. Dippa and S.P. Akena,<sup>9</sup> as well as one or two other African representatives, like the Rev. S.J. Mvambo of the Methodist Church, were present.

Apart from the African delegates, some Coloured activists<sup>10</sup> and white communists<sup>11</sup> had also been invited. These delegates appear to have been subdued during the proceedings, and there is no record of their advocating mass agitation, whether in the form of civil disobedience or along constitutional lines.

The conference passed a resolution against the Representation Bill, which was somewhat more critical in tone and content than resolutions passed by bodies such as the JJC, and the Johannesburg and Pretoria Diocesan Synods. The resolution stated

That the abolition of the Cape Native Franchise proposed in the Representation of Natives Bill would be an unmerited and flagrant injustice to the Bantu race and fraught with great danger to the interest of South Africa. This conference, therefore, urges, in lieu of that proposal, the abolition of an electoral colour bar throughout the Union, subject, in the case of Natives, to a standard of qualification sufficient to ensure the attainment of an adequate level of civilization.<sup>12</sup>

The conference voiced the usual criticisms of the Land Bill - the inadequacy of the land set aside, doubts about the viability of the Native Trust as constituted, and concern over the harsh provisions of Chapter IV. A

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<sup>9</sup> Dippa and Akena were the representatives of the Port Elizabeth and Cradock Joint Councils respectively.

<sup>10</sup> E.g. A. Brown of the National Liberation League.

<sup>11</sup> E.g. Miss R.E. Alexander of *Ikaka laba Sebenzi*.

<sup>12</sup> *Proceedings at a Conference on the Native Bills held at Hiddingh Hall, Cape Town, on January 29th and 30th, 1936, convened by the Consultative Committee of Joint Councils.* CC 10/36.

the League against Fascism and War,<sup>4</sup> the National Liberation League, the Society of Friends, the South African Garment Workers' Union<sup>5</sup> and the National Union of South African Students,<sup>6</sup> were all represented.

The major African protest movements, such as the AAC, the ANC and the CNVC, for reasons which are not clear, were not represented at the conference.<sup>8</sup> However, some prominent African Joint Council members, including J.R. Rathebe,

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<sup>4</sup> The League against Fascism and War was formed in March 1934 by trade unionists, communists, Labour party members, and radical societies. In December 1935 the League held a big conference in Johannesburg, which attracted a number of liberals.

<sup>5</sup> The Garment Workers' Union was a white trade union headed by Solly Sachs - a member of the CPSA.

<sup>6</sup> The National Union of South African Students was founded in 1924 with Leo Marquard as its first president. Sheila van der Horst maintains that during the Thirties the body was preoccupied with domestic issues. However, Marquard argues that after it had shed its Afrikaner element in 1932, NUSAS became increasingly liberal in its political attitude. (Cf. S.T. van der Horst, *Progress and Retrogression in South Africa A Personal Appraisal* (1971), p. 31; L. Marquard, *The Peoples and Policies of South Africa*, p. 216.) NUSAS passed resolutions against the Hertzog legislation in July 1935, in which the Representation Bill was rejected and the Land Bill heavily criticized.

<sup>7</sup> In all, there were 70 delegates from 41 organisations.

<sup>8</sup> In the case of the AAC it would seem that certain members of the Executive were wary of joint action with white liberals. The following extract from Xuma's unpublished autobiography is interesting in this respect: 'The South African Institute of Race Relations through ... Mr. J. Rheinallt Jones, suggested a common cause with the Institute and unfortunately for me as Mr. Jones approached me both Professor Jabavu and Mr. H. Selby Msimang were in favour of this proposal. I considered this proposal improper as we had no mandate from the Conference to seek alliances on the way and declined to be a party to the suggestion. The three of us met after seeing Mr. Jones and formally rejected his suggestion.' Xuma Papers, Box P, Folder 24 Draft autobiography, pp. 2-43. It is doubtful, however, that Rheinallt Jones suggested that the AAC and SAIRR undertake common action: more likely, he had the Consultative Committee of Joint Councils in mind.

Continuation Committee which consisted of Sir Clarkson Tredgold (convenor), Sir James Rose-Innes, Allan Davis,<sup>13</sup> D.B. Molteno, T. Reay,<sup>14</sup> Mr. and Mrs. Rheinallt Jones, Rev. S.J. Mvambo, and three representatives to be appointed from the National Council of Women, and which had the power to add to their number,<sup>15</sup> was elected to 'take steps at all stages of the Native Representation Bill and Native Trust and Land Bill to press the views of this Conference'. The Committee was instructed to cooperate with the AAC Executive Committee to investigate the possibility of African interests being presented at the Bar of the Houses of Parliament, and if this was found possible, to take the necessary steps to secure representation.<sup>16</sup>

A pamphlet put out by the Continuation Committee asked whether the proposal to abolish the Cape African franchise was wise:

How should a European of robust common sense, who is mindful only of his own interests and those of his descendants, decide whether the Cape Native Franchise should be abolished or not?'

It was added that

If it be accepted that the Natives must be given some political power, it is surely better from the European point of view that this should come by allowing individual Natives to exercise the vote as and when they reach a certain level of civilisation than that a separate organisation of solidly race-conscious Natives should be forced into being ... But the hard-headed European whose point of view we are investigating would doubtless take account of the possibility that, on a common roll the white vote

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<sup>13</sup> Allan Davis was the treasurer of the Cape Town Joint Council.

<sup>14</sup> T. Reay was an advocate and a member of the Cape Town Joint Council.

<sup>15</sup> E.A. Walker (Professor of History at the University of Cape Town) and his wife, Mrs. R.L. Scott, Miss E. Solomon, Mrs. H.B. Spilhaus, Mrs. A. van der Horst and Mrs. Grant were subsequently appointed to the Committee.

<sup>16</sup> CC 10/36.

might some day be 'swamped' by the black vote. This is of course, proper matter for consideration, but it must be treated soberly and without panic ... Any system which makes for a higher standard of living tends towards a lower birth rate ... The method of raising the required qualification to prevent such 'swamping' has Cape precedent in its favour, and could be used again if required. The figures show beyond question that even on an admittedly low qualification basis, the idea of 'swamping' is a mere bogey. The Native vote in the Cape Province amounts to approximately 1 per cent. of the whole Union electorate. It would be simplicity itself to control the number of Native voters by relating the franchise to the attainment of recognised school standards with or without an income or property qualification.<sup>17</sup>

Roux argued that opposition of this type could rouse little enthusiasm among the Africans themselves.<sup>18</sup> But Donald Molteno maintained that the AAC leaders endorsed the standpoint of white liberals in Cape Town.<sup>19</sup> And D.D.T. Jabavu remarked that he and Rheinalt Jones held identical views on the franchise question.<sup>20</sup> The African élite wanted some access to the economic and political life of the white-dominated state, at least in the short-term, rather than a radical restructuring of South African society. A nation-wide qualified franchise constituted the horizon of the political hopes of most middle class Africans. Black majority rule is the slogan of the 1970's not of the 1930's. The African élite were very conscious of a gulf - both real and illusory - between them and their relatively uncivilized fellows. A qualified franchise would lessen the possibility of demagogues or radical leaders effectively challenging the authority of men like Mahabane and Jabavu. Furthermore,

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<sup>17</sup> Cited in Roux, *op. cit.*, pp. 289-290.

<sup>18</sup> *Ibid.*, p. 290.

<sup>19</sup> D. Molteno, *The Betrayal of the 'Natives' Representation'* (1959), p. 15.

<sup>20</sup> SAIRR Archives, Box B 100(e), Jabavu to editor of *East London Daily Dispatch*, 26 October 1935.

white liberals had helped on occasions in the past, and would do so on the issue of the 'compromise' Bill, to shore-up African middle class protest when it showed signs of sagging.

Roux also contended that the Joint Council's point of view as expressed in the pamphlet was:

... not based on the essential justice of the Natives' ultimate right to a majority in Parliament. It was simply the old Cape 'liberalism' over again, the 'liberalism' which was satisfied so long as there remained a 'token' Native vote.<sup>21</sup>

Commenting on this statement when it appeared in an article in *Trek* in 1943, Mrs. Rheinallt Jones wrote:

You do some injustice to the attitude of the Conference and Continuation Committee. So far as I know, every member of that Committee from Sir James down was convinced of the rightness of the direct personal vote for Africans and saw no reason whatsoever to fear the results of any 'swamping' where an educated and trained African electorate became in the majority. My own opinion is expressed often during those years of fight for the real franchise was: 'The vote is in any real democracy the right of all those capable of exercising it intelligently. I know of no reasons to suppose that the desires of the civilised African people are any different from those of any other democratic people. They would, under any progressive system receive the right to vote gradually as the numbers of those capable of exercising it increase. Africans would finally be in the majority and there would be nothing to fear in that.'

But the Conference and Continuation Committee were not only concerned with the enunciation of principles - they were trying to persuade South Africa not to take so far-reaching a step in the wrong

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<sup>21</sup> Roux, *op. cit.*, p. 290.

direction as the abolition of the common franchise. They had therefore to try to persuade politicians and the man in the street that the then system had no dangers and that further developments would be in the hands of future generations who would presumably be capable of judging for themselves.<sup>22</sup>

Little is known about the activities of the Continuation Committee during the first three or four days of February. There seem to have been informal discussions between the Committee and those members of the AAC Executive then present in Cape Town,<sup>23</sup> though there is no evidence of any common strategy being evolved.

On 3rd and 4th February 1936, an AAC deputation, consisting of Jabavu as President, the Rev. A. Mtimkulu, the Rev. Z.R. Mahabane, A.W.G. Champion, R.H. Godlo,<sup>24</sup> J.M. Dippa, H.S. Msimang and two coopted Cape Town Africans, H.L. Kekana<sup>25</sup> and the Rev. S.J. Mvambo,<sup>26</sup> held a series of meetings with Hertzog. Hertzog expressed a willingness to consider 'possible alternative suggestions' to the Representation Bill, except on the clause abolishing the Cape African franchise.<sup>27</sup> Walshe maintains that he invited the delegation to sponsor a 'compromise' Bill retaining the individual Cape African vote but introducing separate European representation of African interests - three members of the House of Assembly and two Cape Provincial Councillors.<sup>28</sup> (This was

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<sup>22</sup> Cited in *Ibid.*, pp. 290-291.

<sup>23</sup> Xuma Papers, ABX 360203b, Msimang to Xuma, 3 February 1936.

<sup>24</sup> R.H. Godlo was the editor of *Umlindi we Nyanga* (started in January 1936) and the President of the Location Advisory Boards' Congress.

<sup>25</sup> No details regarding H.L. Kekana have been found.

<sup>26</sup> Walshe incorrectly includes P. Mama and excludes Rev. S.J. Mvambo from his list of names of the first AAC deputation. Cf. Walshe, *op. cit.*, p. 122; and e.g. Xuma Papers, ABX 360205b, Jabavu to Xuma, 5 February 1936.

<sup>27</sup> *Cape Argus*, 4 February 1936.

<sup>28</sup> Walshe, *op. cit.*, p. 122.



more or less the 1929 Representation Bill.)

Whether Hertzog was so explicit is debatable. A letter written by Selby Msimang, the Convention's Secretary, to A.B. Xuma, immediately after the meeting with Hertzog on the 3rd, suggests that the Prime Minister had yet to put forward a specific 'compromise' Bill:

The Prime Minister is prepared to negotiate with us and to abandon all the other sections of the Representation of Natives Bill provided we agree that a change in the present system is necessary.<sup>29</sup>

The first day's meeting was inconclusive:

The deputation /Msimang wrote/ withdrew in order to find a way for persuading him /Hertzog/ to postpone the Bill to enable us to consult the Convention. We are seeing him again tomorrow at 10 a.m. and hope to discover a way of persuading him without compromising our resolution. I may add that he has definitely told us that he is at the moment proceeding with this Bill and that if he succeeds he may consult us on the Land Bill, otherwise the Bills will be dropped.<sup>30</sup>

Jabavu and his colleagues were prepared to put Hertzog's proposals to a full meeting of the AAC but were wary of committing themselves any further:

We felt /Msimang recollects/ that the question was so far-reaching that we could not as a deputation take the responsibility of committing our people. It was now the question of playing for time, and we asked Dr. Hertzog to stay further consideration of these bills until we had met other leaders.<sup>31</sup>

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<sup>29</sup> Xuma Papers, ABX 360203b, Msimang to Xuma, 3 February 1936.

<sup>30</sup> *Ibid.*

<sup>31</sup> Taperecorded interview with H. Selby Msimang, transcript in possession of Sheila Hindson, n.d.

Hertzog, however, was loath to delay the legislation. Consequently, Jabavu and Msimang, with Hertzog's backing, summoned the full Executive to meet in Cape Town on 18th February. This move, according to Jabavu, was for the purpose of

... a) giving our combined reply to the Prime Minister, b) to lobby the MPs to try and get the 23 more members required to defeat the 2/3 majority in Parliament, c) to conduct Convention business.<sup>32</sup>

Shortly after the interview with General Hertzog, Jabavu addressed a meeting of MPs, mostly from the Border and Eastern Province, although Senator Malan, Morris Alexander and other Peninsular members were also in attendance.<sup>33</sup> He informed them that Hertzog had categorically stated that under no circumstance would he consider any amendment to the disfranchisement clause.<sup>34</sup>

We, from the East, /wrote A.O.B. Payn, MP for Tembuland/ had already realised that if Gen. Hertzog forced his bill, he would without question obtain his 2/3 majority and that meant the eventual elimination of the Cape Vote. We had already discussed the matter with many members - (and ministers) - and felt the only possibility of retaining the vote was along the road of separate representation and a reversal of the Bill of 1929. (*sic*) I personally at the meeting put this aspect before Jabavu and asked him whether we could rely on the support of the Cape Natives if we moved along these lines and so saved the individual franchise.

He gave us an emphatic undertaking that he personally would consider we had done a great act for the Cape Native if we could save the individual vote and that he hoped our endeavours to do so would prove successful. As he put it: 'It is the principle of

<sup>32</sup> Xuma Papers, ABX 360205b, Jabavu to Xuma, 5 February 1936.

<sup>33</sup> A.O.B. Payn, C.M. van Coller, L.D. Gilson, H.A. Johnson, A. Ware, W.B. Humphrey, A.C.V. Baines, G. Dolly, F. Ginsberg, J.A. Bowie, F.C. Thompson, J.G. Hirsch, R.J. du Toit, G.B. van Zyl and F.S. Malan were present at this meeting.

<sup>34</sup> SAIRR Archives, Box B 100(a), A.O.B. Payn to Tennyson Makiwane, 20 February 1936.

franchise as adumbrated in the Native bills, and I am puzzling what scheme to suggest to my countrymen next month to ensure our being able to save even the skeleton of an individual franchise as against group voting. I now wish to consult you as to what you think of my present idea over which I am yet to consult my colleagues of the Cape Native Voters' Convention. My plan is this:-

- 1) First, I am all out to fight for the retention of the existing form of franchise. That is my first line.
- 2) Second, if the members of Parliament who favour this view prove to be in a hopeless minority at the second reading, would it be practicable for you or Mr. Duncan to undertake to lead in proposing some compromise that might appeal to General Hertzog, a compromise that will serve two purposes: i. To carry out the Premier's object of abolishing the present common representation of whites and non-whites; and ii. to save the individual franchise by the creation of a new roll of Native voters who will vote *individually* for their own Senators, a roll that will enable Natives at least to be 'registered voters' with their present rights under the 'Hofmeyr Act of 1887',<sup>39</sup> a roll that will remain at all times as a guide to the government of the day as to how many potential Native voters there are, such as would form the basis of a voters' list when the bright and happy day arrives that a man's qualifications of property and sound education, and not colour only, shall decide his right to take part in the government of the country, his own South Africa, the great South African nation to be.<sup>40</sup>

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<sup>39</sup> The Registration Act of 1887 (as the 'Hofmeyr' Act was officially called) facilitated the registration of parliamentary voters and the removal of ineligible voters from the voters' roll. It also laid down that ownership of communal land or property to the value of £25 (the property test in the Cape) would not be considered a qualification for the franchise. The purpose of the restriction was to exclude the 'blanket' African vote. Rhodes defended this as 'necessary class legislation', but it was vigorously opposed by J.X. Merriman, J.W. Sauer and J. Rose-Innes.

<sup>40</sup> Hofmeyr Papers, Aa, Jabavu to Hofmeyr, 26 November 1935. Hofmeyr in his reply agreed that Jabavu should first press for the retention of the Cape franchise. He was not very hopeful about the possibility of supporters of the Representation Bill accepting Jabavu's second suggestion. See *Ibid.*, Hofmeyr to Jabavu, 2 December 1935.

the individual vote that we are fighting for.<sup>35</sup>

Jabavu defended his actions in a subsequent discussion with the Continuation Committee<sup>36</sup> and in a published statement.<sup>37</sup> He stressed that he had merely said that if the Cape MPs in question could save the individual vote in the Cape they would have achieved something, but that he had never committed himself or his colleagues to acceptance of any compromise. Writing in the *Cape Times* in September 1936, Jabavu blamed the eastern Cape MPs, especially C.M. van Collier, member for Cathcart, for misrepresenting African intentions.<sup>38</sup> It seems, however, that Jabavu did not adequately convey to these MPs the distinction he had in mind. *viz.* While maintaining his opposition to the abolition of the Cape common roll, he was privately, *not* publicly, prepared to welcome the efforts of others to retain the individual vote, should African defence of the common roll fail.

There is no doubt that the principle of the individual vote was very important to Jabavu. A letter written to Hofmeyr in November 1935, is revealing in this respect:

I am somewhat worried by the prospect of the future entire abolition of the Cape Native

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<sup>35</sup> *Ibid.*

<sup>36</sup> Molteno, *op. cit.*, p. 11.

<sup>37</sup> *Ilanga lase Natal.*, 14 March 1936.

<sup>38</sup> Jabavu described van Collier as the author of the 'notorious "compromise" in Parliament'. *Cape Times*, 23 September 1936. See also Xuma Papers, ABX 360928, Jabavu to Xuma, 28 September 1936. It is not known on what grounds Jabavu made this assertion. Press reports do not indicate that van Collier played the leading part in promoting a 'compromise' Bill. For example, the *Natal Advertiser* of 13 February 1936, singled out R.H. Struben, member for Albany, as one of the initiators of the idea. There is no reference in van Collier's unpublished autobiography, *Random Recollections*, to the issue of the 'compromise' Bill. A copy of this autobiography is in the possession of J. van Collier of Hillcrest, Natal.

While it is doubtful that Jabavu, prior to February, had sought the cooperation of eastern Cape MPs, there appears to have been some contact with certain members of this group and some Cape Africans during late 1935. According to W.G. Ballinger, the only white invited to address the All African Convention at Bloemfontein, a few Cape Africans, instructed by Border MPs, attempted to persuade the Convention to endorse a compromise along the lines of the 1929 Representation Bill. It was suggested that there would be a reward in the shape of a large allocation of funds to the Native Trust.<sup>41</sup>

Jabavu's insistence that Cape members of the AAC Executive were just as opposed to any compromise on the Cape African franchise, as the representatives of the northern provinces,<sup>42</sup> does not stand up particularly well to scrutiny. Selby Msimang, one of the members of the first AAC deputation to Cape Town, recalls that

Some of us had always suspected some Cape delegates of playing into the hands of Cape MPs. For instance, one of the delegates from Port Elizabeth who arrived practically without money whom we had to support (*sic*). The following day he was so well in funds that we began to suspect him for he told us a member of parliament had made it possible for him to pay his way out. The report I received from my co-delegates was that it was the Cape delegates who gave up the struggle.<sup>43</sup>

After the meeting with Hertzog on 4th February Mtimkulu, Champion, Godlo and Msimang returned home. Jabavu left for Alice on 5th or 6th February.<sup>44</sup> On the latter date, some AAC members apparently met Hertzog again and, as the *Cape*

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<sup>41</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 27 February 1936.

<sup>42</sup> *Ilanga lase Natal*, 14 March 1936.

<sup>43</sup> Taperecorded interview with Selby Msimang, transcript in possession of Sheila Hindson.

<sup>44</sup> Xuma Papers, ABX 360205b, Jabavu to Xuma, 5 February 1936.



*Argus* understood it, 'expressed their willingness to accept the provisions of the second Bill introduced by the Prime Minister some years ago'.<sup>45</sup>

On 7th February, Mvambo, Mahabane<sup>46</sup> and Dippa,<sup>47</sup> functioning as the Cape Executive of the AAC, had a meeting with the eastern Cape MPs and Morris Alexander, United Party Member for Cape Town (Castle).<sup>48</sup> The three delegates, according to Payn,

... wholeheartedly gave their support to the proposed compromise /the 1929 Representation Bill/ ... They also urged us to go ahead and gave us a promise of support.<sup>49</sup>

A statement released by the Border and Eastern Province MPs, contained the following comment about the meeting:

Dippa stated definitely that the proposal to revert to the 1929 Bill had been made to General Hertzog, who had rejected same, while Mvambo and Mahabane stated that it had been put out as a feeler to General Hertzog. They stated, however, that they would like to discuss further matters with co-delegates who had already proceeded home.<sup>50</sup>

The three Africans were advised to hold the planned meeting of the AAC Executive before the 13th (when the Representation Bill was to be introduced to Parliament) instead of the 18th.<sup>51</sup>

<sup>45</sup> *Cape Argus*, 8 February 1936. This meeting was not reported in the *Cape Argus* of 6 or 7 February 1936.

<sup>46</sup> It is worth bearing in mind, at this stage, Mahabane's earlier qualified support for separate representation.

<sup>47</sup> Was Dippa the impecunious delegate referred to by Msimang? He was the only member of the AAC deputation from Port Elizabeth.

<sup>48</sup> A.O.B. Payn, C.M. van Coller, L.D. Gilson, H.A. Johnson, A. Ware, W.B. Humphrey, A.C.V. Baines, M. Alexander and E.W. Douglas were present at this meeting.

<sup>49</sup> SAIRR Archives, Box B 100(a), Payn to Makiwane, 20 February 1936.

<sup>50</sup> *Ilanga lase Natal*, 14 March 1936.

<sup>51</sup> *Ibid.*



Mahabane, Mvambo and Dippa despatched a telegram, drafted by Payn,<sup>52</sup> to Jabavu, urging that the Executive meet in Cape Town on the 12th to decide 'acceptance or otherwise' of the separate roll, 'this appearing the only possible means /of/ retaining /the/ individual vote'.<sup>53</sup> Jabavu and Msimang promptly informed members of the AAC Executive of the new developments and most of the members duly set course for Cape Town.

Meanwhile, Hoernlé, Ramsbottom and Schreiner, shocked at a newspaper report of the prospects of a compromise, favoured by Border MPs and Cape liberals, intimated to Rheinallt Jones in Cape Town that he should do his utmost to bring members of the AAC and any wayward liberals<sup>54</sup> back into line. 'We cannot believe', they said, 'such persons or natives seriously contemplate any such compromise'.<sup>55</sup> Hoernlé cabled both Jabavu and Xuma strongly advising a rejection of the compromise and pointing out that rejection merely on the technical grounds that the Committee had no power to give a mandate for compromise was open to 'grave misunderstanding' and would make a 'poor impression' on the white public.<sup>56</sup>

On the 12th the AAC Executive held discussions at the Metropolitan Hall in Cape Town, and on the following day,

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<sup>52</sup> SAIRR Archives, Box B 100(a), Payn to Makiwane, 20 February 1936.

<sup>53</sup> Xuma Papers, ABX 360207b, Telegram from Jabavu to Msimang, 7 February 1936.

<sup>54</sup> There are no details regarding the identity of these 'liberals', though the following extract from an address by Sir Clarkson Tredgold, is worth noting: 'May I here refer to the practice of individual members of a Committee trying to do things without first obtaining the approval and authority of the Committee? /Is Tredgold referring to the Continuation Committee or to the Cape Town Joint Council?/ We had instances of it among our European members but these incursions were checked in time.' SAIRR Archives: Rheinallt Jones Papers, Cape Town Joint Council Records, Report by Sir Clarkson Tredgold on the Joint Council's activities in regard to the Native Bills. (Read in late March 1936).

<sup>55</sup> Xuma Papers, ABX 360211, Telegram from Hoernlé, Ramsbottom and Schreiner to Rheinallt Jones, 11 February 1936.

<sup>56</sup> *Ibid.*, ABX 360213, Telegram from Hoernlé to Xuma, 13 February 1936.

after having rejected the proposed compromise, sent word to D.L. Smit, who also acted as Secretary to the Prime Minister, that they were ready with their reply.<sup>57</sup> Mvambo, Mahabane and Dippa, failed to renew contact with the eastern Cape MPs as was apparently arranged, and the latter group continued to push for a 'compromise' Bill.<sup>58</sup>

Just prior to seeing Hertzog, the AAC deputation<sup>59</sup> was briefed by Smit who was annoyed at finding them unwilling to negotiate on the basis of the 1929 Bill:

Mr. Smit /wrote Xuma/ was quite annoyed and advised us to accept the compromise. When we asked what compromise, he said the compromise of not abolishing the Cape Native Franchise (as it was called) but removing African voters from the common voters' roll to a separate roll. When we asked if the Government was offering the compromise, Mr. Smit was not direct in his reply. He said it was common consent that that was the best way and if we offered to General Hertzog, he (Mr. Smit) was almost sure that the Prime Minister would accept it. I pointed out that a week before the Prime Minister did not want to discuss Clause I of the Bills (the abolition of the Cape Native Franchise) and we were not prepared to discuss land or the Council with him if we are not satisfied on the point of the franchise. Mr. Smit, speaking gravely, said 'I would be sorry if you do not try to save something out of the Cape Native Franchise by offering the compromise to the Prime Minister. You are not being wise.'

Xuma's impressions of the ensuing interview with Hertzog are

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<sup>57</sup> *Ibid.*, Box P, Folder 24, Draft autobiography, p. 43.

<sup>58</sup> SAIRR Archives, Box B 100(a), Payn to Makiwane, 20 February 1936.

<sup>59</sup> The deputation consisted of D.D.T. Jabavu, Xuma, Dr. J.S. Moroka, Godlo, Mvambo, A.M. Jabavu, P.W. Mama, Mahabane, Dippa, R.F. Haya (Kingwilliamstown), Dr. S.M. Molema, C.R. Sakwe, H.M. Madapuna (Transkei), Selope Thema, L.T. Myabaza, T.D. Mveli Skota, E.T. Mofutsanyana, T.M. Mapikela, Keable Mote, R.A. Sello, C.R. Moikango, Mtinkulu, Champion, J. Kambule and Chief Mogale (Rustenburg).

worth quoting at length:

The Prime Minister then briefly welcomed us and put this case, something as follows: 'Gentlemen, I welcome you and wish to place before you the view of the Government on the Native Bills. The Government is prepared to proceed with the Native Bills and I felt that I should get your views as the leader of your people on the compromise which you must have seen being suggested in the Press. With your blessing and support of the proposal I am prepared to discharge Clause I of the Bills and introduce another Bill embodying the principles of the compromise.'<sup>60</sup> Through this simple statement we had been thrown into confusion. Most of us seemed to be concerned about what our particular Province would get of the scheme and we were already bargaining for our Province before formally accepting the Prime Minister's suggestion. As for me, I must confess I was confused and dumbfounded, not by the proposal, but by the courtesy with which General Hertzog received us and the courteous and dignified way in which he addressed us, which is often more difficult for smaller men in high offices. I had expected him to be haughty and contemptuous, according to fashion in certain quarters but the gentleman he was he could not act discourteously to the delegation, because it was African, and still remain a gentleman for special occasions.<sup>61</sup>

An adjournment was suggested to discuss the proposals and the delegates retired to the Metropolitan Hall. 'We were divided,' Xuma wrote, 'some leaning towards compromise and others were against it.'<sup>62</sup> Mary Benson maintains that Jabavu

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<sup>60</sup> Both Hertzog and Smuts insisted that it was the AAC leaders who brought up the idea of discussing the 1929 proposals. According to Davenport a memorandum drawn up by D.L. Smit on the 14th, 'makes it clear that this was the basis of their negotiations'. Davenport, *South Africa*, p. 221.

<sup>61</sup> Xuma Papers, Box P, Folder 24, Draft autobiography, pp. 44-45.

<sup>62</sup> *Ibid.*

Mahabane still favoured the compromise, while Moroka and Xuma were strongly opposed to the idea.<sup>63</sup>

Hertzog apparently gave the delegates until the following Wednesday (the 19th) to come up with any positive suggestions.<sup>64</sup> However, on the day after the interview, he proceeded with his 1935 Representation Bill.

In any event, after consultation with the Continuation Committee and after seeking the individual advice of Rose-Innes and F.S. Malan,<sup>65</sup> the Executive rejected the compromise.<sup>66</sup> This rejection was announced at a public meeting held on the night of 14th February in the Metropolitan Hall and called by the Convention Executive. It was attended mainly by Africans and presided over by Dr. Xuma, as Professor Jabavu had had to return home. The speakers included A.M. Jabavu, Selope Thema, Rev. Z.R. Mahabane and A.W.G. Champion. The central theme of the speeches was that Africans, by and large, had always sought inter-racial cooperation, that they had not used the Cape franchise for sectional interests, that the attack upon their political rights was totally unprovoked and that their only course was to rally behind their national leaders and fight for the restoration and extension of those

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<sup>63</sup> Benson, *op. cit.*, p. 68.

<sup>64</sup> *Union of South Africa: Joint Sitting of Both Houses of Parliament, Representation of Natives Bills* (JS1-36) and (JS2-36), 13 February to 7 April, 1936 (hereinafter referred to as *Joint Sitting*), col. 28.

<sup>65</sup> Molteno, *op. cit.*, p. 12.

<sup>66</sup> The deputation was probably aware of Edgar Brookes' letter in the *Cape Times* on the morning of 14 February 1936. Brookes declared that even when he had advocated political separation, his standpoint was that 'the Cape Franchise should only be abolished after adequate arrangements had been introduced and won the confidence of the natives, and that it should then be open to them to choose between being voters for their own special body, or registration on the European roll'. He added: 'As the years have gone on I have been more and more convinced of the wisdom and injustice of depriving loyal law-abiding and self-respecting men of a cherished symbol of citizenship.' Further support, though somewhat late, came from W.G. Ballinger, who wired the deputation advising against compromise. Xuma Papers, ABX 360215, Ballinger to Xuma, 15 February 1936.

rights.<sup>67</sup>

On 15th February, after seeing Hertzog again, the AAC Executive issued a formal resolution which stated *inter alia* that

... whereas the Hon. the Prime Minister had refused our pressing request to refer the Prime Minister's new proposal to our people in convention; now, therefore, we have no alternative but to adhere to our mandate to oppose any alteration of the present Cape native franchise.<sup>68</sup>

The manoeuvrings of Hertzog, the eastern Cape MPs and members of the AAC Executive, during the first half of February, are shrouded in uncertainty. Contradictory accounts, coupled with a shortage of reliable evidence, oblige one to leave unanswered a number of leading questions. For instance, when, in the series of meetings between Hertzog and the AAC deputations, and by whom, was a compromise, based on the 1929 proposals, first suggested?

Whatever Hertzog's private feelings were regarding the validity of the AAC Executive's criticism of his legislation, a letter from Doyle Modiakgotla, who was a registered voter at the time, surely provided some reassurance:

Certain people have met you last week and spoke in the name of the whole South Africa (*sic*). I presume that they may have succeeded in making you believe that they had the support of this district. No, sir, my chief is not a voter, the majority of his councillors are not voters. The vote is therefore a matter of a third rate importance to my people here - I have actually tested the feeling by asking them: what will you choose for your selves between the vote and the land? Send

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<sup>67</sup> *Cape Argus*, 15 February 1936.

<sup>68</sup> *Ibid.*, pp. 76-78.

Jabavu here and let him address the Natives in Taungs and Vryburg districts, my platform will be land and I assure you that he would fail lamentably. (*sic*)<sup>69</sup>

While the above extract suggests that the Bloemfontein Convention was not as representative of African opinion as is claimed, it could also be argued that African leaders, by and large, lacked the resources and time to sustain the enthusiasm generated in December 1935. This is underlined by the fact that in Cape Town, by mid-February, the initiative in the opposition to the Hertzog Bills had passed to the whites.

Prominent in white liberal agitation in the early months of 1936 were Hoernlé, Schreiner, Ramsbottom, John L. Hardy, and Dean A. Palmer and A. Lynn Saffery in Johannesburg,<sup>70</sup> and members of the Continuation Committee in Cape Town. Rheinallt Jones (with his wife Edith) was based in Cape Town - a sort of man on the spot who, with Hoernlé, played a key rôle in coordinating the overall campaign. Somewhat on the periphery were Maurice Webb and Edgar Brookes, both operating in the Durban area.

A donation from a certain Colonel Donaldson, at the end of January 1936, to the SAIRR, facilitated a more elaborate campaign than had been initially planned. On 3rd February, with Ramsbottom and Schreiner back in Johannesburg, after having participated in the conference convened by the Consultative Committee in Cape Town, Hoernlé wrote to Rheinallt Jones detailing new developments and asking for suggestions as to future tactics:

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<sup>69</sup> Hertzog Papers, Vol. 63, D. Modiakgotla to Hertzog, 15 February 1936.

<sup>70</sup> John L. Hardy had been Howard Pim's business partner until the latter's death, and was the Treasurer of the SAIRR. Palmer was an Anglican clergyman and had been a member of the JJC since the mid-1920's.



Hardy, Schreiner, Ramsbottom and myself, together, possibly, with Dean Palmer, are to meet in the next two or three days to spend the five hundred pounds given by Colonel Donaldson for propaganda against the Native Bills. At present, the only tentative suggestions are that the addresses of Ramsbottom and Schreiner at the Cape Town Conferences be printed and circulated to all members of Parliament and newspapers and individuals likely to influence public opinion ...

Beyond the printing of these papers, the only other suggestion made at the moment is that likely individuals and groups be circularised and asked to write to their Members of Parliament protesting against the passing of the Bills in general, or at any rate the abolition of the Cape Native Franchise.

He mentioned Schreiner's opposition to a proposal by Dean Palmer that a public meeting or meetings of protest be held. Schreiner argued that such meetings would likely be 'strongly attended' by opponents of the Cape African franchise, thus rendering it impossible 'to pass an effective resolution of protest by an impressive majority'. In addition, it would be difficult to get speakers who would immediately command a hearing and 'not be labelled already in the public mind as wellknown Kaffir boetjies'. Horenlé also asked Rheinallt Jones whether the latter thought it advisable to create and maintain a 'lobby' in Parliament, consisting of Rheinallt Jones or any other suitable person, who could approach all MPs who had not made up their minds or were open to argument, and urge them to vote against the Bills, or at least vote for a compromise that offered a chance of delay.<sup>71</sup>

By 7th February more definite plans had been formed. A pamphlet based on Schreiner and Ramsbottom's speeches at the January Conference, on the Representation and Land Bills

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<sup>71</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 3 February 1936. See also *Ibid.*, Schreiner to Rheinallt Jones, 5 February 1936.

respectively, was being prepared. A letter to be signed by voters opposed to the Bills, and addressed to the MP representing their particular constituency, protesting against the abolition of the Cape African franchise, was to be circulated. The Churches (organised by Palmer) were to assist in the distribution of the letter.<sup>72</sup>

The following day, however, it was reported that the AAC had accepted a compromise and that the two-thirds majority for the abolition of the Cape African franchise was a mere formality.

This report /Hoernlé wrote/ has caused us great perturbation. Oliver /Schreiner/ thinks that the talk of a two-thirds majority being assured is bluff. On this point I do not agree with him. He also thinks that the Natives have been bluffed into accepting a compromise to which he will fight, if necessary, even single-handed. Here again, I do not see eye to eye with him; if the present Franchise at the Cape must go, the suggested alternative seems to me to have merits, even from the point of view of the Natives of the North, always assuming that the representative elected by the Natives at the Cape will speak for all Natives and not only for the relatively small body of voting Cape Natives.<sup>73</sup>

But the essential point, as Hoernlé saw it, was that all proposed action would be useless if the Africans had indeed agreed to a compromise. He nevertheless drafted a rough alternative policy for Rheinallt Jones' comments.<sup>74</sup>

On hearing from Cape Town that Jabavu had not committed himself to any irrevocable decision, the Johannesburg group

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<sup>72</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 7 February 1936.

<sup>73</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 8 February 1936.

<sup>74</sup> He essentially suggested that the compromise should be embodied in the Representation Bill in such a form that there would be no fixed limitation on the number of representatives whom the Africans could elect to the Assembly.

proceeded with their plans. At a meeting on the night of 9th February, a number of decisions were taken which represented, in effect, a series of recommendations and instructions for Rheinallt Jones.<sup>75</sup> Two hundred and fifty pounds of Donaldson's money was to be sent to Alan Davis in Cape Town who was to consult Rheinallt Jones in regard to its allocation. In the light of suggestions by Jones it was felt, *inter alia*, that the money should be spent on a proposed public protest meeting, the expenses of hiring a hall for the meeting of the AAC delegation and for the expense of keeping approximately six Africans in Cape Town<sup>76</sup> for the duration of the joint Session. It was also to cover the costs of printing pamphlets. Attention was given to the possible content and layout of the pamphlets, as well as their distribution. Copies of the letters to be signed by constituents were to be sent to Cape Town. Palmer was busy organising the distribution of letters in the Transvaal for the various English-speaking Protestant Churches,<sup>77</sup> and it was hoped that someone could be found for a similar operation in the Cape.

In a letter to Schreiner,<sup>78</sup> J.H. Hofmeyr had expressed his belief that the maximum number of votes attainable for the abolition of the Cape franchise would be 140, including

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<sup>75</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 10 February 1936.

<sup>76</sup> Partly for financial reasons, and partly because few Africans could spare the time, this suggestion does not seem to have materialised. The Continuation Committee relied to an extent on local Africans, though Godlo and Dippa stayed in Cape Town for some time after 15 February. (It is, however, not clear how long they remained.) Also, L.T. Mvabaza and T. Mveli Skota (both Transvaal members of the second AAC delegation) appear to have stayed in Cape Town for the duration of the Joint Sitting, though we do not know whether their expenses were paid by the Committee.

<sup>77</sup> It is not clear why the Catholic Church was not involved. It had, however, been represented at the January Conference convened by the Consultative Committee of Joint Councils.

<sup>78</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 10 February 1936.

both the Labourites and Nationalists, and suggested that judicious propaganda among members from the Reef, Natal, and especially the rural districts of the Western Province, might have sufficient effect to reduce the 140 to below the required minimum of 127.<sup>79</sup> It was therefore suggested to Rheinallt Jones that he coordinate local Cape Town efforts to bear especially on rural Western Province members. Schreiner and Ramsbottom wrote to Witwatersrand MPs, and Webb was asked to bring pressure to bear on the Natal members.<sup>80</sup>

During the second week of February, the propaganda offensive against the Bills gathered momentum. Two articles written by Eric Walker, at the behest of the Continuation Committee, were published in the *Cape Argus* on 10th and 11th February,<sup>81</sup> and a few days later in other newspapers of the Argus group.<sup>82</sup> Walker focussed his attention on the views and activities of Lord J.H. de Villiers, J.H. Hofmeyr and W.P. Schreiner.<sup>83</sup> in regard to the Cape franchise, particularly during the period 1908-09. 'It may be a help towards forming a just opinion on the present issue', he wrote, 'to get away from

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<sup>79</sup> There were 40 members in the Senate and 150 in the Assembly giving a total of 190. In the Assembly the UP had 117 members, the 'Purified' Nationalists 20, and the Dominion Party 5. The Labour Party and some independent members made up the balance. Apart from 1(?) Labour and 7 Nationalist Senators, the UP held sway in the Senate.

<sup>80</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 10 February 1936.

<sup>81</sup> The articles were respectively entitled 'Civilization vs. Chance' and 'True Democracy'.

<sup>82</sup> See e.g. *Natal Advertiser*, 14 and 15 February 1935. The Argus group at this time comprised the *Cape Argus*, *The Star*, *Diamond Fields Advertiser*, and *Natal Advertiser*. The group also held shares in *The Friend*.

<sup>83</sup> J.H. de Villiers was Chief Justice and President of the Cape Legislative Council, 1873-1910; he was President of the National Convention 1909-1910. J.H. Hofmeyr ('Onze Jan') was the parliamentary leader of the Afrikaner Bond from 1879-1895. W.P. Schreiner was Prime Minister of the Cape Colony from 1878 to 1900. He became a passionate advocate of black rights at the turn of the century and resigned from the National Convention in 1908 to defend Dinizulu, the Zulu King, against charges laid by the Natal Government.

the dust and din of debate, and listen to what three of the finest and ablest men South Africa has yet produced had to say about it when our Constitution was in the making'.<sup>84</sup>

Apart from Walker's contribution, a pamphlet written by Hoernlé entitled 'Shadow and Substance', was being printed.<sup>85</sup> In addition, it had been decided that Schreiner and Ramsbottom's analyses would be published separately, and that priority would be given to the printing of Schreiner's pamphlet on the Representation Bill.<sup>86</sup>

On the night of 11th February, a public protest meeting, organised by the Continuation Committee, was held in the Cape Town City Hall. The speakers were Sir James Rose-Innes, Miss Emilie Solomon,<sup>87</sup> Rev. S.J. Mvambo, J. Dippa and S. Reagon.<sup>88</sup> Over two thousand people - mostly white - packed the Hall.<sup>89</sup> A resolution condemning the abolition of the Cape African franchise as 'an injustice to the Bantu Race and a danger to the interests of South Africa', was unanimously passed.<sup>90</sup> The *Cape Argus* was of the opinion that the meeting

... afforded striking proof that the Mother City still holds fast to liberal views on the native and coloured question, which were shared by men of such divergent opinion as Rhodes, Hofmeyr, De Villiers, Schreiner, and Sauer and Merriman.<sup>91</sup>

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<sup>84</sup> Walker, 'Civilization vs. Chance', *Cape Argus*, 10 February 1936.

<sup>85</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 13 February 1936.

<sup>86</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 10 February 1936.

<sup>87</sup> No background detail regarding Miss Emilie Solomon has been found.

<sup>88</sup> S. Reagon was a Coloured MPC and one of the APO leaders.

<sup>89</sup> *Cape Argus*, 12 February 1936.

<sup>90</sup> *Ibid.*, SAIRR Archives: Rheinallt Jones Papers, Cape Town Joint Council Records, Report on the Joint Council's activities in regard to the Native Bills.

<sup>91</sup> *Cape Argus*, 12 February 1936.

The invitation by the Continuation Committee to S. Reagon to speak at the meeting in the City Hall is indicative of some cooperation between the Committee and the APO. It was at this time that the APO passed a resolution against the Representation Bill maintaining, *inter alia*,

That it vitiated the fundamental principle underlying the introduction of parliamentary institutions into the Cape - i.e. - the franchise was granted with the object of reconciling the conflicting elements and of uniting all without distinction of class or colour by one bond of loyalty and a common interest.<sup>92</sup>

On Friday afternoon, 14th February, General Hertzog introduced the Representation Bill to a Joint Sitting of both Houses of Parliament.<sup>93</sup> C.W.A. Coulter, the member for Cape Town (Gardens), promptly moved an amendment that the legislation be postponed until it had been 'adequately made known to the people and submitted to the Union Native Conference under Act 23 of 1920'.<sup>94</sup> The motion was seconded by J.S. Marwick, a fellow Dominionite, and supported by Senator F.S. Malan.<sup>95</sup>

Coulter's speech was eloquent and balanced. By forcing the Bill through Parliament he argued South Africa would impair her standing in Africa; in fact, in dealing with the legislation the Union was standing at the 'judgement bar of the world'.<sup>96</sup> Eleven<sup>97</sup> were in favour of Coulter's amendment

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<sup>92</sup> Hofmeyr Papers, Aa, P.J. Poole, General Secretary of the APO, to Hertzog, 12 February 1936 (copy).

<sup>93</sup> For an account of the Joint Sitting on the Representation of Natives Bill, see Tatz, *op. cit.*, pp. 75-83.

<sup>94</sup> *Joint Sitting*, col. 5.

<sup>95</sup> *Ibid.*, cols. 14-18; 22-23.

<sup>96</sup> *Ibid.*, col. 6.

<sup>97</sup> These eleven were M. Alexander; R.W. Bowen, Cape Town (Central); J. Chalmers, Rondebosch; R.M. Christopher, East London (North); F.S. Malan; C.F. Stallard, Roodepoort; S.F. Waterson, Sough Peninsula; R.J. du Toit, Maitland; and J.S. Marwick.



and 128 against, and the Bill passed the first reading by 106 votes to 16.<sup>98</sup> Malan then asked whether he would be in order, in presenting a petition with regard to a representative of the Africans (Sir James Rose-Innes), appearing at the bar of the House. The Speaker stated that the practice was to hand in a petition at the opening of a session and that Malan must wait until Monday the 17th.<sup>99</sup>

Hoernlé considered the Speaker's action 'disturbing':

I do hope this does not mean that all chance of presenting the petition has gone. It would not only be a pity if the tremendous effort which has gone into drawing up the petition, were to come to nought, but I feel that the petition itself and Sir James Rose-Innes' speech would have an immediate effect on doubtful members. I still prefer to believe that the assurances of sufficient support which Hertzog claims to have, are not one hundred per cent certain, and that he is bluffing in the matter. Unfortunately, the papers play his game by featuring these 'bluff' statements even in headlines and leading the country to believe that the matter is settled, and that further application and protest are useless.<sup>100</sup>

Some consolation, however, was provided by the fact that the letters from constituents were being distributed and sent in 'great numbers' to the extent that a second printing was needed.<sup>101</sup>

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<sup>98</sup> The 16 dissenting votes came from M. Alexander; R.W. Bowen; J. Chalmers; R.M. Christopher; C.W.A. Coulter; J.G. Derbyshire; L.D. Gilson, Griqualand; H.A. Johnson, Port Elizabeth (North); F.A. Joubert, Mowbray; H.G. Lawrence, Salt River; F.S. Malan; C.F. Stallard; R. Stuttaford, Claremont; S.F. Waterson; R.J. du Toit; and J.S. Marwick.

<sup>99</sup> *Joint Sitting*, col. 46.

<sup>100</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 15 February 1936.

<sup>101</sup> *Ibid.*

On Monday, 17th February, Hertzog surprised the House by giving notice of his intention to introduce, on 19th February, a new Bill. Public opinion had been assessed, and as a result, the Government was satisfied that a Bill 'on somewhat different lines would be most acceptable throughout the country'.<sup>102</sup> The new Bill, JS2-36 or Bill No. 2,<sup>103</sup> transferred African voters on the Cape common roll to a special separate register (the Cape Native Voters' Roll) and made provision for these, and any other Cape Africans, who passed the qualification test associated with the existing Cape African franchise, to elect three members to the House of Assembly,<sup>104</sup> and two white members to the Cape Provincial Council.<sup>105</sup> These special members would be in addition to those provided for in the South African Act.<sup>106</sup> With the exception of not being able to vote at an election of senators, the three special MPs were to have the same powers and privileges as the ordinary members of the Assembly.<sup>107</sup>

It is a matter for speculation as to what happened over the weekend, to occasion Hertzog's *volte face*. One should bear in mind, however, that Hertzog may have proceeded with Bill No. 1 in order to pressurise the AAC delegation to endorse a compromise solution.

Hertzog's calculations were probably influenced by more than

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<sup>102</sup> *Joint Sitting*, col. 47.

<sup>103</sup> This new Bill (JS2-36) does not appear to have been gazetted, and I have thus been obliged to extrapolate from the Representation of Natives in Parliament Act (*Union Government Gazette Extraordinary*, No. 2347, 23 April 1936) and the amendments proposed during the committee stage of the Joint Sitting. The description of the Bill in the *Cape Times* of 20 February 1936, was also noted.

<sup>104</sup> Section 6.

<sup>105</sup> Section 15.

<sup>106</sup> Sections 11 and 15.

<sup>107</sup> Sections 12(c) and 14(3).

<sup>108</sup> It would be interesting to establish the names of all those people who saw Hertzog over this weekend. However, I have not yet located the visitors' book kept at Groote Schuur during this period.

one factor. By persevering with the original Bill, there was the possibility that he may have been obliged to rely on the 'Purified' Nationalists to achieve the required two-thirds majority.<sup>109</sup> In such a situation the Nationalists may well have demanded certain illiberal amendments to both the Representation and Land Bills, in exchange for their support. Over and above the fact that such an arrangement might have offended his sensibilities, and clashed with his professed intention of giving the Africans a 'fair' deal,<sup>110</sup> Hertzog surely realised that the British generally regarded his proposed legislation as retrogressive.<sup>111</sup> And in order not to prejudice negotiations for the transfer of the Protectorates, it was in Hertzog's interests to amend his legislation in a liberal direction. Furthermore, there is the slight possibility that Smuts had decided to vote against

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<sup>109</sup> On 8 February the *Cape Argus* had this to say about the significance of the Malanite opposition: 'The safety of the Bills rests on a margin of 12. This figure makes no allowance for possible opposition from Labour Party or for a few absentees among 27 Malanites in Assembly and Senate. On the figure of 12, however, Labour cease to have the power of wrecking the bills and it will lie, as it has appeared to us from the start, in the hands of the Malanites. Before even the figure of 12 can be accepted, sight must not be lost of the point: Will all or most of the fusionists who vote against the abolition of the Cape franchise also vote against the Bill at the vital third reading? The Malanites will vote for the second reading of the Bill but in the committee stage, will move for the deletion of the clause giving the natives right to elect 2 members to the Cape Provincial Council. It is a vital issue and so may prove an important factor in determining the fate of the Bill. A good deal depends on the temper of the House, but it is regarded as possible that Dr. Malan may decide to abstain from voting on the third reading.'

<sup>110</sup> See e.g. Hertzog's remarks during the debate on the Native Trust and Land Bill, *House of Assembly Debates*, Fourth Session, Seventh Parliament 24 January-17 June, 1936, col. 4083.

<sup>111</sup> R. Hyam, *The Failure of South African Expansion 1908-1948* (1972), p. 144.

the Bill, and had informed Hertzog accordingly.<sup>112</sup>

Immediately after Hertzog announced his intention of introducing a new Bill, F.S. Malan moved that a petition<sup>113</sup> from D.D.T. Jabavu, W. Ngcuka and C. Nodada<sup>114</sup> asking that Sir James Rose-Innes be permitted to appear on their behalf at the Bar of the House, be read.<sup>115</sup> The Speaker ruled that Malan had to give notice to have the petition read, with the result that the motion was postponed until the following day (the 18th).<sup>116</sup>

Rose-Innes, for some reason or other, had second thoughts about presenting the petition. Rheinallt Jones saw Schreiner as a possible replacement but the Johannesburg group thought otherwise:

We all feel that when it comes to presenting the petition, it must be Sir James or nothing (*sic*). The presentation by Oliver Schreiner would not help much. In spite of his historic name and his Dutch affiliations through his mother, he is, after all, a young man and not yet significant in the public life of South Africa. The whole point of the petition is not that anything new can be said, but that the personal prestige of Sir James might heighten the drama of the occasion, and have an influence on opinion both in Parliament and outside it which

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<sup>112</sup> Smuts' standpoint regarding the Bills: 'A person who knows Smuts very well tells me he is very unhappy about the whole situation, feeling that whatever he does, he will antagonise his section of his followers. He is said even to have contemplated speaking for the Bills but voting against them! I cannot really believe that he will make such a fool of himself, but there is, after all, the fact that he did speak in favour of the Bills when he visited the Transkei last year.' SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 13 February 1936. Cf. *Cape Argus*, 8 February: 'It is not impossible that General Smuts will vote in favour of the third reading, on the ground that the joint session, having come to a decision, further opposition could serve no useful purpose.'

<sup>113</sup> Malan had presented the petition immediately before Hertzog's announcement.

<sup>114</sup> Ngcuka and Nodada were two local Africans 'representing native interests in the Cape Province adversely affected by the Natives Representation Bill'. *Joint Sitting*, col. 47.

<sup>115</sup> *Ibid.*

<sup>116</sup> *Ibid.*, cols. 47-48.

nobody and nothing else can have.<sup>117</sup>

Malan, on 18th February, declined to propose his motion on the grounds that the petition was directed against Bill No. 1, which Hertzog assured him was being withdrawn.<sup>118</sup>

The 'compromise' Bill forced white liberals to reassess their position. 'We have suspended all action here' wrote Horenlé on 18th February, 'until we can see that there is a possibility of doing something useful.' Some thirteen thousand letters had been sent out and it was likely that a number of them would be signed and sent off.

To that extent they may help to impress on Members of Parliament that, if they had voted for the preamble of the Representation Bill, they would have had an appreciable section of public opinion against them. But the compromisers will, no doubt, claim that they are saving as much of the franchise as can be saved.

Schreiner felt that his pamphlet, though drafted without reference to the compromise, would carry weight. Hoernlé thought differently but decided to humour him. The SAIRR President had considered:

... drafting, and possibly issuing over my own name (if I can get nobody else to join me), a 'last ditch' declaration, not so much criticising the compromise, but reminding the country that there is an alternative policy on which both the original Bill and the compromise have turned their backs, *viz* the policy of common citizenship of White and Black extended to the whole country, but with stiffened qualifications for Native voters, on the ground that their transition from one culture to another makes the imposition of qualifications both necessary and just. However, for the moment, I am both tired and discouraged,

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<sup>117</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 18 February 1936.

<sup>118</sup> *Joint Sitting*, col. 48.

and must wait for the tide of spirit to flow in again before I can tackle this job with effect.<sup>119</sup>

On 17th February Hoernlé, Schreiner and Ramsbottom prepared an open letter which appeared in the national press a few days later. They pleaded for a 'more sympathetic and understanding consideration' of the Africans' rejection of the compromise. Firstly, they pointed out that the AAC Executive had been given a mandate to fight 'by every constitutional means' for the retention of the Cape African vote. Secondly, they questioned whether it was fair to blame the Africans for refusing a compromise which was primarily aimed at securing unity within the 'United' Party. In the third place, it was 'utterly incorrect' that the compromise secured for the Cape Africans the retention of the individual franchise. The essential principle of the Cape franchise was, they declared, common citizenship, as embodied in the registration of both black and white voters on the same voters' rolls and both voting for the same candidates. The 'compromise' Bill, while leaving qualified Africans with an individual vote, segregated them into separate voters' rolls and made them vote for separate candidates. Moreover, it limited the number of African representatives to three, no matter how large the black electorate might become. Finally, these members would have little or no influence in the House, where they would almost certainly be regarded as 'cranks' whilst the other members would abrogate their responsibility towards Africans because of the presence of these specialists.

The Africans were not wrong, they concluded, but 'absolutely right'.<sup>120</sup>

On 19th February Hertzog's new measure was discussed at length. The 'Purified' Nationalists moved an amendment to

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<sup>119</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 18 February 1936.

<sup>120</sup> *Cape Argus*, 17 February 1936.



place Coloured as well as African voters on the separate roll of the new Bill.<sup>121</sup> They argued that for the self-preservation of whites it was necessary to separate them in all spheres from black groups.<sup>122</sup>

Coulter moved an amendment similar to his previous one relating to Bill No. 1.<sup>123</sup> The original Bill, he maintained, had evoked a 'great revival of liberal-minded European opinion' which resulted in a 'perfect barrage' descending upon Parliament:

I think every member would have to admit that he has received shoals of letters and telegrams and many representations on his subject.

The protest, Coulter contended, troubled the consciences and concern for political survival of certain eastern Cape members of the United Party and led to these members setting themselves up as 'self-designated trustees' and sponsoring the compromise against the wishes of the Africans.<sup>124</sup>

Morris Alexander, one of the few who voted against the original Bill and who prided himself on his eclecticism, declared his support of the new Bill:

... I am not prepared to throw overboard a settlement or a solution like this one. This is the first time that we have a real attempt made in the interest of racial peace, not to destroy the franchise. The franchise, although in a different form, is preserved.<sup>125</sup>

Rheinallt Jones, presumably drawing on his experience of the

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<sup>121</sup> *Joint Sitting*, cols. 49-51.

<sup>122</sup> *Ibid.*, col. 50 *et seq.*

<sup>123</sup> *Ibid.*, col. 64.

<sup>124</sup> *Ibid.*, cols. 66-68.

<sup>125</sup> *Ibid.*, col. 83.

1925/26 agitation against the 'Colour Bar' Bill,<sup>126</sup> suggested to the Johannesburg group that a manifesto of protest be published in the press. At a meeting of the Johannesburg Committee on 20th February, called to discuss policy on the compromise, Hoernlé drafted such a manifesto:

I take it /he wrote to Rheinallt Jones/  
your present intention is to publish the  
manifesto in the Press, with some fifty to  
sixty signatures of prominent Kaffir  
boeties attached to it, if we can secure  
so many. But I want to suggest that it  
might also be worthwhile to make the  
manifesto available to the larger public  
for signature, e.g. the organisation  
originally proposed by the Dean, for  
collecting signatures from the public at  
the Cathedral and elsewhere might be put into  
operation. The debates on the Bill are  
obviously going to last a long time still,  
with all the contentious amendments which  
will be put forward by the opposition  
parties and all the acrimonious wrangling  
about them which will take place.<sup>127</sup>

Even before 24th February, when only six members voted against the first reading of Bill No. 2,<sup>128</sup> Rheinallt Jones was of the opinion that the common franchise was past saving. Hoernlé conceded that Jones' diagnosis was probably correct, but expressed the determination of the Johannesburg group to press on with the manifesto protest, and their hope of obtaining a 'solid block of signatures'.<sup>129</sup>

The draft manifesto was welcomed by the Cape Town group,<sup>130</sup>

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<sup>126</sup> SAIRR Archives, Box B 100(a), A. Lynn Saffery to Rheinallt Jones, 21 February 1936.

<sup>127</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 21 February 1936.

<sup>128</sup> These were J. Christopher, C.W.A. Coulter, J.G. Derbyshire, A.J. MacCallum, J.S. Marwick, and C.F. Stallard. The Nationalists voted for the Bill.

<sup>129</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 24 February 1936.

<sup>130</sup> The letterhead of the circular letter accompanying the manifesto was that of the Consultative Committee of Joint Councils, not the Continuation Committee.

and signatures were canvassed, but it was of symbolic rather than practical value:

Of course /wrote Rheinallt Jones/ the Manifesto would not change the situation in the slightest, but will doubtless give a great many people a sense of satisfaction and a feeling that they have done their duty.<sup>131</sup>

However, in the same letter from which the above remark is taken, Rheinallt Jones mentioned that a pamphlet, containing a series of articles written by Eric Walker, had just been printed. The pamphlets by Schreiner and Hoernlé had already been in circulation for a few days.<sup>132</sup>

It is difficult to gauge the effect of the letters sent to members of both Houses of Parliament. Coulter assured Rheinallt Jones that they had considerable influence on members at the moment when the compromise was being discussed, but the acceptance by Hertzog of the compromise made it much easier for a number of members to accept the change. However, Rheinallt Jones had heard from another MP that even on the first Bill, the Transvaal and Natal members on whom the liberal Cape members had counted, were not prepared to vote against the third reading; only Hofmeyr and Leif Egeland, member for Durban (Berea), were prepared to go so far.<sup>133</sup> Yet, on the day after Hertzog had announced his intention of introducing a 'compromise' Bill, Egeland wrote a letter to Brookes which is illuminating, not only because it gives one a fair idea of the perceptions of what one might call quasi-liberal MPs, but also because it seemed to persuade Brookes to give a qualified support to the new Bill:

I feel /Egeland wrote/ if you were in possession of the full facts of the

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<sup>131</sup> SAIRR Archives, Box B 100(a), Rheinallt Jones to Hoernlé, 27 February 1936.

<sup>132</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 27 February 1936.

<sup>133</sup> *Ibid.*

situation you would unhesitatingly welcome - as I do - the 1929 Compromise which the PM has accepted. Its acceptance saves us from the original Bill - as amended *in a Malanite direction* in Committee stage, and quite possibly passed at Third Reading by Malanite support in the teeth of a powerless Liberal minority. Now we have instead a Liberalized Bill, reasonably certain of passage in the teeth of Malanite *cum*-Dominionite opposition.

Smuts and Pirow, he said, would certainly support the new Bill, and possibly Hofmeyr. The advantages of the Bill were three:

- a) the coalition spirit is preserved within the United Party and the traditional Boer-British divergence on Native Questions is from now on surely if slowly doomed.
- b) Native Agitation of an undesirable kind is reduced to a minimum for the next 25 years by which time fresh legislation will be due.
- c) the new Bill gives chance of inducing /men/ such as yourself to *come into the Assembly*, as one of the MPs for Native voters, and to break down from the start the *bona fide* fears of men like Nocholls who see in the Assembly representation after extension to the Protectorates and to the other Provinces the certain growth of an agitationist 'Native Block' with a 'Balance of Power' exerciseable at the price of drastically dangerous negrophilist legislation.<sup>134</sup>

Replying to Egeland's letter, Brookes agreed that the 1929 Compromise had 'radically altered the situation'. He asked whether Hofmeyr had accepted the Bill:

I think that that would be decisive for me: I do not think I have known him make a real mistake yet.

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<sup>134</sup> *Ibid.*, Egeland to Brookes, 18 February 1936.

Of course, he continued, the principle of the Cape franchise was superior and if Hertzog could be persuaded to defer the issue and resume talks with the AAC Executive, he (Brookes) would be very glad. His ideal was the 'Cape franchise untouched plus Senate representation on a community basis, and a Representative Council'. Although he had yet to ascertain where his fellow liberals stood in relation to the new Bill, he felt he should have the courage of his convictions and support the compromise. Brookes was unhappy, however, that a colour bar was being introduced into the Cape Provincial Council representation and at aspects of Chapter IV of the Land Bill and hoped that on these, and on other points, suitable amendments would be carried.<sup>135</sup>

Brookes consequently declined, albeit reluctantly, to sign the draft protest prepared by the Consultative Committee of Joint Councils. As he explained to Rheinallt Jones:

The 'Compromise' has the advantage of being much more easily extended to the Protectorates and the other Provinces, and of permitting later the throwing open of Parliament to Bantu members - a more sure means of fighting the colour-bar than common voting lists in the Constituencies.

He hoped his 'provisional' decision would not add to Rheinallt Jones' anxieties; but perhaps the latter was in favour of a modified acceptance of the compromise: 'We all knew where we stood before: now it is difficult even to guess.'<sup>136</sup>

Brookes was not alone in his attitude to the compromise. As Hoernlé was to observe:

The Natal people ... seem to like the compromise. I am afraid that Natal Liberals take a singularly superficial view of everything that affects the

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<sup>135</sup> *Ibid.*, Brookes to Egeland, 24 February 1936.

<sup>136</sup> *Ibid.*, Brookes to Rheinallt Jones, 24 February 1936.



Natives.<sup>137</sup>

Maurice Webb, however, found it 'difficult to acquiesce in the removal of the present Cape Native franchise against the emphatic protest of the Native people'. While admitting that the franchise was 'a very imperfect compromise', the principle of common citizenship - a principle not lightly set aside - and that the Cape African had not abused his franchise. He conceded Brookes' point that if the compromise Bill was defeated, there would likely be a 'black peril' election and possibly a worse Bill. And if he was in the hypothetical position of being a Member of Parliament, he might have voted for the Bill. However, he was responding to the situation not as a pragmatic politician but a citizen i.e. ethically:

If we admit that the withdrawal /of the franchise/ is unjustified except on such grounds as fear and political expediency, we are in the position of a man who being forcibly robbed sixpence in compensation, under threat that by refusing, he will get threepence or nothing.

Webb considered Egeland's arguments insubstantial. With regard to the need to preserve the 'coalition spirit' he remarked:

If British-Boer friendship can be achieved only at the expense of the black man, there is something fundamentally wrong with that 'friendship'. True friendship begets friendship. I am strengthened in my feeling that the fusion movement, although showing some good results ... is wrongly based and cannot endure..

Secondly, the contention that the Bill would open the way for people like Brookes to enter the House, was unsound. Besides the technical point that Brookes would not, as

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<sup>137</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 21 February 1936.



the Bill stood, satisfy the residential requirements to enter the House of Assembly as a representative of the Cape Africans, the effect of forcing through the Bill in the teeth of African opposition, would contribute to an embittered African opinion. The result would be an African electorate with a majority responsive to the appeal of white opportunist and anti-European politicians. The Rev. A. Mtinkulu, he said, agreed with him on this point.<sup>138</sup>

Webb, however, was not as uncompromising in his opposition to the abolition of the Cape African vote as were some Cape liberals. Reminiscing about the Thirties, he wrote:

I confess now with some shame that I did not at the time, see at all clearly where the Native Bills of 1935 were heading. More land for Natives seemed good in any case. The exchange of votes in the Cape for votes (of sorts) everywhere might or might not be a gain. I did not like the loss of personal vote in exchange for one tribally ... /But/ I remember being a little shocked at the time when Sir James Rose-Innes, then Chief Justice (*sic*), said to me that fusion meant that the two white groups had agreed to shake hands over the prostrate body of the black man.<sup>139</sup>

There was a certain ambiguity in the opposition of Natal liberals<sup>140</sup> to the Representation Bill which suggests that white liberalism was not a monolithic ideology and that the movement was not unaffected by regional interests. In the

<sup>138</sup> *Ibid.*, Webb to Brookes, 26 February 1936.

<sup>139</sup> Maurice Webb Papers, Unpublished autobiography entitled *The Colour of your Skin: Thirty-five years of South African Race Relations*, Chapter 14.

<sup>140</sup> Due to a shortage of information regarding the thoughts and activities of prominent white members of the Natal Joint Councils during the 1930's, one is obliged to be rather arbitrary in classifying Natal liberals. Besides Webb and Brookes, this group would appear to include Mabel Palmer (Durban), D.G. Shepstone (Durban), L. Byron (Durban), C.E. Nixon (Pietermaritzburg (?)), Prof. W.N. Roseveare (Pietermaritzburg), and Rev. Dean A.R. Kempe of the Swedish Mission (Dundee/Vryheid).

Cape Peninsula, and to a lesser extent, on the Rand,<sup>141</sup> white liberals were able to evoke some response; in the former case there existed the precedent of 19th century Cape liberalism and in the latter there was the greatest number of upper middle-class whites in the country. In Natal, a colonial mentality, conditioned by fear of the Zulu, lingered on into the 20th Century and, compounded by a resentment of Indian economic advancement as well as events like the 1929 riots, resulted in a decided conservatism among whites of all strata. 'The Cape N/ative/franchise', complained Maurice Webb to Rheinallt Jones, 'is not a live issue in Natal.'<sup>142</sup>

A willingness to support the 'compromise' Bill, was found not only among white liberals in Natal: some liberals in the eastern Cape seem to have adopted a similar line. For instance, on 25th February Edgar Mountain, Secretary of the Grahamstown Joint Council, informed A. Lynn Saffery that the Council executive was divided on the new Bill and that in view of this paralysis it had decided 'to do nothing with regard to signing the forms of protest'.<sup>143</sup> Some leading members of the East London Joint Council also refused to sign.<sup>144</sup>

In relation to their counterparts in the Cape Peninsula, a number of white liberals in the eastern Cape appear to have been definitely more equivocal in their opposition to the Hertzog legislation. An adequate examination of the nature

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<sup>141</sup> Prior to the introduction of the 'compromise' Bill Hoernlé was quite pleased with the reaction of the Johannesburg public to the legislation. SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 13 February 1936. There is no evidence relating to the views of the Johannesburg group on the state of white public opinion after 17 February.

<sup>142</sup> SAIRR Archives, Box B 100(a), Webb to Rheinallt Jones, 17 February 1936.

<sup>143</sup> *Ibid.*, E. Mountain to Saffery, 25 February 1936.

<sup>144</sup> These included H.C. Peacock, the SAIRR regional representative for East London, and M. Wilson. See SAIRR Archives, Box B 100(a), Steer to Rheinallt Jones, 3 March 1936.

of these regional differences is beyond the scope of this work, though a modified version of Trapido's model of 19th Century Cape liberalism, would seem to have relevance. Trapido argues that Cape liberalism was in effect composed of a 'great' and 'small' tradition. The 'small' tradition was more 'pragmatic' in nature and essentially a product of the eastern Cape, the protagonists of which were drawn from the ranks of white traders, local lawyers and administrators. The 'great' tradition, which included in its ranks the Cape financial and cultural aristocracy, was largely centred in Cape Town.<sup>145</sup> And in the 1930's, such a tradition, albeit in an attenuated form, was manifested in the activities of Sir James Rose-Innes, Sir Clarkson Tredgold, Donald Molteno, F.S. Malan, Eric Walker, among others.

The response of Free State white liberals to the Native Bills during the early months of 1936, is difficult to gauge because of a shortage of evidence. There are a number of unanswered questions. What was Leo Marquard, the leading white liberal of that province, doing at the time, and why was he not present at the January Conference in Cape Town? How did the Bloemfontein Joint Council react to the 'compromise' Bill? One of the few facts we do know is that the Bethlehem Joint Council (the only Free State Council to be represented at the January Conference) was unable, at its annual general meeting, to come to any decisions regarding the 'compromise' Bill.<sup>146</sup>

In view of the equivocation displayed by certain white liberals in the OFS, Natal and the eastern Cape, it is understandable that questions of strategy and tactics were determined essentially by liberals in Johannesburg and Cape Town. Thus Rheinallt Jones, and presumably some of the Cape Town

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<sup>145</sup> Trapido, *op. cit.*

<sup>146</sup> SAIRR Archives: Rheinallt Jones Papers, Bethlehem Joint Council Records, E.M. Edwards to Saffery, 20 March 1936.

group,<sup>147</sup> at the end of February, appear to have considered a different tack. They urged the Johannesburg committee to give thought to possible amendments to the Franchise Bills. The most important amendment, in this respect, was to ensure that the land rights of Cape African voters, not only those then on the Roll, but also potential voters, would be protected by the Representation Bill.<sup>148</sup> (At this time, the same issue troubled Morris Alexander and one or two other MPs and they informed the Prime Minister that they would only vote for the Bill if Section 8(2) of the 1913 Land Act was not repealed.)<sup>149</sup> Rheinallt Jones added that

The absence of any responsible Natives from Cape Town at the present time has, I feel, increased the responsibility of the Institute<sup>150</sup> to see that every possible effort is made to improve the Bill, and for that reason I have suggested to you that I ought to stay here until the Committee stage is through.<sup>151</sup>

Rheinallt Jones' views elicited little enthusiasm in Johannesburg:

Schreiner and Ramsbottom /Hoernlé commented/ are not in the least inclined to bother their heads about amendments of the new Compromise Bill on Native Representation. They seem to think that, once the Cape Franchise is lost, it does not much matter whether the Bill is a little bit better or a little bit worse!<sup>152</sup>

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<sup>147</sup> I have been unable to determine who, among the Cape Town liberals, favoured such a line.

<sup>148</sup> SAIRR Archives, Box B 100(a), Rheinallt Jones to Hoernlé, 27 February 1936.

<sup>149</sup> Smit Papers, 13/36, Memorandum from Smit to Hertzog, 27 February 1936.

<sup>150</sup> It is interesting to note that Rheinallt Jones refers to the Institute rather than the Continuation or Consultative Committee. Did he perhaps feel that amendments stood more chance of being accepted if put forward by the Institute instead of one of the above Committees?

<sup>151</sup> SAIRR Archives, Box B 100(a), Rheinallt Jones to Hoernlé, 27 February 1936.

<sup>152</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 27 February 1936.

Hofmeyr and most white liberals appear to have had few qualms about supporting the Native Land and Trust Bill, which was introduced into the House of Assembly on 20th April 1936. Sir James Rose-Innes, however, privately informed Rheinallt Jones that nothing would induce him to accept a measure 'which contained some of the clauses of Chapter V'.<sup>179</sup>

The various protest movements did not attempt to prevent the passing of the Land Bill; rather efforts were made to force the excision of certain provisions and the amendment of others. In what was essentially a low-key campaign, most of the impetus was provided by a small group of white liberals. Bodies like the CPSA<sup>180</sup> and the National Liberation League appear to have washed their hands of the whole affair. There was not much in the way of organised protest among Africans, the Natal Native Congress being one of the few African bodies throughout the Union to hold a meeting at which the restrictive provisions of the Land Bill were denounced.<sup>181</sup> Cape Africans seem to have been relatively passive in their response, considering that their right to buy the land anywhere in the Cape Province stood to be revoked.<sup>182</sup>

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<sup>179</sup> SAIRR Archives, Box B 53(a), Rose-Innes to Rheinallt Jones, 14 May 1936. One wonders if Rose-Innes had Chapter 4 in mind, for in the letter he says: 'I was one of those who opposed them (the clauses) in 1932.' (Chapter 4 effectively made the 1932 Native Service Contract Act applicable throughout the Union.) However, Chapter 5 contained Section 47 which provided for the repeal of Section 8(2) of the 1913 Land Act.

<sup>180</sup> *Umsebenzi* virtually ignored the passage of the Land Bill through Parliament and did not urge its readers to resist the measure. Indeed, there is no evidence to suggest that the CPSA and National Liberation League played anything more than a peripheral rôle during the first half of 1936.

<sup>181</sup> *Natal Mercury*, 20 April 1936.

<sup>182</sup> For example, an editorial on the Land Bill in *Umlindi we Nyanga*, 16 April 1936, made no reference to the impending revocation of Section 8(2) of the 1913 Land Act.



But Hoernlé did prepare 'two brief memoranda' on the Representation Bill which focussed on two points - the definition of 'Native' and the functions of Native Representation Council. Due to the pressure of university work this, he said, was his 'last considerable effort'. If any good points emerged from his arguments about the functions of the NRC, some MP, he felt, should use them as a basis to frame suitable amendments to be put forward at the committee stage.<sup>153</sup>

It is not without significance that a number of white liberals were connected with the legal profession. This legal influence manifested itself, *inter alia*, in thorough-going analyses of the Bills and in a deep aversion to any tampering with entrenched constitutional rights. It also operated on the level of tactics. For example, on 26th February, Senator Malan, acting on a suggestion from O.D. Schreiner, queried

Whether the message from His Excellency the Officer Administering the Government, communicated to this House on the 13th instant, which convened this Joint Sitting to consider certain legislative proposals which His Excellency's Ministers then desired to submit to Parliament, also covers the Bill introduced on the 19th instant, which embodies entirely new proposals from those contained in the Bill introduced on the 14th February, and, further, seeks to amend Section 35(2) of the South Africa Act.<sup>154</sup>

Although the Speaker ruled that the Joint Sitting convened on the 13th was competent to deal with Bill No. 2,<sup>155</sup> Rheinallt Jones considered that Malan 'gave the Government a bit of a fright'.<sup>156</sup>

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<sup>153</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 28 February 1936.

<sup>154</sup> *Joint Sitting*, col. 194.

<sup>155</sup> *Ibid.*, col. 196.

<sup>156</sup> SAIRR Archives, Box B 100(a), Rheinallt Jones to Hoernlé, 27 February 1936.



At the end of February, plans to obtain mass signatures for the manifesto were abandoned. It was also decided not to circulate any further letters as they were aimed at the original Bill.<sup>157</sup> On 4th March the Bill passed its second reading by 131 votes to 11,<sup>158</sup> and for the rest of the month the Joint Sitting went into Committee to discuss the Bill.

There appears to have been a definite reduction in white liberal protest activity during March, with the emphasis being placed on possible amendments to the Representation Bill. Hoernlé had suggested amendments which would have had the effect of increasing the powers of the proposed Representative Council; curbing the authority of the Government to remove from that Council any African member who took 'a strong line displeasing to the Government'; and ensuring that educated urban Africans were adequately represented in the electoral colleges.<sup>159</sup> Rheinallt Jones and the Cape Town group seem to have considered further amendments which were, *inter alia*, aimed at safeguarding the land rights of Cape African voters; permitting the special members of the Cape Provincial Council to be black; and making three the minimum rather than the maximum number of special members of the House of Assembly.

The task of proposing amendments, was almost entirely carried out by Senator F.S. Malan, C.W.A. Coulter, Morris Alexander and Leif Egeland.<sup>160</sup> Little was achieved beyond securing the acceptance of the amendment curtailing the powers of the Government to remove members from the Representative Council.<sup>161</sup>

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<sup>157</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 29 February 1936.

<sup>158</sup> These eleven consisted of Senator J.D.F. Briggs, Transvaal Province; R.M. Christopher; C.W.A. Coulter; J.G. Derbyshire; A.J. MacCullum; F.S. Malan; F.J. Roberts, Vrededorp; C.F. Stallard; S.S. Sutton, Durban (Umlazi); D.C. Burnside, Durban (Umbilo); and J.S. Marwick.

<sup>159</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 2 March 1936.

<sup>160</sup> See *Joint Sitting*, col. 539, *et seq.*

<sup>161</sup> *Ibid.*, cols. 909-911.

On the advice of the Johannesburg group, Rheinallt Jones did not remain in Cape Town for the full duration of the committee stage of the Representation Bill, as he had originally intended.<sup>162</sup> The group had pointed out that

... all that is essential can be done by friends of the Natives on the spot down there, with whom we can keep in touch, if necessary, by telegram and telephone. We think that by now, surely, the main points on which amendments are worth suggesting must be pretty well determined.<sup>163</sup>

On 4th April, a day after the third reading debate had commenced, the manifesto of protest, bearing 250 signatures, was presented to the Prime Minister. The manifesto, which was published in the national press, pointed out that the organisation of the electorate on racial lines 'into mutually exclusive white and black groups', as embodied in the 'compromise' Bill, was a principle which would 'inevitably tend to spread':

Already its extension to the Cape coloured people has been mooted. After the coloured - who? The Indians and other Asiatics? The Jews? Perhaps even the English-speaking group and the Afrikaans-speaking group? To picture in imagination such a development is to realise that such group-organisation means the breakdown and abandonment of the parliamentary system as we have known and cherished it ... politics will become the struggle of fixed racial groups for exclusive advantages, instead of that co-operation of men on the basis of single citizenship which makes political parties in the midst of all their rivalries, still pursue a vision for the common good.<sup>164</sup>

A last-minute appeal to the Government to stay the legislation

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<sup>162</sup> He appears to have returned home on 17 or 18 March 1936. SAIRR Archives, Box B 100(a), Telegram from Hoernlé to Rheinallt Jones, 6 March 1936.

<sup>163</sup> *Ibid.*, Hoernlé to Rheinallt Jones, 2 March 1936.

<sup>164</sup> *Cape Argus*, 9 April 1936.

also came from the Transkei General Council which had devoted a session to a discussion of the 'compromise' Bill. The Bunga's vigorous criticism of the new Representation Bill<sup>165</sup> suggests that if there had been cracks in Cape African protest during February, and earlier, efforts had been made to paper over them. However, the overall opposition of Africans throughout the Union was not as unequivocal as it may have been. For instance, Seme, in an open letter to Jabavu, in which he asked the latter to call a 'Special General Conference of all African Organisations'<sup>166</sup> to meet during Easter,<sup>167</sup> did not reject the 'compromise' Bill outright:

It is very necessary that we should weigh together the suggested compromise in the Amended Bills (*sic*) and to help in consolidating African opinion along the vital lines of African progress today.<sup>168</sup>

As a Cabinet Minister sympathetic to the African cause, J.H. Hofmeyr was urged by members of the Cape Town and Johannesburg groups,<sup>169</sup> as well as a number of individual white liberals, not directly involved in the campaign against the Bills,<sup>170</sup> to oppose the 'compromise' Bill. Hofmeyr had not voted against the first reading of the Bill, but apparently intended to do so during the second reading.<sup>171</sup> Rheinallt Jones was

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<sup>165</sup> Proceedings and Resolution of the United Transkeian Territories General Council, March 30, 1936, Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, pp. 23-31.

<sup>166</sup> Seme's desire to preserve the autonomy of the ANC is indicated in his use of the term 'Special General Conference of all African Organisations' in place of the designation 'All-African Convention'.

<sup>167</sup> No general meeting was held during Easter.

<sup>168</sup> *Ilanga lase Natal*, 14 March 1936.

<sup>169</sup> See e.g. Hofmeyr Papers, Aa, W.H. Ramsbottom to Hofmeyr, 19 February 1936; O.D. Schreiner to Hofmeyr, 21 February 1936. See also SAIRR Archives, Box B 100(a), Rheinallt Jones to Hoernlé, 27 February 1936.

<sup>170</sup> E.g. Hofmeyr Papers, Aa, Saul Solomon to Hofmeyr, 24 February 1936.

<sup>171</sup> *Ibid.*, Ga, Hofmeyr to C.K.J. Underhill, 16 March 1936.

among those who wrote to Hofmeyr in an attempt to strengthen his resolve:

We /Rheinallt Jones and his wife/ fully appreciate the dire necessity which has compelled liberally minded members in Parliament like yourself to support the amended Bill ...

We feel deeply, however, that the Bill should not be passed without a grave word being uttered warning Parliament that it has taken the wrong road which can only lead to racial bitterness, and that there can never be peace and security in our natural life so long as the Natives are denied the opportunity to qualify as ordinary citizens and to share in the national responsibilities.

We believe you are the man who can best utter this word and can make a declaration of your faith in political liberty as the soundest basis of government ... It will ease the hearts of many throughout South Africa in this dark hour to hear men speak in Parliament against this tragic blunder. Will you give the lead? Others will follow. <sup>172</sup>

Illness, however, kept Hofmeyr hospitalised during the second reading. Eventually, on 6th April, he condemned the Bill in one of the finest speeches ever heard in the South African Parliament. <sup>173</sup> And though the Representation Bill was passed by 169 votes to 11, the speech provided some solace. 'The effect of Hofmeyr's speech', Alan Paton comments 'on what might be called liberal elements in South Africa was tremendous. It turned, as great speeches are able to do, despondency into resolution.' <sup>174</sup>

Among the scores of congratulatory telegrams and letters sent to Hofmeyr, was the following letter from J.J. Kuhn, a *dominee* of the *Nederduitse Hervormde Kerk*:

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<sup>172</sup> *Ibid.*, Aa, Rheinallt Jones to Hofmeyr, 25 February 1936.

<sup>173</sup> For an examination of this speech see Alan Paton, *Hofmeyr* (1964), pp. 225-233.

<sup>174</sup> *Ibid.*, p. 231.

... u is reg, so reg! (natuurlik, hierdie dinge kan ek nie openlik sê nie ...)  
 ... Tog het ek een klag teen u : waarom gewag tot die laaste oomblik? Waarom nie die onderweys om die eerste dag of aan aangeval nie? U sou nie alleen 'n groot deel van die publiek met u saamgeneem het nie, maar seker ook sommige van die *intelligente* lede van die Volksraad (stemvee!).<sup>175</sup>

Kuhn has a point: Hofmeyr would surely have added extra firepower to the liberal offensive against the Hertzog legislation had he entered the lists at an earlier stage. However, it is unlikely that such an action would have jeopardised Hertzog's two-thirds majority.

Although Hofmeyr may have, as Eric Walker put it, 'given new life to the true Parliamentary tradition, that a Minister must risk everything for what he believes to be right',<sup>176</sup> Hofmeyr opposed the Representation Bill not because he believed in the efficacy of the Cape African franchise, but because he thought it wrong to take away a right once it had been given - a principle a good conservative could uphold.<sup>177</sup> In June 1935 he wrote to an overseas friend:

In my view, the Cape Native vote in its present form is, from the Native's own point of view, a somewhat doubtful boon. If we were framing a Constitution *de novo* I think I would be in favour of doing it on some such basis as the Bill now proposes. But it is a rather different thing to take away the vote and the prospect of the vote as an ideal to live up to, from those who have had it - and also cannot be said to have abused it - for eighty years.<sup>178</sup>

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<sup>175</sup> Hertzog Papers, Aa, J.J. Kuhn to Hertzog, 7 April 1936.

<sup>176</sup> E.A. Walker Papers, Walker to Hofmeyr, 9 April 1936.

<sup>177</sup> A Paton, personal interview, 24 September 1975.

<sup>178</sup> Hofmeyr to C.K.J. Underhill, 9 June 1936, Paton, *Hofmeyr*, p. 218.

Rheinallt Jones and his wife returned to Cape Town soon after the Bill had been introduced into Parliament, and were joined by John L. Dube.<sup>183</sup> At the request of the editor of the *Cape Argus*,<sup>184</sup> Rheinallt Jones wrote a series of articles on the land question, which were published in *Argus* newspapers during the second reading debate.<sup>185</sup>

In these articles, Rheinallt Jones took a moderate line against the Bill, and refrained from overt criticism of the Government. He pointed out the large tracts of Crown land in the Transvaal and Natal, which the Beaumont Commission had intended for Africans, and which had passed into the hands of white farmers and settlers. It was thus vital that there be no further delay in releasing additional areas as the scheduled areas did not amount to seven and a quarter-million morgan.<sup>186</sup> He appealed to Parliament to pass the schedule *in toto*.<sup>187</sup> Yet even if the schedule failed to pass, he was against the Bill being dropped, on the grounds that the 'most important, vital and hopeful part of the Bill', was the proposal to establish a Native Trust. And it was essential that considerable funds were placed at the disposal of the Trust, 'to enable it to be a living force galvanising the native areas into progressive

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<sup>183</sup> South African Institute of Race Relations, *Seventh Annual Report*, 1936, n.d., p. 12. Dube's appearance in Cape Town seems to have been Rheinallt Jones' idea: 'Hardy and Hoernlé think I ought to go to Cape Town and so does Donaldson ... If I go probably will arrange for one or two Africans to go with me. (*sic*) Should we ask one of them from Natal; if so should he be Dube? This would be more for their education than anything else, for we find most Native leaders know next to nothing of the land question.' Webb Papers, Rheinallt Jones to Webb, 15 April 1936.

<sup>184</sup> South African Institute of Race Relations, *Seventh Annual Report*, 1936, p. 12.

<sup>185</sup> See e.g. *Cape Argus*, 27-30 April 1936; *Natal Advertiser*, 28 April-1 May 1936.

<sup>186</sup> *Cape Argus*, 27 April 1936.

<sup>187</sup> *Ibid.*, 28 April 1936.



activity'.<sup>188</sup>

While Rheinallt Jones did not question the necessity of control measures for Africans on white farms, he maintained that Chapter IV of the Bill was 'most disappointing to those who are anxious to see the relations of land owner and land worker brought more into harmony with modern conditions'. Was it too much to hope, he asked, that the Chapter be dropped?<sup>189</sup>

In addition to Rheinallt Jones' articles, the Continuation Committee presumably went ahead with their plans to print Ramsbottom's memorandum on the Land Bill. The Committee was also in contact with F.S. Malan in the Senate,<sup>190</sup> and perhaps Morris Alexander in the House of Assembly,<sup>191</sup> on the question of possible amendments to the Bill. Furthermore, either during the committee stage (which lasted from 7th to 28th May), or soon after, Dube submitted a series of amendments<sup>192</sup> to the Minister of Native Affairs. The more important of these amendments aimed at ensuring that the Government would not be able to drag its heels on the matter of acquiring land for Africans; that African traders be granted preferential treatment in the African areas; and that Chapter IV be not applied to white-owned land in the released areas.<sup>193</sup>

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<sup>188</sup> *Ibid.*, 29 April 1936.

<sup>189</sup> *Ibid.*, 30 April 1936.

<sup>190</sup> SAIRR Archives, Box B 53(d), Rose-Innes to Rheinallt Jones, 14 May 1936. The Land Bill was not considered by a joint sitting of both Houses, but in the ordinary bicameral way.

<sup>191</sup> Most of the criticism of the restrictive provisions of the Bill during the discussion in the Assembly, came from Alexander.

<sup>192</sup> These amendments appear to have been drafted by Rheinallt Jones.

<sup>193</sup> SAIRR Archives, Box B 62(a), *Amendments submitted by the Reverend J.L. Dube to the Minister of Native Affairs through the Secretary for Native Affairs*, RR 29/36.

The Land Bill was passed with few amendments and no major concessions to white liberal or African opinion.<sup>194</sup> However, the Minister of Native Affairs did insert a new section which guaranteed the land rights of those Africans transferred from the Cape common roll to the Cape Native Voters' Roll.<sup>195</sup>

The Land Bill was gazetted on 19th June 1936. The parliamentary battle was over.

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<sup>194</sup> See Act No. 18, 1936, *Union Government Gazette Extraordinary*, No. 2362, 19 June 1936.

<sup>195</sup> See *House of Assembly Debates*, Fourth Session, Seventh Parliament, 24 January-17 June 1936, col. 4013; and Act No. 18, Section 42.

## CHAPTER V

THE AFTERMATH

Opposition to the Representation Bill did not cease after it had passed its third reading. John G. Masai, an African voter and member of the CPSA, applied on 7th April to the Supreme Court for an order interdicting the Speaker from presenting an address acquainting the Governor-General with the result of the Joint Sitting. Alternatively, the Speaker was called upon to show cause why the Court should not enquire into and determine the applicant's future rights as a registered voter in the Cape Province in relation to the Bill.<sup>1</sup> When the Sheriff attempted to serve the interim interdict on the Speaker, he was refused admission to the House. He then attached the notice to the door.<sup>2</sup> A fund was opened in Cape Town to pay the costs of the case.<sup>3</sup>

At the hearing on 17th April the Court ruled that the Speaker had in fact presented the address to the Governor-General. In regard to the alternative prayer, Watermeyer J. declared that he was

... not prepared to lay down now, without a great deal of consideration, what conditions the Court will insist upon before it makes use of this power, but I am quite prepared to say that in the present application made against the Speaker, and in which the rights claimed or disputed, existing, future or contingent, are not set out in full detail, the Court will not make use of that power.<sup>4</sup>

After the Bill was finally placed on the statute books, its validity was attacked in the case of *Ndlwana vs. Hofmeyr n.o.* Douglas Buchanan, representing Albert Ndlwana, an African voter from the Maitland constituency, argued

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<sup>1</sup> *Masai vs. Jansen n.o.*, 1936 CPD 361. (Masui's name is spelt wrongly in the law report.) D.B. Molteno represented the applicant.

<sup>2</sup> Roux, *op. cit.*, p. 293.

<sup>3</sup> Xuma Papers, ABX 360411b, T. Mveli Skota to Xuma, 11 April 1936.

<sup>4</sup> *Masai vs. Jansen n.o.*, at 362.

that the Representation Act was *ultra vires* as it was passed by a Joint Sitting of both Houses of Parliament, and not in the ordinary bicameral way. He pointed out that even if certain sections of the Act did disqualify persons in the sense contemplated by Section 35(1) of the South Africa Act, a large portion of the Act had nothing to do with the disqualification of voters. But the plea failed, the full Cape Court holding that the statute fell within the orbit of Section 35.<sup>5</sup> On appeal, the Appellate Division suggested that the entrenched sections (35 and 152) were no longer binding, and that an Act of Parliament cannot be questioned.<sup>6</sup>

There appears to have been no attempt to question the legality of the Land and Trust Act in the Courts. Rather, the emphasis was placed on tempering the more restrictive provisions of the Act. In addition, the Government was urged to speed up the purchase of land for African occupation, and to place more funds at the disposal of the Trust.<sup>7</sup> Furthermore, attempts appear to have been made to prevent the Trust from buying white farms at unrealistic prices. White liberals featured prominently in such activities. Rheinallt Jones and his wife, for instance, during the second half of 1936, spent a good deal of their time going round the country finding and examining the land that was listed in the schedule of the Act.<sup>8</sup>

Important that a benevolent administration of the Land Act

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<sup>5</sup> *Ndlwana vs. Hofmeyr* no. 1936 CPD.

<sup>6</sup> *Ndlwana vs. Hofmeyr* n.o., 1937 AD 229. See also Horton, 'The South Africa Act and the Entrenched Clauses', p. 175; and H.R. Hahlo and E. Kahn, *The Union of South Africa: The Development of its Laws and Constitution* (1960), p. 154.

<sup>7</sup> See e.g. South African Institute of Race Relations, *Eighth Annual Report, 1937*, n.d., pp. 12-15; *Ninth Annual Report, 1938*, n.d., pp. 5-8; and *Tenth Annual Report, 1939*, n.d., pp. 7-10.

<sup>8</sup> Webb Papers, Unpublished autobiography entitled *The Colour of Your Skin*, Chapter IV.

may have been to African leaders, it seems that their major concern, in the short term at least, was to readjust themselves to the situation created by the Representation Act.

The inexorable progress of the Representation Bill through Parliament engendered an angry disillusionment among blacks as a whole and saw a flaring up among moderate Africans of a spirit of racial assertion.<sup>9</sup> Events in Ethiopia, and the action of the white South African Parliament, were seen as symptomatic of the hypocrisy of white claims to a 'civilizing mission'. This is exemplified in Jabavu's presidential address to the gathering of the AAC in June 1936:

All Africans /he began/, as well as all other non-white races of the world, have been staggered by the cynical rape by Italy of the last independent state belonging to indigenous Africans. After hearing a great deal for twenty years about the rights of small nations, self-determination, Christian ideals, the inviolability of treaties, humane warfare, the sacredness of one's plighted word, the glory of European civilization, and so forth, the brief history of the last eight months has scratched this European veneer and revealed the white savage hidden below.<sup>10</sup>

Jabavu urged Africans to buy from Africans 'out of a patriotic spirit of African nationalism' and counselled educated Africans not to confine their ambitions to teaching and the Ministry, but to take up law, medicine, commerce and progressive farming so that Africans could attain economic effectiveness as a race. Acknowledging Jawaharlal Nehru, head of

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<sup>9</sup> Hofmeyr Papers, Aa, Rheinallt Jones to Hofmeyr, 6 April 1936: '... there is a strong left swing among Native leaders.'

<sup>10</sup> 'Presidential Address' by Professor D.D.T. Jabavu, AAC, June 29, 1936, Karis and Carter (eds.) *From Protest to Challenge*, Vol. II, p. 48.

the All India Congress, as a source of inspiration, Jabavu maintained that 'labour and the peasantry' constituted the backbone of a nationalist movement and that African leaders had an obligation to emancipate these classes from the 'servitude of poverty'.<sup>11</sup>

Perhaps the most revealing outburst came from Selby Msimang. In his pamphlet *The Crisis*, he argued that 'Parliament and the white people of South Africa have disowned us, flirted and trifled with our loyalty. They have treated us as rebels ...' Since white South Africans denied Africans political participation within the country, two possible courses of action were open to the latter. They could demand complete segregation on a fifty-fifty basis, enabling them to establish their own state. Alternatively, they could 'seize the reins of government, and regain all the freedom ... lost since the advent of the white man'. This demanded 'intense organisation and persistent education of the masses'; mob psychology was ultimately 'an element for good; and simplifies the task of the leaders'.<sup>12</sup>

In 1937, by pushing the Native Laws Amendment<sup>13</sup> Bill through

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<sup>11</sup> *Ibid.*, pp. 52-54.

<sup>12</sup> Extracts from pamphlet, *The Crisis* by Selby Msimang, Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, pp. 57-60.

<sup>13</sup> The Native Laws Amendment Bill was partly a product of the 1930-35 Joint Select Committees on the Native Bills. The Bill further amended the Natives (Urban Areas) Act of 1923. (The original 1923 Act had been initially amended by Act 25 of 1930.) Although the original Act gave power to exclude newcomers from urban areas and to remove unemployed men, the pressure of farmers for workers, the reluctance of local authorities to house an unlimited number of families in the locations, and the general desire to check the growth of the African urban community, led to the more stringent methods of control of the 1937 Bill. The Bill enabled magistrates and Native Commissioners to withhold leave to Africans to quit reserves and rural areas, and empowered local authorities not only to deny them entrance to the towns but to subject to various restrictions those who were already there. No distinction was drawn between people who had grown up in the towns and those with a home in the tribal areas, or between employed and unemployed persons.



Parliament, before the measure had been considered by the NRC, the Government refuelled African resentment.<sup>14</sup> In November 1936, Xuma had written to Hofmeyr,<sup>15</sup> pointing out that such segregatory and discriminatory legislation was not even in the Government's interests:

The proposed amendment of the Urban Areas Act makes the future gloomier for my section of the people. Your Government's policy is definitely driving us out from membership of the State in a country we consider yours and ours ... I can assure you that, under the circumstances, there is no alternative left for the African people, but to fight for full common citizenship...<sup>16</sup>

However, African opposition to this Bill was very much within the boundaries of constitutional protest.<sup>17</sup>

Though there was heightened frustration with white rule during 1936-1937 (particularly, it seems, during April-June 1937), African leaders generally resigned themselves, with varying degrees of reluctance, to the *fait accompli*. The series of segregatory legislative measures passed since Union, may have had an anaesthetizing effect on African protest, reinforcing an instinctive as opposed to a creative response. And it was no easy task for established African leaders to divorce themselves from the behavioural patterns of the past.

When the All African Convention reconvened in June 1936, Jabavu pointed out the various courses open to it.

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<sup>14</sup> See e.g. Walshe, *op cit.*, pp. 141-142.

<sup>15</sup> It is worth noting that Hofmeyr, despite reservations, voted for the Bill.

<sup>16</sup> Xuma Papers, ABX 361130b, Xuma to Hofmeyr, 30 November 1936.

<sup>17</sup> For an idea of the African and white liberal response to the Bill, see e.g. Xuma Papers, ABX 370412d, Msimang to Xuma, 12 April 1936; and SAIRR Archives, Box B 53(a), Minutes of a Meeting of the Johannesburg Joint Council held on May 10, 1937.

Unconditional acceptance offered no advantages. That left only two choices. In the first place the AAC could declare  
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... complete boycott on all the new Acts, adopting a policy of retaliative reprisals and bottled revenge.

In favour of this, we could startle white South Africa, attract the notice of the rest of the world and win our rights by using fear of a bloody revolution as a weapon of propaganda.

Against this, one cannot calculate what the end of it would be. It might end in disaster. It presupposes that every single person, literate and illiterate, will obey our word of command. It presupposes a perfect organisation where there are no blacklegs. It will be hard to apply it to the Land and Trust Bill. Its collapse would make the last state worse than the first, because it would preclude all possibility of our unity thereafter. It rests on the use of force.

Jabavu inclined towards evolving

... an intermediary policy of using what can be used and fighting against all that we do not want. The advantage here is that we can keep the goal we are striving for constantly in view before us and work for the repeal of these colour bars backed by the strongest supporting forces in the country. We would keep our self-respect, get new opportunities to initiate fresh efforts, educate backward followers and ensure loyalty. Its drawback is that it will prolong the battle and exasperate those who are burning for quick results.<sup>18</sup>

A small but vocal left-wing group, which seems to have been composed largely of Coloured members of the National Liberation League, argued against Jabavu, and demanded a

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<sup>18</sup> 'Presidential Address' by D.D.T. Jabavu, AAC, June 29, 1936, Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, pp. 51-52.

boycott of the segregatory institutions established by the Representation of Natives Act. African communists, however, apparently accepted the argument of the Party's political bureau, that the new political institutions could assist the development of the Convention into a mass movement of Africans, Coloureds and Indians.<sup>19</sup> On the other hand, Clements Kadalie, by no means a radical, submitted a motion for non-cooperation.<sup>20</sup> Interestingly, before he left for Bloemfontein, he canvassed the opinions of four white liberals<sup>21</sup> - F.S. Malan, C.W.A. Coulter, W.B. Stuart and C.J. Gardner.<sup>22</sup> They all apparently (Malan and Coulter certainly) advocated that Africans should use the machinery of the Act to further their cause in a legitimate way and that to do so, was not to condone the abolition of the Cape common roll.<sup>23</sup>

Although the majority of the delegates rejected the boycott strategy, and opted for the more flexible approach proposed by Jabavu, the thrust of the 'Programme of Action' which they adopted, implied the continuance of strong opposition to government policy.<sup>24</sup>

Nevertheless, the second conference of the AAC, which lasted from 29th June to 2nd July 1936, was not as impressive a gathering as the December 1935 meeting. Attendance had

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<sup>19</sup> Simons, *op. cit.*, p. 496.

<sup>20</sup> This motion was not discussed. See Kadalie, *op. cit.*, p. 211.

<sup>21</sup> *Ibid.*, pp. 209-210; F.S. Malan Papers, Kadalie to Malan, 6 April 1936.

<sup>22</sup> W.B. Stuart was the former MP for Tembuland during 1915-24, and a well-known lawyer with a large African clientele. C.J. Gardner was an advocate well versed in constitutional law.

<sup>23</sup> Kadalie, *op. cit.*, p. 210; Malan Papers, Malan to Kadalie, 9 April 1936; SAIRR Archives, Box B 100(a), Malan to Rheinallt Jones, 9 April 1936. Malan consulted with Sir James Rose-Innes, who agreed with him, before replying to Kadalie.

<sup>24</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 10.

shrunk from 400 to 200 delegates.<sup>25</sup> Moreover, attempts to draw up a list of approved candidates for the following election threatened to split the various groups comprising the Convention.<sup>26</sup> This task was later delegated to the CNVC in the Cape Province.<sup>27</sup> By March 1937<sup>28</sup> the AAC Executive appears to have made a few semi-official recommendations in regard to the northern provinces.<sup>29</sup>

Although the elections for the separate institution established by the Representation Act took place in June 1937, a quiet scramble for seats was already underway by July 1936.<sup>30</sup> The elections appear to have engendered considerable interest among the African population. In early 1937, a Lovedale African wrote to Xuma that

Whatever demerits this new scheme of representation has, it has certainly made our people down here politically minded. There may only be 120 reasons<sup>31</sup> for some but for the rest it becomes a matter of great concern who is to be allowed to think out the 120 reasons.<sup>32</sup>

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<sup>25</sup> Simons, *op. cit.*, p. 496.

<sup>26</sup> *Ibid.*, p. 497.

<sup>27</sup> The CNVC/AAC candidates were as follows: A.M. Jabavu, R.H. Godlo and Dr. S.M. Molema for the NRC; D.B. Molteno and W.B. Stuart for the House of Assembly; J. Bissett and W.T. Welsh for the Senate; and H. Burman and E.C. Becker for the Cape Provincial Council. *Umlindi we Nyanga*, 15 March 1937. The AAC does not seem to have been able to agree on a candidate for the Transkei seat in the Assembly. On 5 June 1937, *Umlindi we Nyanga* stated that, 'In this constituency, we are given to understand some confusion appears to have arisen amongst Bantu leaders as to which candidate was eventually duly nominated as a result of the AAC's decision earlier this year. The consequence is that we prefer not to comment on this contest ...'

<sup>28</sup> The nominations for the various seats were held in March 1937.

<sup>29</sup> According to *Umlindi we Nyanga*, 15 March 1937, T.M. Mapikela and Dr. J.S. Moroka (for the NRC) and Rheinallt Jones (for the Senate), were considered suitable to represent Free State Africans. The paper stated that the Natal and Transvaal selections had not been finalised. And it seems that they never were.

<sup>30</sup> See e.g. Xuma Papers, ABX 360712, Msimang to Jabavu, 12 July 1936.

<sup>31</sup> The phrase '120 reasons' probably refers to the £120 annual salary of NRC members. Members of the white Parliament received £700 p.a. at the time.

<sup>32</sup> Xuma Papers, ABX 370208a, M.L. Rabane to Xuma, 8 February 1936.

Prominent AAC members not only competed against each other in the elections for the NRC, but also became active on behalf of various white candidates contesting the special seats in Parliament and the Cape Provincial Council. Msimang complained that 'certain African leaders are ingratiating themselves with aspirations (*sic*) for the Senatorship and are offering themselves to act as their agents to capture the vote of the Chiefs'.<sup>33</sup> The elections, in fact, appear to have hampered efforts to consolidate the AAC. A meeting of the AAC Executive held in January 1937, was a disillusioning experience for R.H. Godlo:

As to the meeting of the Executive /he wrote to Xuma/, I regret to say that, from my point of view, it was a failure and a fiasco. We seem to lack political acuity (*sic*). We fail to see the wood for the trees. The stage was well set for the Executive to have distinguished itself in political manoeuvres to the discomfort of the State. However, the leaders concentrated on the election instead of developing a sound policy for the Organisation.<sup>34</sup>

In the elections for the Senate, there was some tension in the Transvaal-Free State constituency, which was contested by Rheinallt Jones, W.G. Ballinger and H.M. Basner, a communist lawyer, and two others.<sup>35</sup> Acrimonious exchanges between Ballinger and Basner took place at the various public meetings prior to nomination, each maintaining that he was more suited to oppose the 'liberal conservative' Rheinallt Jones.<sup>36</sup> Against expectations, Basner ran out second to Rheinallt Jones in the nomination, and Ballinger

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<sup>33</sup> *Ibid.*, ABX 361016b, Msimang to Xuma, 16 October 1936.

<sup>34</sup> *Ibid.*, ABX 370127b, Godlo to Xuma, 27 January 1937.

<sup>35</sup> The two other candidates were F. Bateman and G.G.M. Thwaites. *Union Government Gazette*, No. 2431, 23 April 1937.

<sup>36</sup> In a letter to Maurice Webb, Rheinallt Jones remarked that the Ballingers saw him as a 'liberal conservative'. Webb Papers, Rheinallt Jones to Webb, 15 April 1936.

<sup>37</sup> Roux, *op. cit.*, p. 295.

came a poor fourth. Rheinallt Jones duly won the election by 404,447 votes to Basner's 66,236.<sup>38</sup> However, because of the system of bloc voting this was not an accurate reflection of the support enjoyed by the two candidates.<sup>39</sup>

In Natal, Edgar Brookes beat D.G. Shepstone<sup>40</sup> by 180,263 votes to 156,394.<sup>41</sup> Bearing in mind that Brookes had the backing of the Regent, Mshiyeni ka Xinizulu,<sup>42</sup> that he was viewed as more liberal than Shepstone,<sup>43</sup> and presumably had the support of the Adams College staff, the narrowness of his victory is somewhat puzzling. Perhaps the answer lies in the following remark of Rheinallt Jones:

I, personally, don't place much faith in Native support for liberals like Brookes and myself (if I may call myself a liberal ...) I don't think the rural people like us - we are too quick and our quickness frightens them ... and makes them think we are slim. My feeling is to warn Brookes to be very circumspect about the whole business.<sup>44</sup>

On the other hand, there may have been a clash of interests between Dube and Mshineni. It appears that in early 1936, before Brookes had officially announced his intention of contesting the Natal senatorship, Dube had endorsed Septstone's candidature.<sup>45</sup>

The contests for the remaining two senatorships seem to have been more subdued affairs. W.T. Welsh, an ex-chief magistrate,

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<sup>38</sup> Figures cited in *Ibid.*

<sup>39</sup> *Ibid.*, pp. 295-296.

<sup>40</sup> Shepstone was a solicitor and leading member of the Durban Joint Council.

<sup>41</sup> Figures taken from *Umlindi we Nyanga*, 15 July 1937.

<sup>42</sup> Brookes, *A South African Pilgrimage*, p. 74.

<sup>43</sup> Webb Papers, Rheinallt Jones to Webb, 15 April 1936.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*



was chosen as the Transkei's representative<sup>46</sup> and, in the Cape Province area, G.H. Malcomess<sup>47</sup> Malcomess was preferred to J. Bissett the AAC candidate.

In the three Cape parliamentary seats, voting was direct. In the Cape Eastern circle, in spite of the fact that she was a woman (it was held that this would count against her with the African voters),<sup>48</sup> and had entered the contest at a relatively late stage, Margaret Ballinger emerged victorious. W.B. Stuart, the AAC candidate,<sup>49</sup> came second.<sup>50</sup> In the Cape Western circle, after a three-cornered contest, D.B. Molteno gained a fairly close victory over M. Mauerberger, a textile manufacturer.<sup>51</sup> The Transkei elected a local lawyer, G.K. Hemming; a man of moderate views, according to Roux.<sup>52</sup>

In the voting for the two special Cape Provincial Council seats, H. Burman and E.C. Becker, were elected in the Cape

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<sup>46</sup> Welsh's opponent was Edith Stuart.

<sup>47</sup> Malcomess was a businessman operating in the Berlin district.

<sup>48</sup> M. Ballinger, *From Union to Apartheid: A Trek to Isolation* (1969), p. 50.

<sup>49</sup> AAC support for Stuart in the June elections seems to have been half-hearted. See editorial comment in *Umlindi we Nyanga*, 5 June 1937. See also Xuma Papers, ABX 370424, R.T. Bokwe to Xuma, 24 April 1937: 'It is such a pity that she /M. Ballinger/ did not offer her services at or before the Convention meetings last year. I feel sure her name would have gone forward in place of that of Stuart. However, Stuart has come out in his true colours now by trying to get his wife and son in too for the Transkei seats ... There is a vigorous campaign in the press (*E. London Daily Dispatch*) against him ... Even the Convention could have an excuse for dropping him entirely now, and I think it will too even if not officially.'

<sup>50</sup> Ballinger polled 1,118 votes to Stuart's 961. *Union Government Gazette*, No. 2448, 18 June 1937. The other candidates were J. Stewart, a Labour Party MP in the Pact Government, J.W. Duncan, a proprietor of a country hotel, and F. Brownlee an ex-magistrate.

<sup>51</sup> Molteno polled 1,124 votes to Mauerberger's 961. *Union Government Gazette*, No. 2448, 18 June 1937.

<sup>52</sup> Roux, *op. cit.*, p. 297. It is not known whether Hemming had AAC backing. He polled 1,083 votes to the 957 of his opponent (R.M.P. Stuart). *Union Government Gazette*, No. 2448, 18 June 1937.

Eastern and Cape Western electoral divisions respectively.<sup>53</sup>

There were twelve elective members of the Native Representative Council. Of each of the three electoral areas outside the Transkei, one member was elected by the urban advisory boards of that area. Thus the OFS-Transvaal electoral area returned T.M. Mapikela, and R.H. Godlo<sup>54</sup> and A.J. Sililo were chosen for the Cape Province and Natal<sup>55</sup> respectively.

In the contest for the two 'rural' seats of the Transvaal-OFS area, Selope Thema and R.G. Baloyi, the owner of a bus company, emerged as victors from a field of 27.<sup>56</sup> E. Mofutsanyana, the only African communist candidate, was knocked out in the first round. The CPSA, he contended after his defeat, made the mistake of hiding its face behind the AAC. 'Even Basner', he said, 'could not get on my platform and speak on my behalf because he thought he might prejudice himself.'<sup>57</sup> According to Roux, Basner and Balyoi were 'prominently associated in the election campaign'.<sup>58</sup> John Marks, a leading African member of the CPSA until his expulsion in June 1937, also helped Baloyi.<sup>59</sup> Yet even if

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<sup>53</sup> No relevant information, regarding these two representatives, has been found.

<sup>54</sup> Mapikela's opponents were Bud Mbelle, L.T. Muabaza and Selope Thema. A.T. Pendla stood against Godlo.

<sup>55</sup> The election for the Natal seat won by Sililo, a leading member of the Durban Advisory Boards Congress, was held some months after the June 1937 election.

<sup>56</sup> The 27 candidates were R.G. Baloyi, P. Gasu, P. Madonsela, J.S. Mahlangu, S.W. Mahuma, S.M. Makgotha, L.M. Mangope, T.M. Mapikela, T.R. Masethe, D.K. Mashabathakga, K. Mashele, S.P. Matseke, S. Mazina, B. Mbelle, M.A. Mkwanazi, E.T. Mofutsanyana, M.B. Moiloa, A. Molokwana, J.S. Moroka, M.K. Mphahlele, P. Mubete, J. Mutsila, N.G. Nemaembeni, I. Poho, Selope Thema, S.H. Thema, A.J. Thoka. *Union Government Gazette*, No. 2431, 23 April 1937.

<sup>57</sup> Simons, *op. cit.*, p. 482.

<sup>58</sup> Roux, *op. cit.*, p. 298.

<sup>59</sup> Simons, *op. cit.*, p. 482.

Mofutsanyana had had the full support of radical elements in the Transvaal, it is doubtful whether he would have been considerably more successful. He was a poor public speaker and not popular with the masses.<sup>60</sup>

In the Cape, where eleven contested the two 'rural' seats,<sup>61</sup> A.M. Jabavu and B.B. Xiniwe, a Kingwilliamstown lawyer, were the successful candidates.<sup>62</sup> The two Natal seats were captured by Dube and W.W. Ndhlovu. This represented a victory for the more conservative middle-class elements, J.T. Gumede and A.W.G. Champion being among the unsuccessful contestants.<sup>63</sup>

The three members returned by the Transkeian Territories were Charles Sakwe, Chief Jeremiah Moshesh and Elijah Qamata - all members of the Transkeian Bunga.<sup>64</sup> In addition to the twelve elected members, the Regent Mshiyani ka Dinizulu, and Chiefs George Makapane, S.M. Mankuloane and Victor Poto were appointed by the Governor-General, to represent Natal, Transvaal-OFS, the Cape Province and Transkeian Territories respectively.<sup>65</sup>

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<sup>60</sup> Roux, *op. cit.*, p. 294.

<sup>61</sup> The candidates were A.M. Jabavu, M.M. Letlhogile, T.B. Lethogile, B.M. Mlameli, S.M. Molema, P. Mzazi, J.G. Sikiti, R.J. Time, R.M. Tunzi, B.B. Xiniwe and S.M. Bennett Ncwana. *Union Government Gazette*, No. 2431, 23 April 1937.

<sup>62</sup> S.M. Molema ran second to Jabavu in the nominations, but owing to a technicality, was disqualified from standing in the election proper.

<sup>63</sup> The other unsuccessful candidates were Chief S. Mini, M. Zulu, J.M. Kambula, and Chief M. Mabaso. *Union Government Gazette*, No. 2431, 23 April 1937.

<sup>64</sup> There were 23 unsuccessful candidates: L.Bam, Z. Bayi, H. Bikitsha, D. Dolindyabo, G. Dana, W. Dana, J. Keswa, S. Lehana, S. Mabude, C. Madikezla, R. Mahlangeni, J. Mahlasela, I. Matiwane, W. Mlandu, J. Moshesh, G. Ntantala, T. Poswayo, V. Poto, E.Q. Sangoni, C.S. Sangoni, P. Sangoni, A. Soga, F. Soga and T. Soga.

<sup>65</sup> Victor Poto was the Paramount Chief of West Pondoland. Makapane was a member of the Transvaal ANC and was elected to the AAC Executive in December 1936. No information on Mankuloane has been found.

The Africans elected to the Native Representative Council, Roux remarks, 'represented a good average cross-section of the new African middle class'.<sup>66</sup> The Council was a decidedly moderate body initially, with R.H. Godlo its most militant member.<sup>67</sup> Of the group of white representatives in the Senate and House of Assembly, Margaret Ballinger and Donald Molteno appear to have been the most outspoken.<sup>68</sup>

Although the AAC had not adopted an official stand regarding the Representation Act, its growing involvement in the new forms of representation was demonstrated at its December 1937 meeting. Among the official delegates were six of the white 'parliamentary members' elected by Africans, and a number of new members of the NRC, those of whom (Selope Thema, A.M. Jabavu and Mapikela) were elected to the new executive committee.<sup>69</sup> A new statement of policy issued by the AAC Executive, explicitly stated that all candidates returned as members during the elections held during June 1937, were 'hereby recognised as the accepted mouthpiece of Africans in their various representative State Chambers of the (i) Senate; (ii) House of Assembly; (iii) Provincial Council; and (iv) Native Representative Council'. These representatives were expected to attend the plenary sessions of the AAC at Bloemfontein 'for the purpose of ascertaining the opinion of African views on various questions, securing a mandate for expressing African views on matters arising from time to time, and of giving an account of their stewardship'.<sup>70</sup>

Despite the policy shift the AAC did not relinquish its

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<sup>66</sup> Roux, *op. cit.*, p. 297.

<sup>67</sup> *Ibid.*, p. 298.

<sup>68</sup> See Brookes, *A South African Pilgrimage*, p.

<sup>69</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 11.

<sup>70</sup> 'Policy of the AAC.' Statement issued by the Executive Committee of the AAC, December 1937, Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, pp. 63-64.

commitment to agitate upon a wide range of African grievances. In fact, its proceedings were largely concerned with social and economic matters - an orientation perhaps reflecting the removal of the Native Bills as issues of contention.<sup>71</sup>

The December meeting voted to convert the AAC into a permanent federal body 'with which all African religious, educational, industrial, economic, political, commercial and social organisations shall be affiliated'.<sup>72</sup> However, this move was opposed by some African leaders, particularly Seme of the ANC and those close to him.<sup>73</sup> Moreover, in the period between June 1936 and December 1937, it had become evident that the AAC had no union-wide organisational basis.<sup>74</sup>

The widespread reaction to the Hertzog Bills had injected some life into the ailing ANC, with the result that the seventy chiefs and delegates at the Bloemfontein National Congress of 1936 entertained reservations about the Convention's attempts to perpetuate itself. They focussed their attention on re-building Congress as the central body for coordinating and expressing African opinion.<sup>75</sup> The election of James A. Calata as Secretary-General of the ANC was a sound move, for he was to be a prime mover in the long struggle to regenerate that body. He had the personality to secure grass-root support on a nation-wide basis. As Benson observes:

... though restrained he had fire; a Christian, he was a patriot to the marrow of his bones; he also had a quality rare in ANC leaders, he was *with* the people. The fact that he was a Xosa living in the Eastern Cape represented the swing into purely African politics of people newly

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<sup>71</sup> *Ibid.*, p. 11.

<sup>72</sup> Constitution of the AAC, December 1937, Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 64.

<sup>73</sup> *Ibid.*, p. 12.

<sup>74</sup> Walshe, *op. cit.*, p. 124.

<sup>75</sup> *Ibid.*

pushed off the common voters' roll.<sup>76</sup>

Thus, by the late 1930's, through the efforts of a cross-section of African leaders, including a few communists, the ANC gradually revived, still resorting to its old role of trying to ameliorate the impact of harsh legislation and wring concessions by working within the limits placed on African influence and progress. For example, the ANC in collaboration with the Location Advisory Board Congress, sent a large deputation to Cape Town in May 1939 to hold discussions with the Native Representatives of both Houses of Parliament, and to interview H.A. Fagan, the new Minister of Native Affairs.<sup>77</sup> They requested an extension of the Cape individual vote and the new separate roll to the other provinces, a step they felt could hardly be withheld 'now that the supposed fear of the old Cape franchise has been removed'. They argued that a large number of educated people, 'even graduates', existed in all provinces and that as they were under the same flag and government and had identical interests to whites, citizenship was their right. Fagan gave them little cause for hope. It was conceivable, he said, that circumstances could change, but the passage of Hertzog legislation through Parliament had been drawn out, and matters could not be reopened. The delegation's request for popular direct elections to the NRC was also considered inopportune.<sup>78</sup>

Speaking for the delegates on the land issue, Calata persisted

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<sup>76</sup> Benson, *op. cit.*, pp. 70-71.

<sup>77</sup> The delegation was made up as follows: National Congress: Rev. Z.R. Mahabane, Rev. J.A. Calata and R.G. Baloyi. Transvaal Congress: S.P. Matseke, C.S. Ramohanoe, J.M. Lekhethe, J.B. Marks. Natal Congress: Rev. A.Mtimkulu. OFS Congress: T.M. Mapikela. Cape Congress: J.D. Ngojo. Cape Western Congress: M. Kotane, S. Oliphant and P. Sehloko. Advisory Boards Congress: R.H. Godlo, A.J. Sililo and J. Mafu.

<sup>78</sup> Report of a Deputation from the ANC and Location Advisory Boards Congress to the Minister of Native Affairs, May 15-17, 1939, Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, pp. 138-145.



with the approach of seeking to instil some magnanimity into the application of existing policies. He requested that the rate of land purchase be increased, and asked why there had been no purchases in Natal.<sup>79</sup>

The deputation undoubtedly realised that the tradition of opposition to official policy and governmental dogma had not been misplaced. Nevertheless, Congress persevered with consultation, Mahabane going so far as to describe the NRC as the 'official mouthpiece of the African people'.<sup>80</sup> However, already in the late 1930's, there had been signs of a shift away from the partial non-racialism of the majority of established African leaders - i.e. the acceptance of social segregation, a qualified franchise, etc. - to a demand for an authentic multi-racialism. For example, in a prize-winning essay written in 1936, Wycliffe Tsotsi, a young teacher recently graduated from Fort Hare, argued that in South Africa (and other countries),

A revolutionary reconstruction of the social relations between White and Coloured will be necessary. All social barriers must be nullified. Theories which preach racial purity merely on sentimental grounds must be exploded. Love usually defies physical characteristics. No artificial obstacles, therefore, must be thrown athwart its path. Inter-marriage must positively be encouraged.<sup>81</sup>

Moreover, the idea of political assertion and mass action was gaining ground among thinking Africans even though they found open rebellion repugnant and unrealistic.<sup>82</sup>

It seems that these new currents in African political thought, were due more to structural developments within African society - the expansion of an urban African

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<sup>79</sup> *Ibid.* pp. 143-144.

<sup>80</sup> Walshe, *op. cit.*, p. 127.

<sup>81</sup> *Race Relations*, Vol. IV No. 2 (May 1937), p. 47.

<sup>82</sup> Walshe, *op. cit.*, p. 127.

population,<sup>83</sup> the fall in numbers of those classified as peasantry,<sup>84</sup> the emergence of a substantial proletariat, and the growth of an intelligentsia<sup>86</sup> - than to attitudes engendered by the passage of the Hertzog Bills. But these factors were not necessarily independent of one another. For example, the franchise crisis of 1935-1936, and the leading rôle played by Professor D.D.T. Jabavu in opposition to removing African voters from the common roll, appear to have stimulated the interest of Fort Hare students in politics.<sup>87</sup>

While the Hertzog legislation may have contributed to the gradual emergence of a more assertive African nationalism, the CPSA seems to have failed, at least in the short term, to exploit African resentment against the Government. During 1936, under the guidance of George Hardy, a British communist and representative of the Communist International, the Party moved to the right. Hardy argued that the fight for African rights would best be carried on through the All-African Convention, and stressed the need for closer cooperation with the white labour movement.<sup>88</sup> By 1938 the political bureau of the CPSA had lost its bearings and self confidence, and some members complained that the Party had disintegrated.<sup>89</sup> However, with the shift of headquarters to Cape Town in about 1939, the CPSA experienced an upturn in its fortunes.<sup>90</sup>

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<sup>83</sup> In Johannesburg, for example the number of Africans engaged in non-mining employment within the city had risen from 113,000 in 1936 to 163,000 in 1944. Figures cited in Walshe, *op. cit.*, p. 302.

<sup>84</sup> O'Meara, *op. cit.*, pp. 63-64.

<sup>85</sup> *Ibid.*, p. 62.

<sup>86</sup> Almost 500 individuals had passed through Fort Hare by 1935. 'Report of the Principal of Fort Hare', *Cape Times*, 21 December 1935. By the end of the 1930's bodies like the Transvaal African Teachers' Association had expanded their membership and had become more politically orientated.

<sup>87</sup> Karis and Carter (eds.), *From Protest to Challenge*, Vol. II, p. 99.

<sup>88</sup> Simons, *op. cit.*, pp. 477-481.

<sup>89</sup> *Ibid.*, pp. 482-483.

<sup>90</sup> *Ibid.*, p. 483.

In March 1938 the National Liberation League was prominent in forming the Non-European National Front - a loose federal movement embracing trade unions, cultural societies and political bodies.<sup>91</sup> The establishment of the NEUF represented a call for mass action in the form of boycotts, passive resistance, strikes and demonstrations.<sup>92</sup>

The NEUF Conference held in Cape Town in April 1938, was representative of all races and included both communists and a small number of Trotskyists. In the same year a NEUF branch was formed in the Transvaal under the leadership of Dr. Dadoo, an Indian communist; it formed its greatest support among the Indians.<sup>93</sup> This appears to have been the first time that Indians had directly associated themselves with African and Coloured protest. Although the NEUF may, as the Simons' contend, have planted 'the seed of a grand non-racial alliance',<sup>94</sup> the movement failed to attract moderate African and Coloured support.<sup>95</sup> Abdurahman declared that he preferred peaceful negotiation to forceful threats, and refused to admit NEUF to the APO's annual conference in April 1938. The Transvaal ANC turned down a proposal to join the NEUF. In June 1939, James Calata, in his capacity as leader of the Cape ANC, had this to say regarding the Front:

I have observed that Transvaal and the Western Province have formed an organisation known as 'The Non-European United Front', and I note with pleasure that the Indians are thinking of throwing in their

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<sup>91</sup> For a short account of the NEUF see *Ibid.*, p. 501 *et seq.*

<sup>92</sup> Walshe, *op. cit.*, p. 250.

<sup>93</sup> Simons, *op. cit.*, p. 504.

<sup>94</sup> *Ibid.*

<sup>95</sup> Interestingly, a number of the younger and more militant African leaders, like A.P. Mda, head of the Transvaal African Teachers' Association and one of the leaders of the ANC Youth League, were also wary of involvement in organisations with CPSA backing. For an idea of Mda's views, see e.g. *Umlindi: we Nyanga*, 15 November 1937.

lot with Bantu and Coloured. Good luck to them.

My experience is, that while the ordinary racial groups do not yet recognize their own leaders, it is no use calling upon the masses to unite even in such an attractive organisation as 'The African People's Rights Protection League', or the Communist Party.

Those who served in the front ranks of the Non-European Conference between the years 1927 and 1933 understand what I mean. Although personally I am not against new organisations being formed, I think, however, the time is too critical for us to divide our forces.

If our Bantu, Coloured and Indian Africans could not keep to an association led by Dr. Abdurahman and Professor Jabavu, I fail to see how they can follow other leaders. I firmly believe that the policy of the Congress is the best, and if the African people, more especially, would support it loyally, they would find that it would carry them through their difficulties.<sup>96</sup>

Calata added:

We believe the Joint Council Movement is along proper lines and should be extended to official bodies since the interests of the black and white people of this country are interwoven.<sup>97</sup>

Yet while Calata may have felt that the Joint Councils still had an important rôle to play in the field of race relations, after 1936, the movement slowly ran out of steam. The inability of white liberals to save the Cape common roll had been a serious blow to their prestige. According to Msimang, after approximately three years, a deep disillusionment with white liberals set in among the African community.<sup>98</sup>

<sup>96</sup> 'Presidential Address' by the Rev. J.A. Calata, Cape African Congress, June 25-27, 1939, Karis and Carter (eds.) *From Protest to Challenge*, Vol. II, p. 153.

<sup>97</sup> *Ibid.*, pp. 153.154.

And during the 1940's, African participation in the Joint Councils and the SAIRR declined.<sup>99</sup> In 1939, Xuma was of the opinion that the Institute was hampering African initiative:

We do not see any justification /he wrote to Hoernlé/ for the Institute controlling either our private or national life. Its desperate attempt to link itself with government departments on schemes that we do not consider to be in our best interest and development does not tend to increase our confidence in its activities ... We neither desire nor invite paternal protection from the Institute. The Institute, we believe, and expect it, to be merely a fact finding body and leaving the application of such information to the logically qualified organisations and leaders of the people concerned.<sup>100</sup>

Though Xuma's criticism was perhaps somewhat unfair,<sup>101</sup> it does indicate that by the end of the 1930's, the Institute's base of support had been eroded. That body had not emerged unscathed from the 1935-36 campaign against the Hertzog Bills. It was all very well to publish 'objective' memoranda and articles, but such efforts (themselves open to misinterpretation) were negated by vaguely-worded press reports, by the involvement of prominent Institute officers in certain pressure groups, and by unguarded remarks. For instance, Heaton Nicholls quoted Rheinallt Jones as having told some other MPs that 'if he were a Native they would only take the vote over his dead body, and that this legislation was going to strike a spark which would light a flame throughout South Africa'.<sup>102</sup> In late February, Hoernlé assessed the

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<sup>99</sup> Walshe, *op. cit.*, p. 348.

<sup>100</sup> Xuma Papers, ABX 390605, Xuma to Hoernlé, 5 June 1939.

<sup>101</sup> Cf. Hoernlé's reply in Xuma Papers, ABX 390607b, Hoernlé to Xuma, 7 June 1939.

<sup>102</sup> SAIRR Archives: Rheinallt Jones Papers, extract from letter from Heaton Nicholls dated 8 May 1936, recipient unknown.

fortunes of the Institute as follows:

Meiring's refusal to accept the Vice-Chairmanship of the Institute is not unexpected ... It may be well to postpone appointing anybody until after the Bills are out of the way ... And, in any case, once these controversial Bills are out of the way and we all settle down to seeing how they work, it may be possible to re-approach the liberal Dutch on the ground that there are then no longer any major controversial issues to divide us. It is quite clear that your present activities in Capetown, however intrinsically useful and justifiable, can hardly avoid being labelled 'political'. As such, they will react on the Institute, do what we will. However, it cannot be helped, and any opposition against the Institute aroused by our present activities, will die down once the Bills are out of the way, and we can start making friends again.<sup>103</sup>

However, with few exceptions, the support of the 'liberal Dutch' was not regained:

Careful though we had been to keep the Institute from even seeming to take sides in what was a political issue, the 1936 legislation took toll of that inclusiveness of our Council which we had hoped so much to preserve and which was its greatest value. In 1934 we had as members Dr. Eiselen, now Secretary for Native Affairs, Dr. A.J.R. van Rhyn, now Minister of Economic Affairs, while the University of Stellenbosch was represented by Drs. Botha and Engelbrecht and the University College of Potchefstroom by Profs. Postma and Du Plessis. By 1937 all of these excepting Prof. Postma had left and Stellenbosch and Potchefstroom had withdrawn from membership. Prof. Postma stayed with us a little longer, but then he, too, left. This was a serious loss to the Institute. The numbers of the Council

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<sup>103</sup> SAIRR Archives, Box B 100(a), Hoernlé to Rheinallt Jones, 27 February 1936.



grew but as a truly South African body reasoning together over matters of first importance to South Africa, it was becoming lopsided. Voices that should have been heard at our gatherings were no longer heard.<sup>104</sup>

Although the continued existence, after 1938, of a wholly Afrikaner political party was disquietening, 'academic liberals', according to Margaret Ballinger, held two hopes:

The first of these was that the two white groups might indeed come together to create one community able to face its developing racial problems in a truly national rather than sectional spirit; and secondly and contingently, that a sane policy of black-white relations that would commend itself on both sides of the colour bar might yet be reached.<sup>105</sup>

The second hope was based on the fact that the 'poor white' question was no longer such a burning national issue.<sup>106</sup> In addition, there was the possibility that Hofmeyr would agree to set himself at the head of a 'Liberal Party' which would participate in the white political system.<sup>107</sup> Moreover, the appearance in 1938 of a liberal journal, *The Forum*, was hailed as significant development in progressive white circles. 'It was a challenge', Paton writes, 'to the whole Malanite creed with its isolationism and its racial exclusiveness, not by British jingoism but by a broader kind of South Africanism'.<sup>108</sup>

In the late Thirties white liberals appeared to increase in

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<sup>104</sup> Webb Papers, Unpublished autobiography, Chapter XV.

<sup>105</sup> M. Ballinger, *op. cit.*, p. 43.

<sup>106</sup> *Ibid.*

<sup>107</sup> See Paton, *Hofmeyr*, pp. 293-312.

<sup>108</sup> *Ibid.*, p. 293.

number.<sup>109</sup> 'There is', Calata observed in 1938, 'in this country, yes, even in our Parliament, a steady rise of liberalism, especially in the cities it is evident.'<sup>110</sup> Control of the growth in the number of white liberals was probably South Africa's maturing industrial revolution, and its corollary - an expanding white upper middle class.<sup>111</sup> A further factor contributing to an enthusiasm for liberal ideas, may have been the interest engendered by the white liberal campaign against the Native Bills,<sup>112</sup> and Hofmeyr's speech in defence of the Cape franchise.

Yet, despite the apparent growth of the liberal movement, the ideological content of the liberalism of the late 1930's, was essentially the same as that of the early years of the decade.<sup>113</sup> Nor did the Joint Councils become more militant, as Rheinallt Jones had anticipated in April 1936.<sup>114</sup> In short, a certain complacency informed the outlook of a number

<sup>109</sup> Assuming that their numbers had increased somewhat since the mid-1920's, there does not seem to have been many more than a hundred *active* white liberals during 1935-36. 'If one looks back to the thirties one finds that the number of people who were actively thinking of doing anything about the social, economic and political situation of the different racial groups, was miniscule compared with today.' van der Horst, *Progress and Retrogression in South Africa*, p. 30.

<sup>110</sup> 'Presidential Address' by the Rev. J.A. Calata, Cape African Congress, July 4, 1938, Karis and Carter (eds.), *From Protest to Challenge*, Vol. ii, p. 137.

<sup>111</sup> The expansion of the white upper middle class is indicated by a very rapid growth in the South African economy in the 1930's and 1940's. During 1938-1946, national income almost trebled from £236,900,000 to £704,200,000. The number of manufacturing establishments rose from 6,543 in 1932 to 8,505 in 1939. Figures cited by O'Meara, *op. cit.*, p. 61.

<sup>112</sup> It is difficult to accurately assess to what extent the white liberal campaign attracted public interest, but the protest meeting held in the Cape Town City Hall on 11 February 1936, and the many letters sent to members of both Houses of Parliament, surely indicates that a fair number of whites displayed more than a passing concern at the abolition of the Cape African franchise. However, as we have observed, Natal whites appear to have been generally uninterested in the issue.

<sup>113</sup> Haines, *Edgar Brookes and the Liberalism of the 1930s*, pp. 86-87.

<sup>114</sup> Hofmeyr Papers, Aa, Rheinallt Jones to Hofmeyr 6 April 1936: 'The Joint Councils *may* become more left - indeed may be well advised to become more left in order to prevent the Communists leading the Natives into grave trouble.'

of liberals at this time.<sup>115</sup>

R.F.A. Hoernlé seems to have been one of the few liberals acutely disturbed by the existing state of affairs, and to have adequately perceived the threat posed by Afrikaner Nationalism. By 1938, if not before,<sup>116</sup> he felt the need for a re-thinking of South African liberalism. To Gilbert Murray<sup>117</sup> he wrote:

The practice of liberality within a group, is one thing, if the members of the group are *homogenous* in blood (by which I do not mean certain modern race theories, but merely that they practise inter-marriage freely) and in culture, and it is another thing, when the population of a country is extremely *heterogenous* in both these respects.<sup>118</sup>

Hoernlé, in his Phelps-Stokes Lectures of 1939, on the subject *South African Native Policy and the Liberal Spirit*, argued that the 'liberal spirit' was not only confined to individuals, but also embraced groups, and that these two categories were intimately linked.<sup>119</sup>

He went on to declare that there were three possible alternatives for the future pattern of race relations in South

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<sup>115</sup> This is not to say that there was an absence of disillusionment and despair. In 1939, J.S. Marais concluded his work on the Cape Coloureds with the following words: 'Today the question is not whether it will be possible to extend the Cape's institutions northward, but how much support the Cape tradition still retains in the Cape itself. The fact is that European public opinion in the Cape Province during the twenty-eight years since Union has grown up to the idea of colour-bar legislation.' Marais, *op. cit.*, p. 284.

<sup>116</sup> Cf. his fairly optimistic speech entitled 'On the Future of the Native Peoples in South Africa', delivered in the Port Elizabeth Town Hall on 5 July 1937. For a full text of the address see *Race Relations*, Vol. IV, No. 3, (August 1937), pp. 55-60.

<sup>117</sup> Murray was a Professor of Classics at Oxford University.

<sup>118</sup> R.F.A. Hoernlé Papers, Hoernlé to Murray, 9 May 1938.

<sup>119</sup> R.F.A. Hoernlé, *South African Native Policy and the Liberal Spirit*. (1939), pp. 149-150.

Africa - parallelism, assimilation and total separation - 'each of which might claim the support of liberal-minded men'.<sup>120</sup> He personally could only see separation as the liberals' choice, but even so, realised that this was not practical, and offered 'no ultimate hope for the liberal spirit'.<sup>121</sup>

Despite this seemingly nihilistic conclusion, he took his fellow liberals to task for failing to fashion a strategy which would lead to a society without racial divisions:

In the present-day South African world /he wrote to D.L. Smit/ there is not, in my opinion, any hope or prospect of the realization, under the leadership of the white castes, of the abolition of racial castes. But, I fail to see how those liberals who, for this reason, avoid, or refuse, or give up, the effort to think out the application of liberal principles in some kind of social structure without racial castes, are really serving the cause of their principles most effectively. It seems to me that, thereby, they allow the upholders of an illiberal theory and practice to win the contest by default. They confine their efforts - in fact, if not by intention - to ambulance work within the caste society and tending to strengthen the caste society; and they shut their eyes to, or else simply remain unaware of, this fact.<sup>122</sup>

The liberal response to Hoernlé's argument was essentially negative.<sup>123</sup> Critics, by and large, did not fasten on to

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<sup>120</sup> *Ibid.*, p. 158.

<sup>121</sup> *Ibid.*, p. 178.

<sup>122</sup> Smit Papers, 25/41, Hoernlé to Smit, 27 November 1941, enclosing a memorandum entitled 'Reflections on the Racial-Caste Society of the Union'. Extract cited by P. Rich 'Liberalism and Ethnicity in South African Politics', *African Studies*, Vol. 35, No. 3-4, (1976), p. 241.

<sup>123</sup> See e.g. review of the Phelps-Stokes Lectures in *The Forum*, April 20, 1940, p. 22; and Hoernlé's correspondence with Godfrey Clayton, Bishop of Johannesburg, in Smit Papers, 25/41. See also Rich, 'Liberalism and Ethnicity', pp. 241-242.

the weak links in the analysis: (a) Hoernlé's failure to perceive the economic basis of racial separation in South Africa;<sup>124</sup> and (b) the assumption that the white ruling class held a complete monopoly of power. Regarding the second point, one of a series of papers given at a seminar, organised by J. Lewin and B.A. Farrell to discuss the Phelps-Stokes Lectures,<sup>125</sup> remarked that Hoernlé had not indicated whether a liberal 'could countenance unconstitutional action by Natives'.<sup>126</sup> (The writer, however, did not pursue this point.) Reacting to this particular criticism Hoernlé framed a rhetorical question: 'Would /the/ seminar propose to organize the Natives for violence?'<sup>127</sup> Hoernlé, like his colleagues, does not appear to have adequately explored the possibilities of non-violent protest.

The advent of World War II deflected the debate on liberal strategy. Furthermore, it appears to have had a profound impact on black protest. It is thus difficult to assess adequately to what degree extra-parliamentary protest was affected by the passing of the Hertzog legislation.

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<sup>124</sup> An exception here was George Findlay, who, in a review of the Phelps-Stokes Lectures, pointed out that Hoernlé had ignored 'the pyramid of production and its essential character, affecting all our social correlations'. *Race Relations*, Vol. 7, No. 2, (1940), p. 33.

<sup>125</sup> Lewin was a lecturer in African law and administration at the University of Witwatersrand. Farrell seems to have been either a member of staff or a post-graduate student of this university.

<sup>126</sup> Hoernlé Papers, Summary of Findings of Seminar organised by Mr. J. Lewin and Mr. B.A. Farrell of the University of the Witwatersrand on *South African Native Policy and The Liberal Spirit* by Professor R.F.A. Hoernlé, n.d.

<sup>127</sup> *Ibid.*, Remark pencilled in margin by Hoernlé.

### CONCLUSION

The extra-parliamentary opposition to General Hertzog's segregation legislation between 1925-36 does not lend itself easily to categorisation. It was an amorphous movement. Nevertheless, certain main trends can be dimly discerned.

Between 1925-28, one finds an overall clarification of attitudes and a hardening of opinion towards the legislation. But a disciplined organisational response was lacking. In 1929, with the formation of such bodies as the NRFA and the LAR, it seemed that opposition would become more assertive and coherent. However, internal purges in the ANC and CPSA, coupled with the advent of economic depression and the intensification of state repression, contributed to a wavering in African protest, especially during 1931-32.

The opposition movement probably reached its height during 1935-36, though it was not as unified or impressive as some commentators have argued. For instance, the climax of black resistance to the Bills came in December 1935 with the formation of the All African Convention. But even at the December meeting, undercurrents of compromise were present. Moreover, the 'big guns' of the Convention were, for the most part, in favour of negotiation and moderation. 'Naturelle bly stil', proclaimed the placards of an Afrikaans newspaper.<sup>1</sup> By February 1935 the AAC had lost a good deal of its momentum, a state of affairs reflected in the activities of its two delegations (particularly the first) in Cape Town. In the early months of 1936, the white liberals came to the fore, but even their campaign had petered out somewhat by April 1936.

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<sup>1</sup> Cited in Roux, *op. cit.*, p. 289.



In short, the extra-parliamentary opposition to the Hertzog Bills was not a coherent movement, but rather a series of reactive and *ad hoc* responses. For the entire period 1925-36, the various protest groups were on the defensive.

The Segregation Bills, insofar as they represented a challenge to so many different kinds of people, provided extra-parliamentary pressure groups with a fine opportunity to form a united front against the further elaboration of a discriminative 'Native policy'. Although there were sporadic moves to achieve closer cooperation between opposition forces, these were, even in conception, insufficiently synoptic. Ironically, the CPSA, during 1926-27 and 1935-36, was probably the most enthusiastic protagonist of such an idea - a fact which may have hindered efforts to formulate a strategy incorporating short-term goals acceptable to all parties. Yet in retrospect, ideological differences between the various participants in the struggle were not often as wide as was claimed, or might have seemed at the time. While the CPSA was in theory committed to revolutionary action, it is debatable whether this was the case in practice. Moreover, it is misleading, as we have implied, to classify African leaders like Gumede, Kadalie, Thaele and Champion as radicals. They were in their own way articulating middle-class aspirations. For instance, in 1930 W.G. Ballinger described Champion as 'the immediate future leader of the rising Native Middle Class'.<sup>2</sup> Again, the toppling of Gumede from the presidency of the ANC in 1930 was not simply the result of an aversion for Marxist ideology - it was also a power struggle.<sup>3</sup>

Indeed, in terms of its leadership and participants, African opposition to the Bills was largely élitist. The ICU, and perhaps the LAR, involved the working classes, but even here there was no mass action *per se*. Though the mood of

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<sup>2</sup> ICU Records (Wits.), File 3, Ballinger to Leys, 8 August 1930.

<sup>3</sup> H. Selby Msimang, personal interview, 26 June 1978.

resentment spawned by the 1935-36 crisis permeated all levels of African society, the AAC displayed little or no militancy in its operations. Protest meetings against the Hertzog legislation rarely attracted more than 1 000 people and the largest public demonstration by Africans during the years 1925-36 - essentially a protest against the pass laws - attracted about 3 000 persons. Instances of militant mass action, were localised and concerned with issues like pass laws, low wages and poor working conditions. The extent to which the African masses could have been co-opted to oppose the Hertzog legislation is a matter for speculation.

In an earlier chapter we discussed the difficulty of trying to form a picture of how the African working class perceived the Hertzog Bills. To theorise about worker consciousness at this stage is, of course, beyond our brief. However, it can be pointed out that during the 1920's and 1930's, at least, the distinction between the various classes constituting African society was not always so clear cut.<sup>4</sup> In addition, the African working class was not a homogenous entity. Furthermore, the perceptions and aspirations of the individual African appear to have been partly dependent on the degree to which he or she had received formal education.

In order to come to terms with the dynamics of African opposition to the Hertzog Bills, the fact that Africans were operating under a system of inequality should be taken into account. For example, African protest organisations were more than a vehicle for the propagation of African opposition to white regime. Those occupying key positions within these bodies were assured of some social prestige.<sup>5</sup> Organisations were also seen by some as a means of capital accumulation.<sup>6</sup>

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<sup>4</sup> Haines, 'Reflections on African Protest'.

<sup>5</sup> See e.g. ICU Records (Wits.), File 3, M. Hodgson to Leys, 12 July 1933.

<sup>6</sup> Haines, 'Reflections on African Protest'.

The rather uninspiring performance of African protest bodies in their opposition to the Segregation Bills can be partly ascribed to a lack of organisational ability on the part of most Africans. Generally, they lacked the training and educational background of their white counterparts. In 1932, Dube wrote to Pim, seeking the latter's advice regarding a newly established self-help organisation:

/The/ Majority of our educated men do not understand /how/ to handle funds and I shall be glad if you can make some suggestions to avoid misuse of our organisation's funds.<sup>7</sup>

Organisational weaknesses were paralleled by shortcomings in African leadership. With the possible exception of Kadalie during his hey-day, there was no charismatic leader with national appeal. Tribalism, personal rivalries, state coercion, the overall parochialism of the African press and the fact that Africans were usually part-time politicians, were among the reasons inhibiting the emergence of a strong cohesive leadership.

The tendency of African leaders like Dube, Pelem, Mapikela, Thaele and even Jabavu, to establish personal fiefdoms in their particular areas, contributed to a regionalism in African opposition to the Segregation Bills. This regionalism was also the product of the immediate economic aspirations of certain interest groups (e.g. progressive African farmers in Zululand), the relative poverty of a particular area, and ethnic considerations. Such factors could, and did, coincide.

Land hunger and rural poverty undoubtedly muted African opposition to the Hertzog Bills. Indeed, during the early 1930's, Africans probably came closest to acquiescing in segregation than at any other time during the period 1910-36.

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<sup>7</sup> Pim Papers, B1 1, Dube to Pim, 8 June 1932.

Even during 1935-36, there were groups of Africans willing to barter the Cape franchise for more land and development funds. Moreover, Cape Africans were relatively passive during the passage of the Land Bill through Parliament. Had Hertzog offered Africans a more generous Land Bill, and a scheme of separate representation which retained the principle of the individual vote, and which provided Africans throughout the Union with approximately ten representatives in the Assembly, it is quite conceivable that they would have offered no more than token resistance.

This is not to say that there was not a good deal of resentment towards white rule in general and the Hertzog legislation in particular. We have already mentioned the lack of a creative leadership that could translate the discontent experienced by Africans into activities that could check the elaboration of a policy of segregation. For a variety of reasons, the majority of African leaders seem to have held reservations about the idea of leading a mass movement. By tending to identify with the English-speaking South African as opposed to the Afrikaner, a commitment to moderation was reinforced.<sup>8</sup> But these leaders were not necessarily naive: it can be argued that they were responding, in part, to class interests.<sup>9</sup> In some instances, leaders were willing to short-circuit demands for meaningful participation in the white economic and political order, in exchange for immediate and limited gains. Dube, among others, went as far as to actively regulate protest.

On the other hand, one should not overlook the relative political passivity of Africans in general. Most Africans, as we have argued, overestimated the coercive apparatus of

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<sup>8</sup> Simons, *op. cit.*, p. 429; Nicholas Petryszak 'The Dynamics of Acquiescence in South Africa', *African Affairs*, Vol. 75, No. 301 (1976), p. 449.

<sup>9</sup> See B. Willan, 'Sol Plaatje, De Beers and an Old Tram Shed: Class Relations and Social Control in a South African Town, 1918-1919', *Journal of Southern African Studies*, Vol. 4, No. 2. (1978), pp. 195-215.

the state. They were reluctant to experience state action, to court arrest by undertaking acts of passive resistance. In addition, frustration with the white regime was partly dissipated in a number of ways: through in-group aggression, alcoholism, participation in separatist or independent religious sects, etc.<sup>10</sup>

A certain passivity, a resignation to white rule, can also be detected among the Coloureds and Indians. Indeed, both individually and in their relations with each other, the three subordinate groups helped perpetuate their minority status. The second point is illustrated by the refusal of Indians between 1925-36 to associate with Coloureds and Africans in political protest.

Coloured opposition to the Hertzog Bills was many-faceted. We have suggested that the response to the 1926 Coloured Persons' Rights Bill was, to an extent, class-based. This opposition was also conditioned by regional and ethnic interests. It is difficult to say to what degree class considerations were related to the tensions between the APO and Coloured activists and radicals in the 1930's. For example, little is known about the membership of the National Liberation League.

Despite APO-ANB rivalry, it is debatable whether there was greater cooperation between Coloureds and Africans in resisting the Hertzog legislation in 1935-36, than in the second half of the 1920's. There is no evidence of the two AAC delegations actively seeking Coloured support or advice. The APO and the National Liberation League appear to have done little more than participate in the December 1935 meeting of the AAC, and the odd white liberal venture. Furthermore, those involved in building up the ANC in the years immediately after 1936, made it clear that their

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<sup>10</sup> See e.g. Petryszak, 'The Dynamics of Acquiescence', pp. 457-462; and Macmillan, *op. cit.*, p. 228: 'Despair it may be has driven a man like Seloape Thema to hopeless drinking.'

priority was African rather than black unity. The major external influence on African nationalism came from the white liberals. This group had a paradoxical effect on moderate African opposition to the Hertzog Bills. On the one hand they bolstered such protest when it seemed to be flagging, and on the other hand they, and largely unwittingly, sapped the initiative of 'responsible' African leaders.

At no time during the period 1925-36, did white liberals fully explore the limits of constitutional protest. In the years after 1929, this failing can be partly ascribed to the establishment of the SAIRR. For many liberals, the Institute represented a long-term strategy - the education of white public opinion. Diversity within liberal ranks also inhibited the development of a more militant outlook.

Legassick contends that white liberals in the inter-war period, ideologically and institutionally, 'acted to reproduce the particular racially differentiated structures of South African capitalism'.<sup>11</sup> Undoubtedly, English and Jewish capital had a moderating influence on extra-parliamentary opposition groups. White capitalist control of certain African newspapers is an example. But to assert that white liberals were tools of, and were sustained by, mining and industrial interests, is to find oneself in the twilight realms of a history of ideas where evidence is highly equivocal. If, for instance, the mild reformist ideas of the liberals were implemented, would mining and industrial capital have benefitted both in the short and long-terms? How does one account for the fact that although S.H. Frankel<sup>12</sup> might have been sympathetic to the needs of the mining industry, people like W.G. Ballinger and George Findlay were critical of the Chamber of Mines and the system of exploitation underpinning the South African

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<sup>11</sup> M. Legassick, 'Race, Industrialization and Social Change in South Africa: The Case of R.F.A. Hoernlé', *African Affairs*, Vol. 75, No. 299 (1976), p. 237.

<sup>12</sup> Frankel was a liberal economist.



economy?<sup>13</sup>

While the author is of the opinion that the new 'radical' school<sup>14</sup> has furthered considerably an understanding of southern African history, he is sceptical of claims that the protagonists of this school (such as Legassick) have achieved, at the present stage at least, a significant advance in the field of historical methodology.<sup>15</sup> Assuming for a moment that a well defined theoretical standpoint is ultimately the most satisfactory way of analysing past events, it is questionable whether the Marxist theory which generally underlies revisionist work, is necessarily the most superior perspective on social reality. As philosopher James Feibleman has pointed out,

Marxism is a curious compromise between the subjective and the objective. It holds itself to be materialist and therefore objective, but the theory of reality emerges from the theory of man, a social theory of the economic mode of material production. The aim is not to understand the world but to change it, to change it, that is, in ways more favourable to human social life. Thus science becomes identical with applied science, and reality derives from a theory of man, no less so because the emphasis is on man as engaged in the class struggle. But a theory of reality derived from any theory of man is at least heavily tinged with subjectivism.<sup>16</sup>

No historian, whatever his ideological bias, can afford to be complacent about the manner in which he conceptualises and

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<sup>13</sup> For Ballinger's anti-Chamber of Mines stance and his disdain for Frankel see correspondence in ICU Records (Wits.), File 3.

<sup>14</sup> It is realised that this is a somewhat unsatisfactory label.

<sup>15</sup> For an idea of the so-called liberal-radical debate see e.g. Harrison M. Wright, *The Burden of the Present: Liberal and Radical Controversy over Southern African History* (1977); P. Maylam's review of *The Burden of the Present* in *Journal of Natal and Zulu History*, Vol. I (1978), pp. 57-58; Legassick, 'Race, Industrialization and Social Change', pp. 224-225; and John Wright's review of *The Burden of the Present* in *Reality*, Vol. 9, No. 5, pp. 14-17.

<sup>16</sup> James K. Feibleman, *The New Materialism* (The Hague, 1970), p. 7.

describes the past. However, in any revaluation of methodology, it is the author's belief that the following observation of Robert Rhodes James, rhetoric aside, represents sound advice:

It is a chronic failing of historians in all fields to regard history as a technological business. History would be a rational and precise science if mankind were a rational and precise entity. History is a ragged, untidy affair because man is a ragged and untidy animal ... The historian who tries to impose a pattern upon this fascinating process is committing fraud, for he has forgotten the one central feature of history; that it is a human business and subjected to all the human strengths and frailties.<sup>17</sup>

To get back to our subject, it should not be forgotten that the agitation against the Hertzog Bills, during the period 1925-36, took place at a time when external pressure on South Africa, to give black citizens more political rights, was negligible. Racial prejudice appears to have been more prevalent than today. For example, in 1932, the Communist International decided to suspend propaganda among coloured Americans, on the grounds that the 'inherent ignorance of the coloured races makes their unity impossible'.<sup>18</sup>

The enactment of the Hertzog legislation was a highly significant event. The 1936 Land and Trust Act is one of the conerstones of the homeland policy of the present ruling party. And, it is possible that if the Cape African franchise had been saved, the pattern of black-white relations would have been substantially different today:

Abolition of the African franchise /Kuper maintains/ effectively removed a common institution by which individual mobility

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<sup>17</sup> Robert Rhodes James, 'Thoughts on Writing Military History', a lecture given at the Royal United Services Institute on 8 December, 1965.

<sup>18</sup> *The Star*, 2 September 1932.

might have contributed to collective re-stratification on a non-racial basis. It established an absolute monopoly of power and raised the collective restratification on a non-racial basis. It established an absolute monopoly of power and raised the collective principle of organization as a barrier to individual mobility across racial lines.<sup>19</sup>

But this is to argue with hindsight. Few, if any, of the participants in the protest against the Segregation Bills appear to have foreseen the full implications of the passing of the legislation:

... the 1936 Bills /Maurice Webb recollects/ were a turning point in South Africa's history. Underneath the Bills was much more than whether Natives should have more land or whether they should have one kind of vote or another. You could accept the Bills as Smuts did, hoping that they would be tolerably administered or as Hofmeyr did, with protest against the loss of the personal Native vote in the Cape, and still keep the United South Africa of the National Convention as your goal; or you could see in the Bills a step in a different direction leading to a quite different goal, a South Africa not united but separated, white from non-white with the white on top, and behind that, seen as yet only with the mind's eye, with Afrikaner separated from British with Afrikaner on top. And if you had your minds fixed on these quite different ends you could not talk over and come to agree upon the means to achieve them. That seems clear to me now, 20 years later. It was not clear then.<sup>20</sup>

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<sup>19</sup> L. Kuper, *Race, Class and Power: Ideology and Revolutionary Change in Plural Societies* (1974), p. 159.

<sup>20</sup> Webb Papers, Unpublished autobiography, Chapter XIV.

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