

The fixing of a "total mortgage" in the policy of territorial separation does not take this last factor into account.

(In making these estimates - for what they are worth - it has not been possible to take into account the land already purchased by Natives outside existing scheduled Native areas, as the authoritative information as to the total extent is not at hand).

3 A. Control of Natives on Land other than in "Scheduled" and "Released" Areas

The Bill, in Chapter IV, follows up the restrictive provisions of the Natives Land Act of 1913 and earlier measures: x. in regard to the presence of Natives on European-owned and Crown Land outside the "scheduled" areas by a further series of measures intended to restrict and control the presence of Natives in areas other than the "scheduled" and "released" areas. The chapter will be applicable to land in European areas and European-held land in released areas and may be applied piecemeal both as to the areas and the portions of the chapter to be applied.

Under this Chapter, the only Natives who may reside on land so proclaimed will be

- (a) A Native if he is the registered owner of the land, or
- (b) A Native bona fide and continuously employed by the owner in domestic service or farming operations or business, trade, industry or handicraft carried on by the owner, or
- (c) A Native male adult labour tenant whose services are required by the owner under a contract to render labour services,
- (d) A Native who is a registered squatter, ^{i.e.,} a male Native over eighteen years who is neither a servant nor a labour tenant, or
- (e) A Native specially exempted from the prohibitions of the Chapter (i.e., wives and children, except males over 21, and actual dependents, specially exempted ministers, evangelists, teachers, aged, chronically infirm and destitute);
- (f) The families and dependents of the above (except males over 21).

A progressive scale of fees for each squatter (amounting in the tenth and subsequent years to £5 per annum) is to be imposed on European land-holders, thus applying to the whole country the system applied to the Transvaal and Natal under the Native Service Contract Act of 1932. Unlicensed squatters will either have to be engaged as full time domestic servants or other employees, or as labour tenants (if permitted by the Control Board) or to leave the area.

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.x. The main laws prior to 1913 were Cape: Private Locations Act 1909; Natal Law 2, 1855; Transvaal Law 21 of 1895; Orange Free State; Chapter cxxxiii of the Law Book and Law 4/1895.

The number of labour tenants permitted on a farm is to be limited by a Labour Tenant Control Board to the actual labour requirements (it being assumed that every labour tenant renders to the owner at least six months' service in each year, and that unless otherwise proved, five labour tenants are sufficient for any one farm). The landholder may be compelled by the Minister or the Native Commissioner or six landholders in the district to appear before the Board to show cause why he should not get rid of all tenants whom he cannot prove to be necessary for his purpose.

Displaced Natives are to be provided for in "scheduled" or "released" areas by the Native Affairs Department (not by the Trust). The machinery for ejection appears to be adequate, but there appear to be no machinery or funds provided to enable the Native Affairs Department to settle the ejected Natives in the "scheduled" or "released" areas.

The onus of proving that he is entitled to remain on European-held or Crown land rests upon the Native.

The extension of these provisions to the Cape Province (with however a saving clause as to existing leases under the Private Locations Act) will probably cause considerable concern to the Natives there. The former Secretary for Native Affairs (Major J.F. Herbst) submitted to the Joint Committee of 1932 a memorandum on this aspect, in which he expressed the view that "as Natives in the Cape Province are to be restricted as regards the acquisition of land, it seems like swallowing a camel and straining at a gnat to insist upon their being permitted to continue to lease on the basis laid down in the Private Locations Act". He held that "the chief difference between Chapter III of the Bill and the Private Locations Act is that the former does not permit Natives entering into bona fide written leases of European-owned land such as are permitted under the Private Locations Act. It is clear, however, that up to the present Natives have not taken advantage to any appreciable degree of the facilities allowed under the Private Locations Act in this connection, since the number of such leases in existence today throughout the Cape Province is only forty-three". The Native Affairs Department supported the provisions of Chapter III. (Chapter IV of the present Bill).

This section of the Bill affects about 1,618,000 Natives, and it should be noted that in some instances the tribes to which the Natives belong have been resident on the land since before the European occupation.

B. Control of Europeans in Native Areas

"The most common and at the same time the most numerous phases of European activity in areas specially set aside for Native occupation are trading and missionary enterprise", also concessions for the exploitation of natural products, e.g. Euphorbia, negotiation of mineral contracts and the acquisition of servitudes over Native land for irrigation and other purposes:x:

The proposals appear to be more stringent than any
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.x. See Rogers Native Administration in the Union, page 140.

hitherto in force in any of the Provinces. The effect upon missionary organisation, for example, of Section 23 which prohibits Non-Natives from residing or carrying on any profession, business, trade or calling in a Native area without an official and written permission will be considerable if applied strictly.

It should be noted too that a restriction as to engaging in any of the occupations mentioned, without a licence issued with the permission of the Minister, applies also to Natives.

4. Compulsory Fencing.

The Second Schedule to the Bill lays down the circumstances in which Europeans or Natives (or the Trust) may be called upon to fence their adjoining lands. Section 21 indicates that it is intended that the Trust will be able to act for Native owners very much as the Land Bank will for the European owners as provided for in the Schedule.

5. E. HOW WILL THE BILL WORK

The account so far given of the provisions of the Bill has, it is hoped, made clear the advantages of the proposals and brought out some of the difficulties which will surround any bona fide administration of the Bill as law. It is clearly intended that the Bill shall result in the migration of a considerable number of Natives away from European areas, and that those who remain shall only do so under stringent conditions. The Bill calls for the consideration of the following points:-

1. Will the land, which it is now proposed to release for acquisition by and for Natives, be adequate for Native needs, in the light of the restrictions now to be imposed on Native occupation of European lands, and the rate of the natural increase of the Native population?
2. Is the South African Native Trust sufficiently endowed for its purposes? (N.B. Assuming an average price of £2 per morgen for the seven and a quarter million morgen which the Trust and Natives may acquire, it will cost not less than £15,000,000 to assure the maximum mortgage for the Native population, quite apart from the development and other functions of the Board.)
3. What effect will the Bill have upon
 - (a) the economic position of the Native in the three areas - the Reserves, the released areas and European areas.
 - (b) the agrarian situation generally (e.g., the organisation and distribution of farm labour).
4. To what extent will the Bill carry out the policy of territorial segregation?

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