

POLICIES AND PRACTICES  
OF  
NATIVE PARTICIPATION  
IN  
MUNICIPAL GOVERNMENT  
IN  
SOUTHERN AFRICA

BY

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## CHAPTER 1

### INTRODUCTION

#### (a) Comparative Factual Position.

In presenting this study on policies and practices of Native participation in municipal government in Southern Africa, the endeavour has been to cover as arbitrarily as possible that portion of the African continent which lies below the equator. That the small portions of Somaliland and Uganda which protrude over the great circle of the terrestrial globe have been omitted from this thesis is because of the virtual absence of certain racial groups, other than the native inhabitants or aborigines, who play such an important part in the shaping of institutions designed for the better administration of the community.

Of Africa as a whole it may be said that the peoples of the Mediterranean coastal strip, which include French Morocco, Spanish Morocco, Tangier, Tunisia and portions of Algeria, Libya and Egypt, bear cultural affinity to those of Europe and the Middle East. In the region to the south not falling within the practically uninhabited Sahara Desert, Mohammedan influence is so strong that the prevailing culture could be termed Asiatic rather than African. This applies especially to the Sudan, Eritrea, the Somalilands and to some extent to

/portions .....

portions of Ethiopia. In the portions of Africa south of the equator five powers have interests therein, each pursuing a characteristic policy and committed to a particular creed, namely, France, Belgium, Portugal, Great Britain and the Union of South Africa. In general, the differences in policy are ones of formulation rather than application; and except for differences of creed, (Protestantism of the Union and Great Britain as against Roman Catholicism of the others) these centre mainly around interpretation of the principles of the Christian faith common to them all.

Where the presence of White people is large enough to afford evidence of their permanence, the aboriginal majority automatically presents a problem, and the larger the White population, the more complex does this problem become. The figures reflected below clearly indicate that in no country covered in this thesis are the Whites in the majority. The number of natives per each European in the various territories are as follows: (1)

1. French Equatorial Africa	188.73
2. Belgian Congo	178.96
3. Angola	51.15
Mozambique	133.55
/4. ....	

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(1) Bantu : Special Edition : 1954 : The estimate was in 1951. If the figures do not equal those mentioned in succeeding chapters, sight should not be lost of the fact that other racial groups have not been taken into account or that the time of estimation or the source may differ.

4.	Kenya	174.74
	Tanganyika	441.99
	Swaziland	56.63
	Bechuanaland	123.03
	Basutoland	332.28
5.	Federation of Rhodesia and Nyasaland	34.39
6.	South West Africa	7.46
	Union of South Africa	3.22

Whilst mention was made of "five powers" having an interest in Southern Africa, sight was not lost of the fact that the Federation of Rhodesia and Nyasaland could well have been mentioned on the side of the Union and the United Kingdom as the "sixth" power. It is a striking fact that over 82% of all Europeans south of the equator live in the Union. Even if the three Protectorates and South West Africa were to be annexed to the Union, its ratio of Natives to Europeans would still remain the lowest.

When thinking of the term local government and its main function the provision of services, and not government, comes to mind. Also it is usually asserted that local authorities must seek to exist in their own right and not as the tools or shields of central government. This may be true in the case of a homogeneous community. The situation of the populations in the various municipal areas in Southern Africa being heterogeneous in the extreme, is further complicated by two factors what might be called the sociological factor and the factor of civilization. It is a sociological fact that groups of separate cultural, ethnological, racial, language origin and ways of life rarely live in

/harmonious .....

harmonious peace especially when there is a recent history of conflict. There tends to be a permanent feeling of distrust. In all these towns, the sociological factor is made more difficult by the difference in civilization as well as physical appearance. The European feels almost instinctively that the native people have not reached those heights of civilization which are required to qualify them to take part in any democratic governmental institutions as known among the western nations.

Coupled with the normal functions as may rightly belong to local government is the further question of the detailed administration of the natives as quite a separate and distinct entity of the municipal population. Thus apart from various services a local authority is required to provide for its citizens and ratepayers, it is further required as the central government's agent to carry out various control measures in respect of its native community as well as those who may wish to visit the municipal area. Compared with enactments applicable to other non-native residents, a degree of discrimination of necessity arises.

In order to give effect to the various administrative measures designed for the primitive section of the inhabitants, the addition of various penal sanctions foreign to western ideas, is resorted to in most territories. To mention but a few, it constitutes a

/criminal .....

criminal offence for a tenant (if he is a native) to be in arrear with site rental where the landlord is the local authority, to allow any person to sleep in his house without a permit, for a native from elsewhere to visit a native township without the municipal administration's approval, and for a native township resident to be outside but within the municipal area during certain hours of darkness without the required approval. Permission to work in the municipal area is controlled and regulated and so is the right of entering a proclaimed urban area. The right to possess intoxicating liquor is subject to control. It can be said that the general living and working conditions of natives in urban areas in most of the territories are in one or another way subject to be regulated and controlled.

These measures were provided because they were considered essential for the effective administration of a population the vast majority of whom has not as yet reached the standards of civilization as laid down or accepted in the concept of modern ideas. These remarks are made not with a view of defending the necessity thereof or of criticising them, but purely to indicate the difference in the approach to local government on the African continent as compared with Europe and America. Even in territories north of the equator where the urban populations happened to be homogeneous, the absence of control measures had in some areas resulted in chaos. But it is in this set-up of things that the position of the Native in local governmental  
/matters .....

matters has to be assessed and adjudged.

As the local authority has no constitutional say in the formulation of policy, but is merely required to act as the central government's principal agency in giving effect to its policy, its actions are largely dictated by governmental instructions and directives. That the actions of a local authority must accordingly harmonise with such policy as may be laid down for the country as a whole is therefore axiomatic. Policy as determined by the centre greatly affects the general pattern of local government.

Thus the French African territories being part of Greater France, the aim is not self-government, but self-administration. Local government is closely knitted on the pattern of central and territorial governments, and full municipal status is only granted when the budget can balance within its own resources.

The Congo is regarded as a possession of Belgium. The general attitude is that the case of each native will be treated on its merits. Whilst its latest professed policy is theoretically moving in the direction of partnership (the Belgian Congo as such must eventually become a partner of Belgium, a kind of "Commonwealth of Belgium and the Congo") it is at present and in practice one of guardianship of a strict supervisory character. The trend is that the native must first become independent economically before he

/qualifies .....

qualifies for political rights. Furthermore, the Belgian government is more inclined to the British approach of starting at the base of local government upon which will be erected the pyramid of government.

When Portugal was admitted to the United Nations, she replied to a question, bluntly but quite calmly: "We have no colonies". The Portuguese African Territories, being Overseas Provinces of Portugal, are closely integrated into a unitary government at Lisbon. It is the most centralised of all colonial systems. Characteristic of Portugal is that the executive has more authority than the legislature. Local authority in the usual democratic sense of the word is non-existent. The Natives can be either indigenas, in which case they are looked upon as children, or they can qualify as citizens when they enjoy the same status in all respects as an ordinary white Portuguese citizen.

Of British policy in Kenya it can be said that up to 1943 it was one of trusteeship, the aim being self-government in which natives could participate. Since then the idea of trusteeship has given way to one of partnership. In Tanganyika, communal difference is of a less marked feature of political life than elsewhere in East Africa. The European community is of a less homogeneous group and does not occupy a compact block of land as the settlers in Kenya. Also the territory being under trusteeship the Europeans accept that their sojourn is temporary until the indigenous people  
/have .....



have reached a sufficiently high standard of civilization to govern the country.

In the Federation of Rhodesia and Nyasaland the official policy is one of partnership in all spheres except perhaps the social. The policy of the Union of South Africa is segregation in all respects. The native's sojourn in European areas is regarded as of a temporary nature only. The government views the country as consisting of separate areas in which the interests of the group for which the area is reserved must remain paramount.

(b) Urban Local Government Problem.

The British Colonial Secretary said in the House of Commons: (i)

"I do not believe there is any better training for the art of self government than participation in local administration. Our own history shows that our constitutional government, developed in Westminster, has owed a very great deal to our experiences in local administration ..... I regard the extension of local government as one of the quickest and certainly the surest methods of making certain of the extension of central government."

However, in Africa it is a different history

/and .....

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(i) Colonel Stanley, House of Commons, 13.7.1943.

and tradition. The basis of the whole pattern of social relationship of the Bantu society is the family and the political structure has developed out of this unit. In the family, the elders discuss family affairs and together with them the head approves of decisions which must then be obeyed by all members. In turn, when the head of the family attends the "ward" council, he becomes one of the elders who, with the family heads, discuss "ward" affairs for the chief (head of the ward) to approve. So throughout the system of various councils the lines of communications are held between family and State. There is a great variety in kinds of chieftainship and councils of elders, e.g. hereditary and non-hereditary.

Thus what is called "local government" in Africa is in reality "tribal government". This tribal government does not correspond in its essence to urban or municipal government, but it is really a small-scale and primitive form of State government, concepts and functions (the enforcing of taboos, the dispensing of tribal justice, the acceptance of services or gifts) of quite a different nature from the maintenance of order and decency and social services, which is normally the function of European local authorities. Yet it is on these very tribal authorities that the status and powers of local administration are now increasingly being evolved in most of the territories in Southern Africa.

But when the Bantu moves to the urban centres the picture changes. "That urbanisation constitutes an /inclusive .....

inclusive and far-reaching change is a truism that frequent repetition has rendered platitudinous. But this fact remains true notwithstanding the urbanising influences permeating the whole country as a result of modern means of communication." says Professor Coetzee. (i) He alludes to two aspects: the one being the drift of population to the urban centres and the appearance of the urban pattern of life as the predominant factor in a national culture, a universal phenomenon. This process becomes more intensive with the growth of industry and commerce. The older and better established the rural background and the more recent the move to the cities, the more difficult the process of adjustment.

Despite important differences between them, the rural and urban areas can neither socially nor territorially be completely distinguished since urban influence permeates the countryside. The city represents the most advanced stage in the meeting of Western and Bantu cultures. (ii) For the black man the socio-cultural barrier to be overcome is much greater than for the white man. It involves not only a change from /the .....

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(1) Coetzee Prof. Dr. J.H. : Modern tendencies in the Development of the Urban Bantu in the Union : Paper delivered at the conference of the Institute of Administrators of Non-European Affairs (S.A.) : Margate, S. Africa, Sept., 1957.

(ii) ibid.

the rural to the urban manner of living, but at the same time a complete transition from Bantu tribal culture to the European set-up where the accent is on the individual. The problems of survival and reorientation are more difficult, all the more so if the Bantu's general standard of development, judged by western standards, is taken into account.

While being mainly self-employed under tribal conditions, the urban native becomes an employee, and the master-servant relationship in the towns is mainly impersonal as opposed to rural areas. Generally Native leaders do not yet seem able to distinguish between the purely economic aspects on the one hand and the general political situation on the other. The danger in the situation is the apparent belief that if powers of persuasion should fail, recourse to violence and intimidation would be justified.

Probably the most important social diversion of the Natives is the concentration of great numbers without common socio-religious supervision and traditional cohesion of an ever present family complex, chieftaincy and age groups. In the cities there is no communal decision or collective responsibility as in the tribal areas. Professor Coetzee is of the opinion that the urban native's life has to undergo an important modification in two ways, structurally through the primitive group shrinking and disintegrating, and functionally through the increased responsibility placed on /the .....

the individual. Perhaps the recent policy in the Union of South Africa of settling urban natives according to their ethnological origin is designed to overcome this difficulty in some measure. Thus Southern Africa (as in the rest of Africa) poses very special problems of its own. It becomes a matter of trying to weld indigenous institutions, which grew out of a particular pattern of social relationships, into a shape suitable for meeting the needs of an entirely different pattern and concept of society.

The "rural" areas can be better described as "tribal" (coherent communities with a traditional social unity); and the "urban" is just a mob aggregate which has come together by chance, with no social unity at all. (1) In the tribal areas, the traditional native institutions have been made use of in the administration, and sometimes adapted to more modern ideas. In some territories Native Councils have been artificially created. But when it comes to the towns where members of a variety of tribes may mix together without social cohesion the traditional tribal machinery has broken down. And the question arises of how best these people should fit in the general pattern of urban local government. Meanwhile the matter becomes rather complicated by virtue of the fact that in certain territories

/Natives .....

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(1) Hinden, Rita : Local Government and the Colonies  
page 218. London. George Allen and Unwin Limited.

Natives do not only enjoy the franchise in one way or another, but they also have representation on higher legislative bodies. Yet it is on the local authority level in the towns that they are in practice, if not in theory, denied legislative privileges.

That urban centres will play a part of supreme importance in the political evolution of the native is generally emphasized. Lord Hailey <sup>(i)</sup> predicts that the acceptance of the central government and its policy must be sought in all spheres of local society. He emphasizes, however, that it is nowhere easy to satisfy urban opinion and that it should be remembered that most revolutions throughout the centuries have started from the towns.

(c) Classification.

After much thought it was decided to deal with this rather wide subject first on a geographical basis and then thematical. To have done it in reverse, as might normally have been the procedure, was not considered feasible for a topic of this nature. Conditions prevailing in the various territories differ enormously and are all the more complicated by diversified policies which eventually determine the adaptation of administrative institutions.

/Starting .....

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(i) Hailey, Lord: An African Survey (Revised 1956).  
London, O.U.P. 1957. Chapter VIII.

Starting from the North it was considered convenient to combine into one chapter the Non-British and Non-South African territories, namely, the French province of French Equatorial Africa; the Belgian Congo, a possession of Belgium; the Portuguese overseas provinces of Angola and Mozambique. In the classification of the British sphere of influence on the African territories, it was concluded as logic to link the mandated territory of Tanganyika and the Zanzibar protectorate with the colony of Kenya under one heading in the third chapter. Although Nyasaland is a protectorate of Britain, and Northern Rhodesia de jure also a protectorate but for practical purposes a British colony, it was considered prudent to group them with Southern Rhodesia, a colony with responsible government, in the light of anticipated constitutional developments for this Federation which is at present still on probation. The High Commission Territories of Basutoland colony and the Bechuanaland and Swaziland protectorates will be referred to briefly in the succeeding paragraph. The mandatory territory of South West Africa has in the penultimate chapter of this thesis been accepted for all intents and purposes as part of the Union of South Africa.

The High Commission territories consist of Basutoland, Bechuanaland and Swaziland. It is custom to speak of them as the three "Protectorates", but the term is not correct for Basutoland is a colony. The difference in status has little or no effect in practice  
/but .....

but it has considerable legal significance. In a protectorate the protecting power is bound by its own treaties and engagements, but in a colony all rights vest in the crown, the power of which is unlimited except by its own laws. The Basuto therefore are British subjects whereas the Swazi and the Bechuana are merely British protected persons. The total native population of the three territories exceeds a million people. There are no municipal native townships in the same sense as in the Union and it is therefore purposeless to deal with the Native's role in municipal government. Suffice it to mention that natives from these areas are now classified as foreigners when they enter the Union. (i) These territories are considered by South Africans as ethnically related to the Bantu of the Union and that in due course they should be incorporated and become part and parcel of the Union's Bantu Reserves.

(d) Method of Research.

Native participation in the actual government of his own people in municipal areas has on occasions been discussed at conferences. This aspect has however received very scant attention in reports published from time to time. On the whole publications

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(i)

Natives (Urban Areas) Act No. 25 of 1945 : Section 12 as amended by Acts 16 of 1955 and 79 of 1957.



on the native urban populations focus more attention on other aspects of the problem such as lack of accommodation, low wages, crime and various social and economic matters. In the early part of 1957 the author communicated in writing with the Ambassadors of the countries concerned as well as officials of various municipal local authorities and state departments, soliciting factual information on the situation in a given area. Prior to this and subsequently the undermentioned centres outside the Union were visited personally by the writer with a view to obtaining first hand information on the latest prevailing conditions, and by the courtesy of some local authorities he had extended to him the privilege of actually attending meetings at which the affairs of the native inhabitants were being deliberated:

Mozambique:	Lourenco Marques Beira
Tanganyika:	Dar-es-Salaam Tanga Moshi Arusha Tabora
Zanzibar:	Ngambo Stone Town
Kenya:	Mombasa Nairobi
French Equatorial Africa	Brazzaville
Northern Rhodesia:	Ndola Lusaka Livingstone
Southern Rhodesia:	Bulawayo Salisbury Umtali

/(e) Terminology .....

(e) Terminology.

When speaking of "towns", "urban areas", "local authority areas", or "municipal areas", only the populations living within the gazetted (i.e. municipal) boundaries of the towns are normally referred to, although in most territories a much larger "urban" population, mainly Native, lives outside the boundaries of nearly all the larger municipalities. The correct terminology is therefore taken to mean those Natives who depend mainly on the town for their livelihood and who live in conditions which are urban in character, although in practice any delimitation must be artificial as town gradually merges into country. In some territories peri-urban centres are actually integrated with municipal towns.

The term "Native", "Bantu" or "African" refers to the aborigines of the territory in accordance with the official usage in the country concerned. Thus for example the nomenclature of both Bantu and Native has been enshrined in legislation in the Union whilst the term "African" is being preferred in most of the territories outside the Union's boundaries. On the whole the author has endeavoured to adhere to the expression as contained in the body of the title of this thesis provided it does not appear confusing to readers unacquainted with ruling conditions.

CHAPTER 11

FRENCH, BELGIAN AND PORTUGUESE TERRITORIES.

(a) CENTRAL POLICY

(i) French Equatorial Africa.

Like most of her other colonies, French Equatorial Africa forms part of "Greater France". All major legislation emanates from the Metropolitan Parliament or is secured by ministerial decree, although details of its application may be determined by local ordinances. This territory is directly represented by deputies on the National Assembly as well as the High Court of the French Union, the latter having replaced the previous Senate. The aim of French policy with regard to her overseas territories is evolution towards self-administration and not self-government. (1)

Whilst the proportion of non-native to the indigenous population in French Equatorial Africa is approximately 1 to 189, a clear distinction used to be made between the natives assimilated to French law (the /citoyens), .....

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(1) Journal Officiel, Documents Parlementaires,  
Assemblée Nationale, 24th July, 1953.

citoyens), the "evolved" natives who formed a small intermediate group, and the subjects. To attain the status of a citizen, the applicant was required to have reached a certain standard of cultural assimilation, must be at least 18 years of age, literate in French, monogamous and with at least ten years' service in French employment. The granting of French citizenship meant identical civil and political rights with Europeans and natives were made subject to French civil law, including matters of marriage and inheritance. This did not appeal to the vast majority of the indigenous people particularly those who practise the Muslim faith.

Because of recent developments, French policy has been considerably modified. All the natives in the overseas territories are now classified as citizens falling into two classes, namely, those who have equal status with Europeans and those who acquire local citizenship. To qualify for the former, that is French citizenship, considerable intellectual ability or outstanding services to the country are required. This group forms a very small percentage of the population and is subject to French civil law.

In theory there is universal suffrage in the overseas territories although in practice it is not yet the case. To qualify for the vote, citizens must be able in some way to establish their identity. Holders of labour cards, such as teachers, civil servants, traders, ministers of religion, ex-soldiers and holders  
/of .....

of the various types of licences, may thus be enfranchised. But for those indigenous people living in or coming from tribal areas it is very difficult to qualify. The franchise is thus to a great extent weighted in favour of Europeans and the small native élite usually found in the urban centres. Whilst in some of the French territories the citizens who have been enfranchised vote on a common roll, in French Equatorial Africa voting takes place through two electoral colleges. White people and African French citizens vote on one roll, and African local citizens who can produce proof of identity vote on another. The deputies elected to the Metropolitan National Assembly and the High Court of the French Union may be of any racial group. (i)

(ii) Belgian Congo.

The attitude of the Government of Belgium towards the Belgian Congo has in the past been one of "benevolent paternalism". This territory was annexed by treaty as recently as 1908 and was always regarded as a "possession" of Belgium and in which neither the Belgians nor the indigenous people should enjoy any political rights. However, the authorities recognised that in time greater democratic freedom would have to be given. It was said some six years ago:

/"We .....

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(i)

Race Relations Journal Vol. XX No. 4 - 1953.

"We honestly wish to create a state ..... where the natives will have their full share of political responsibility and economic leadership ..... Our goal is democracy wherein governmental power and even the form of the State is decided by common consent of the people ..... A community must be shaped in which every member of it is treated on his personal merits ....." (1)

Whilst the Congo is administered by a Governor General, power of legislation for the colony is delegated from the Belgian parliament to the King who exercises it by decree. In the Colony is a central conseil de gouvernement and in each of the six provinces there has been established a conseil de province. All these bodies have only advisory powers. The inclusion of unofficial members, including natives, is left to the discretion of the administrative authorities but in practice nominated European and Native members do serve on them. There is also in the Colony a Commission for the Protection of Natives, quite independent of the Governor-General, which publishes a report annually.

A very small minority of the indigenous people has so far been registered, made subject to the rules of the civil code and granted all the rights of the white man in the colony. Certain juridical privileges have been granted to an intermediary class, the  
/evolues, .....

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(1) Wigney, Pierre: (General Secretary of the International Institute of Differing Civilisations) Paper on methods of government in the Belgian Congo. "African Affairs" October, 1951.

evolues, as in the French territories, but this policy has in recent years been questioned and the tendency now is to adapt Native law gradually to Western conceptions and practice rather than to encourage the more advanced minority to seek the legal status of Europeans. The proportion in 1952 of Europeans to Native in the Belgian Congo was 1 : 173.0 (i)

In 1955 a new principle of policy was introduced in connection with local government. In future a regime of trusteeship is to be substituted for paternalism which had up to then been practised. European administrators will henceforth intervene only as instigators, councillors and supervisors. It is emphasized, however, that for a very long time to come very close and strict guardianship must be exercised to compensate for the deficiencies in native management. The Government foresees in fact that this guardianship will never entirely disappear, since local powers will always be subordinated to higher authority. It is obviously upon the adroitness with which the territorial administrator and his assistants carry out their duties of guardianship that the success of the new regime will largely depend. With particular reference to the towns a regime is devised which takes into account the duality of  
/conditions .....

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(i) Race Relations Journal : Vol. XX - No. 4 - 1953; and Industrialisation and Urbanisation in Africa South of the Sahara. Unesco Publication 1956 : Part IV.

conditions existing in the African and European centres - a duality which must moderate the general aim of unity of government to which the Belgian authorities are inclining more and more. The fundamental purpose is to create a favourable background for collaboration in the important matter of building a Belgo-Congolese community. The Governor-General sums up the basic policy very concisely where he says:

"We are beginning with the base, upon which will later be erected a pyramid of the local, district and territorial councils, culminating in the Councils of (i) the Provinces and of the Government".

(iii) Angola and Mozambique.

Portuguese overseas possessions are constitutionally part of the Portuguese nation, and the aim is the integration of all the territories into a unitary government centralised at Lisbon. The mission of Portugal in her colonies is conceived in terms of spiritual assimilation. Portugal has the longest colonial experience of any European nation and Portuguese expansion originally had a large religious element in it. Although Church and State are technically separate in Portugal itself, the Constitution provides that "Portuguese Catholic missions overseas, being an instrument of/ .....

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(i) Pétillon, Monsieur : The Organisation of Native Administration in the Belgian Congo. Journal of African Administration - Volume VIII, No. 2 - April, 1956.



of civilisation and national influence ..... shall be protected and assisted by the State as educational institutions". The Constitution defines Portuguese colonial policy as being "to fulfil the historic function of possessing and colonising overseas dominions and of civilising the native populations inhabiting them".

Lord Hailey is of the opinion that of the states which come within the scope of his most recent survey (i) there is none which can rival Portugal in its insistence on the concept of "identity" in preference to that of "differentiation". A Royal Ordinance of 1755 laid down that in the American possessions of Portugal any Portuguese subject who married a Native woman should be "treated with dignity", and that reference to their offspring as "half-breeds or any similar insulting term" should be punished as a criminal offence. Royal Orders of 1761 and 1763 declared that inhabitants of Mozambique, whether White, Half-caste, or Negro, should all enjoy equal privileges before the law "if enfranchised and free and instructed in the arts and sciences". Hailey suggests that from frequent reference to baptism in these and similar laws it would seem that "enfranchisement" referred in particular to baptism; the profession of Christianity was  
/regarded .....

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(i)

Hailey, Lord : An African Survey (Revised 1956).  
Page 228.

regarded as a sufficient qualification for equal political and judicial rights, if accompanied by a certain measure of education.

There is a Minister for the overseas provinces at Lisbon and a Governor or Governor-General in each colony. Laws altering the form of government of a colony, or affecting Portuguese foreign relations, or authorising public loans, are within the exclusive competence of the National Assembly at Lisbon. Legislation on other matters, which may originate in the legislative organs of the colonies, is promulgated by decree.

The Statute of the Province of Angola as well as of Mozambique lists thirty-one executive functions of the Governor-General. Two may be mentioned. It is for him to set before the Legislative Council the general principles upon which the annual budget should be based, and gain its approval of them. Afterwards he must submit the budget itself to the vote of the Government Council, after which it will be put into effect by portaria. He has a special responsibility for the native population. In the words of the Statute it is his duty "to promote the improvement of the moral and material conditions of the life of the indigenas, the perfecting of their natural aptitudes and faculties and, generally, their education, instruction, security, and progress". He must control the manner in which native policy is put into practice, and especially

/make .....

make sure that the laws concerning the defence of individuals, of freedom of labour, of individual and collective property, and of native uses and customs, are duly observed.

The indigenous inhabitants in the overseas territories are classed as "citizens" or as "aborigines". The latter, who form the vast majority, are those who have not yet acquired a "European" outlook and are without political rights. The task of civilising the indigenous people is left to a considerable extent to Roman Catholic Missions, teaching the Portuguese language being the first stage of this task. Traditional institutions and customs are preserved by a system of Indirect Rule but in this matter Portuguese administration is not analogous to the former British system of Indirect Rule, for the Portuguese, while making full use of existing Native Authorities, exercise close control over the social life of the indigenous peoples. Although they have hitherto avoided the breakdown of tribal organisations, they are prepared to accept this if it will help spiritual assimilation.

It is maintained by the Portuguese that the law distinguishes between civilised and non-civilised natives, refusing to the natives who remain attached to ancestral traditions, the exercise of political rights characteristic of the institutions which are typically European. It is pointed out that in European Portugal, similarly, the right to vote is refused to the

/illiterates .....

illiterates who are not heads of families. It may be doubted whether the comparison is valid and whether the position of the Portuguese overseas territories as constitutionally part of the Portuguese nation can be maintained unless citizenship rights are more rapidly extended to indigenous peoples. (i)

Compared with other European countries, the Portuguese is the most centralised of all the colonial systems of government in Africa since the colonies are regarded as continuations of the mother country. In Africa, Angola and Mozambique (or Portugal overseas as they are also called) are in fact administered as provinces of Portugal itself.

Angola and Mozambique each sends two deputies (who may be of any racial group) to the National Assembly in Lisbon. One of these deputies represents the interests of the indigenous population, and in the case of Angola, has in fact been a member of the latter people. The second deputy is elected by registered voters on a common roll. Those entitled to qualify for the franchise are Europeans, persons of mixed blood and "assimilated" natives.

Decision as to the fitness of a native for assimilated status rests with the local administrator  
/who .....

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(i) Hansard Society: Problems of Parliamentary Government in the Colonies: Colonial Policies: Portugal - Chapter III.

who may or may not be in favour of the principle. In 1950 there were 4,353 assimilated natives in Mozambique and 30,039 in Angola out of a total population of 5,782,982 and 4,145,266 respectively. (i)

While there can be no question of the strength of the sentiment attaching in Portuguese policy to the concept of "identity", Hailey is of the opinion that there are nevertheless well-marked limits to its application in practice. (ii) There is a definite line of demarcation between those who are entitled to exercise the full rights of citizens of the Republic and those who do not yet qualify for the exercise of these rights. In the African Provinces Europeans fall automatically into the former category, which is classed as that of "populacao civilizada"; the Coloured and Indigenous inhabitants come within it only if they fulfil the necessary qualifications. These are, firstly, the definite adoption of the European manner of life and the abandonment of certain native customs, such as polygamy; secondly, the ability to speak fluently and to write Portuguese; thirdly, the possession of some trade, profession, or calling giving a recognised financial status; fourthly, the applicant

/must .....

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(i) Race Relations Journal - Volume XX, No. 4 - 1953.

(ii) Hailey, Lord: An African Survey (Revised 1956).  
Page 331.

must not have evaded his military service. The emphasis placed on the first of these qualifications makes it difficult for anyone who is not a professing Christian to gain recognition as an "assimilado". The number of assimilados is at present limited, partly because the facilities for higher education are such that the possibility of achieving assimilation is practically confined to the urban areas.

Although a number of selected local notables, not necessarily assimilated, were also invited to join in the recent election for the President of the Republic and for the membership of the National Assembly, Hailey maintains that if the ratio now existing between the categories of civilizada and nao-civilizada is maintained for any length of time, it would go far to constitute a denial of the reality of the concept of "identity", so far as this concept purports to confer equal rights of citizenship on Europeans and Natives, for in effect the population is divided sharply between "Portuguese Citizens" and "Portuguese Natives", as can be most readily appreciated from the figures recorded in the census of 1950 and reflected in the following table: (i)

	<u>Angola</u>	<u>Mozambique</u>
(a) Populacao Civilizada		
White	78,826	48,813
	/Half-caste .....	

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(i) Breutz, P.L.: Know Africa - Bantu No. 11, November, 1954 and No. 6, June, 1955.

	<u>Angola</u>	<u>Mozambique</u>
(a) Populaçao Civilizada		
Half-caste	26,335	25,165
Indian	-	12,673
Negro	30,039	4,353
(b) Total Population:	4,145,266	5,782,982

(b) MUNICIPAL GOVERNMENT.

(i) French Equatorial Africa.

When, after the Liberation, the French set about remodelling the constitutional and political structure of their overseas empire, the new arrangements did not include the extension or reform of municipal government. While the new territorial assemblies provided some scope for political action, it was limited by the relatively restricted powers accorded to these bodies, whose functions were mainly financial and in no way legislative.

And at the base, at the level of what could be described as local government, there were no changes at all. The administration remained relatively untrammelled by local authorities of any kind over most of French Equatorial Africa.

In November, 1955, the Council of the Republic (the French Upper House) after months of obstructions, finally accepted a Municipal Reorganisation

/Bill .....

Bill (Law No. 55-1489 of 18th November, 1955). This law relates to municipal reorganisation in French West Africa, French Equatorial Africa, Togo, Cameroons and Madagascar. It is, especially in respect of French Equatorial Africa, much too soon to attempt any assessment of its consequences in practice. In the urban areas of the French territories it was only in Senegal that there were municipalities comparable with those of France itself. (i)

Municipal government progress generally seems to be largely dependent upon the financial arrangements which can be arrived at. Local authorities are loath to accept governmental responsibilities without sufficient financial backing. Whilst municipalities receive certain local fees and charges, their resources are both limited and somewhat flexible, and in recent years they have required considerable assistance from the territorial budget to liquidate their accumulated deficits. The Overseas Territories Committee of the National Assembly in its report on the Municipal Reorganisation Bill remarked that the trouble which had arisen was not of a political kind. Whatever the political make-up of a municipal council, the same difficulties arose. On the one hand, the governor and the territorial assembly took the view that the major

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(i) Robinson, Kenneth: Local Government Reform in French Tropical Africa. Journal of African Administration, Volume VIII, No. 4, October, 1956, Page 179.



part of the revenue should be used for general territorial services; on the other hand, municipal councils and mayors were obliged to meet the expenses of the rapid urban development and services while restricted in their sources of taxation.

Unlike the full municipalities of Senegal and which form a class by themselves, those in French Equatorial Africa consisted of only mixed local authorities ("communes mixtes"). These might have a nominated township committee ("commission municipale") or one elected by a restricted franchise, or, finally one elected by universal suffrage; but in any case, the mayor was an official appointed by the governor, and usually in fact the district commissioner (commandant de cercle). The powers of this "township committee", the members of whom were mostly appointed and not elected, were not very different from those of full municipalities, but of course they were much more effectively under the control of the administration. In theory there could also have been, particularly in French Equatorial Africa, native municipalities ("communes indigènes") but these were never established between 1891 (when their creation was authorised by law) and 1920 (when the legislation was remodelled) and, according to the report of the Overseas Territories Committee already referred to, they were no more successful in taking root after 1920, because the idea took no account of the existence of customary authorities. Such a native municipality was, however, set

/up .....

up in 1943 for the native areas of Brazzaville. (i)

In 1947 new legislation authorised the governor-general, after consulting the territorial assembly, to establish "communes de moyen exercice" which after five years might be transformed into a full municipality. These would have been virtually indistinguishable from the mixed local authorities with township committees elected by universal suffrage, and in fact none was ever created.

Until 1955 a few mixed local authorities, mostly with nominated township committees, were set up in the urban areas, but these were organised substantially on pre-war patterns and their effective control by the administration remained unimpaired. A main issue thus arose, namely, the problem of urban areas and the transformation of at least the more advanced mixed local authorities into full municipalities. Little progress was made to solve the problem until the Mendes-France government of 1954-5 made a determined effort to secure the passing of the Municipal Reorganisation Bill.

The new law is intended to do four main things. First, it enables the Minister of Overseas

/France, .....

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(i) Balandier, G.: Sociologie des Brazzaville Paris; Colin 1955, Pages 167 - 170.

France, with the agreement of an absolute majority of the territorial assembly concerned, to create new full municipalities in any of the tropical African territories, including Madagascar. This, however, may only be done in areas which have a level of economic development adequate to enable them to balance their budgets from their own resources. Secondly, the law provides for the organisation of such municipality, its mode of election in which no distinction is drawn on the grounds of the colour of the skin, revenue and expenditure both obligatory and optional, and the supervisory powers of the administration. Thirdly, provision is made to enable governors, after consulting the territorial assembly to create communes de moyen exercice to be elected on the common roll, but with an official as mayor. After two years, these will be eligible for promotion as full municipalities. Finally, apart from the enabling powers, the law names certain towns, including Brazzaville <sup>(i)</sup> with a Native population of about 80,000 and a European population of over 5,000, which are, by virtue of the law itself, set up as full municipalities and in which elections must be held within one year of its promulgation. A municipal council may only be dissolved by decree of the President of the French Republic. If a council is dissolved, or if all the members resign, the governor may appoint a commission of not less than three or more

/than .....

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(i) Breutz P.L. : Know Africa. Bantu No. 8 - August, 1955.

than seven members (according to the population of the town) to deal with urgent business, and new elections must then be held within two months.

The provisions of the Municipal Reorganisation Law may seem relatively straightforward and, to the extent that it follows a model long established in the full municipalities of Senegal, hardly controversial. Why, it may be asked, so much delay and, more especially, such prolonged opposition from the Council of the Republic which twice returned the present law fundamentally amended to the National Assembly?

One issue was the provision in article 3 of the law which established 44 named towns (including Brazzaville) as full municipalities, without waiting for the employment of the procedure prescribed for future cases. It was strongly argued that it should be left to the government to apply the new provisions in these cases as in any future ones. But on this the African deputies and Senators were adamant. They had had enough of the "immobilisme" of the government during the past ten years. The African deputies and senators made no secret of the fact that they were wholly sceptical whether the government would use the powers conferred on it in the new law unless it was, in effect, compelled to do so. One African member is quoted as having said in the National Assembly:

"We feel that for fear that

/sooner .....

sooner or later they will want to become full municipalities, the administration is careful not to establish new mixed local authorities or to make those already established pass through the stage they wish to".(i)

A second issue was the inclusion in the scope of the bill of all the French African territories. It was argued, particularly by European senators and deputies, that French Equatorial Africa, where the indigenous people were regarded as relatively more primitive, needed different treatment from West Africa, and, more vehemently and more persistently, that Madagascar must certainly be excluded, both because the European members representing Madagascar asserted they already possessed a municipal system somewhat different from that in Black Africa and they feared that the kind of full municipalities envisaged in the law was certain to encourage the "ultra-nationalists".(ii)

The question of the common roll actually formed the mainspring of the opposition to the Bill, the other matters being relatively minor issues in comparison with the central issue.

It should be borne in mind that in the

/Council .....

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(i) Journal Officiel: Débats Parlementaires, Assemblée Nationale, 8th August, 1954, page 3,994.

(ii) *ibid*, 6th August, 1954, page 2,279.

Council of the Republic all the French territories except Senegal and Togo are represented by persons elected by what are in fact, although not in theory, separate European and African electorates. Similarly, in the elections to the territorial assemblies and, except in West Africa, to the National Assembly itself, there are two separate electorates to each of which separate representation is assigned. The first electorate (premier collège) is conformed to those of metropolitan civil status which, in practice, means Europeans, while the second (deuxième collège) is for those of local civil status, that is to say the vast majority of Natives. Moreover, the number of representatives assigned to the first electorate is much in excess of what it would be entitled to in proportion to its relative size. In other words, in English terminology, there is a system of communal representation with weightage.

Only in Senegal and Togoland are elections to all these bodies on a common roll (collège unique) although in all the West African territories this system is used for the election of deputies to the National Assembly. Not only was there the difficulty that the three full municipalities of Senegal, set up when such refinements had hardly been thought of, had always had universal suffrage and the common roll, and that the idea of the dual college system (as the French call it) in municipal elections was shocking to what remains of the revolutionary tradition; but there has been since 1947 a constant struggle to secure its abolition in

/tropical .....

tropical Africa. In the debates on the municipalities bill, it was defended on the ground that Europeans would be the largest contributors to municipal revenues and wealth and, as such, were entitled to disproportionate representation. It is contended, however, precisely where their numbers are greatest, namely in Senegal, that the system has not been introduced, a consideration which somewhat lessens the force of this contention. Moreover, it was argued that in fact there is a considerable measure of geographical separation of the different groups in the towns and that it would therefore be possible if the towns were divided, for the purpose of municipal elections, into wards, to ensure some representation of Europeans even if the common roll were adopted.

The law therefore provides that whenever a town has quarters or groups of "distinct inhabitants" or has more than 5,000 inhabitants, it must be divided into wards, each of which will be assigned representation in the council in proportion to the number of people (excluding foreigners) living in it, and that such representatives must not be less than two in the first case or four in the second. The elections must be held on the system of proportional representation known as the highest average, which tends to favour the larger parties.

These arrangements, defended by most of the African deputies and senators as a compromise to meet

/legitimate .....

legitimate European fears, were doggedly opposed by the representatives of the first college from the African territories. After some temporising, the government eventually came out squarely in support of the common roll. The debates on this issue suggested that the spokesmen of the Europeans had little to fear on the ground that Europeans not supported by other Europeans but by Africans might be elected, that the security (such as it was) offered to Europeans could easily be destroyed by quartering African troops in a European ward and so swamping the European electorate. They maintained that the number of representatives assigned to a ward should be determined not by the number of people living in it in proportion to the town as a whole but by the number of registered electors in proportion to the total electorate. This, it was claimed, would increase the European share since all of them are entitled to vote and are registered while Africans did not have universal suffrage and many even of those entitled to vote will not be on the register.

There was not very much argument about the franchise as opposed to the system of separate electorates and it is to be the same as that for the territorial assembly elections, which at the time the local government law was passed was wide but not quite universal suffrage. On the 19th June, 1956, however, the National Assembly passed a new law instituting universal suffrage, as well as the common roll for all

/elections .....



elections in the tropical African territories.

The arrangements for the preparation of the register, the printing and completion of the electoral cards which the voters must produce at the polling booth, and the actual conduct of the elections gave rise to suspicion by the African deputies who feared electoral malpractices. It is, therefore, interesting to notice that, in the light of the political complexion of most of the African members of municipal councils, the task of printing and completing the electoral cards is assigned not to the mayor as was usually the case, but to the administration, while a representative of the administration, and not the mayor, presides over the commission responsible for distributing the cards in the period before the election.

From the foregoing it will be observed that local government is closely knitted on the pattern of central and territorial governments and that the future political situation can be affected greatly by events emanating from municipal government. It may be added that a revealing factor in the struggle for the enactment of the recent municipal law is the deep-rooted suspicion discernible between black and white and, as remarked earlier under this heading, it is quite impossible at this stage to offer an evaluation of the

/practical .....

practical success or otherwise which may result from contentious legislation passed in its final form in as recently as 1956 and designed for closer local governmental relations and co-operation between the various and somewhat unwilling racial groups.

French Equatorial Africa is probably the least homogeneous of all political divisions of Africa - political divisions drawn arbitrarily by European nations to delineate their spheres of influence rather than in accordance with natural or human boundaries. Thus French Equatorial Africa is in fact a misnomer; it starts some 5° South of the Equator on the Atlantic coast of Africa but stretches up in a north-easterly direction for almost 2,000 miles into the Sahara desert. It is an immense territory more than twice the size of the Union of South Africa. This area is usually described as the Cinderella of French possessions. It is economically backward. In all this vast territory there live just over 4½ million African Natives and about 25,000 Europeans, mainly Frenchmen. The four territories which comprise French Equatorial Africa send five representatives each to a Grand Council meeting in Brazzaville, which has deliberative and consultative powers only. The principal towns have the following population according to the Census of 1950:- (1)

/TOWN .....

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(i) Breutz, P.L.: French Equatorial Africa - Bantu; No. 8, August, 1955.

<u>TOWN</u>	<u>NATIVES</u>	<u>EUROPEANS</u>
Brazzaville	79,000	5,090
Libreville	9,000	1,100
Poitre Noire	19,000	2,400
Bangi	40,000	1,800
Fort Lamy	21,000	2,200
Fort Gentil	8,000	900

(ii) Belgian Congo.

Local government of the indigenous people in the Belgian Congo bears a closer resemblance to the British than it does to the French system. In the rural areas, tribal organisations have been adopted as native administration cells or chefferies (under the authority of a chief). Policy has aimed at the grouping of these cells into units of suitable size for administrative purposes.

After the promulgation of the 1910 decree, which brought about the complete organisation of the population of the Colony within the framework of the chefferies, the view having been to facilitate the advance of the natives along the road to social progress, other concentrations of native population, composed of people who were detached from their customary groups and their own societies, began to form round the European towns and the commercial and industrial centres. It would have been difficult to administer them within the framework of the traditional political organisation, but such was their rate of growth that in 1931 it became necessary to enact legislation to regulate their government.

/A .....

A special form of organisation, which implied in fact a kind of municipal status, was accordingly bestowed upon these areas. By Royal Decree in 1934 the entire body of regulations governing these concentrations of natives was co-ordinated and entitled the Extra-Customary Centres Decree. Finally in 1945, the legislator settled the status of certain concentrations of detribalised natives who were living in areas which had not yet been declared as extra-customary centres. Until such time as these areas could acquire full status certain regulations governing the extra-customary centres were made applicable to them by the Native Cities Ordinance of July, 1945. (i)

As a result of these various enactments the population of the Belgian Congo is now organised in the following manner:

customary Milieus:

- (a) chefferies and
- (b) secteurs

extra-customary milieus:

- (a) extra-customary centres
- (b) native cities.

Before dealing with the latter category,

/the .....

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(i) The Ministry of Colonies, Brussels: Belgian Congo Native Administration. Journal of African Administration - Vol. VIII - No. 2 - April, 1956, page 88.

the following population figures of the principal centres, as in December, 1952, are reflected: (i)

<u>TOWN</u>	<u>WHITES</u>	<u>NATIVES</u>
Leopoldville (the capital)	13,045	268,452
Elizabethville (commercial centre)	10,558	108,144
Stanleyville (commercial and industrial)	3,925	43,390
Jadotville	3,806	52,286
Bukavu (industrial)	3,538	23,254
Kolwezi	2,113	31,349
Matadi (shipping centre)	1,434	45,917
Luluabourg (commercial)	1,427	25,825
Coquilhatville	1,080	24,377

Concentrations of natives who were detached from all forms of customary organisation developed near the European towns and the various important commercial and industrial centres. In the interests of political wisdom it was considered necessary to avoid the forced re-integration of these natives into their original social groupings, since their traditional customs had ceased to have any prestige in their eyes as a result of their residence in the vicinity of the towns. At the same time it was necessary to make provision for their administration, particularly, as in the course of time, these detribalised communities were augmented by natives from neighbouring territories, by Senegalese clerks, and by half-castes and Indians. In 1931, therefore, special administrative regulations were issued which gave to these areas a form of municipal status. This status was regulated by three decrees - those of November 23, 1931, June 6th, 1934 and June 22nd, 1934 - which were ultimately co-ordinated by the Royal Decree /governing.....

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(i) Breutz, P.L.: Know Africa - Belgian Congo and Ruanda - Urundi. Bantu No. 2 - February, 1955 - page 53.

governing extra-customary centres. (i)

The leading feature of all these decrees is the care taken in them to conserve those Bantu customs which, despite their diversity of detail, have a common origin and many common characteristics. But new juridical relationships had come into being in the areas under consideration and these now required attention. The decrees of 1931 and 1934 left the inhabitants of the extra-customary centres subject to their own customary law and applied a system of administration only. The emergence of new juridical rules was allowed to take place gradually, as a result of case precedents established in the native tribunals of the extra-customary centres.

It should be noted that the population of the extra-customary centres is composed of Non-European only. Europeans are not normally allowed to reside within the centres, although the district commissioner may on occasions permit Europeans - e.g. missionaries - to live there for the purpose of furthering the moral, spiritual or social welfare of the natives.

Amongst the Non-European inhabitants of

/the .....

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(i) Welvaert, N. (Secretary General of the Belgian Congo Government) : The Administrative Native Organisation of the Belgian Congo. Paper included Proceedings of Conference Institute of Administrators of Non-European Affairs (Southern Africa) at Umtali, Southern Rhodesia, Sept., 1955.

the extra-customary centres a distinction is made between those who are native to the Congo and those who are not. The former are allowed to settle in the extra-customary centres if they have a movement permit.

Henceforth they have the right of residence and can only be expelled if the local administrator who acts as their guardian orders this within thirty days of their arrival, that is, in effect, before they have registered themselves in accordance with the census regulations as residents of the centre. • "Foreign" Non-Europeans on the other hand are only permitted to settle in the extra-customary centres if they possess a special permit to do so.

Furthermore the nature of residence in the extra-customary centres may vary. It is "precarious" as long as it is subject to the possession of a permit and is of a probationary nature. It is "temporary" after the probationary period is over. It becomes "definite" when the temporary resident has had an uninterrupted sojourn of ten years or when a certificate of permanent residence is issued, on request, after five years uninterrupted domicile in the centre. There is thus a certain amount of similarity to conditions as prevail in urban areas in the Union of South Africa.

In the Belgian Congo the Governor-General, or the Provincial Governors exercising delegated powers, may create, amalgamate or dissolve extra-customary centres. The internal affairs of the centres are entrusted

/to .....

to the care of the various local interests and the centres are empowered to levy taxes, royalties and tolls, the receipts for which are applied entirely to meeting local expenditure. The local authorities of the centres may also issue regulations, backed by sanctions and penalties, concerning local matters. The administrative machinery of the centres is modelled on that of the native areas and more particularly upon that of the secteurs which are, as opposed to the chef-feries, like the centres themselves artificial creations. Thus, extra-customary centres are administered by a chief who is assisted by a deputy and/or an assistant chief and by an advisory council. Both the chief and his assistant are appointed by the district commissioner. The advisory council consists of ex-officio members, namely, the native judges and the persons who are appointed by the local district commissioner in accordance with the wishes of the local inhabitants. Their mandate is for two years but it is renewable. The president of the council is a representative of the local European authority which is charged with the guardianship of the natives but, in his absence, the chief presides over the council meeting. The council proffers advice on such matters as draft local legislation, taxation, the levying of royalties and tolls and the preparation of the local budget. The councillors are responsible for individually assisting the chief and the local regional administrator in the exercise of their duties.

/The .....



The Provincial Governor is empowered to constitute certain extra-tribal concentrations of population into "native cities". Such "cities" are administered not by the native authorities but by the European administration which may obtain the assistance of a "chief of the city", as assistant chief, ward chiefs and a council. These various chiefs and councillors are appointed and may be removed by the district commissioner. They are remunerated from Colonial territorial funds. The Provincial Governor issues police regulations and general administrative instructions which apply in the native cities, but this does not prejudice the legislative powers of the district commissioner when a city is established within his jurisdiction as, for example, in the case of Leopoldville.

Generally, the function of the native administrative organisation of the native cities is to assist the European authorities. Whilst its composition is similar to that of extra-customary centres, it does not have its own budget. Parallel to this system there are certain special administrative areas which are called "towns" and which enjoy full legal civic status. The Governor-General may, by order, remove from the normal district administration any urban area and may grant to it the status of a "town" as has in fact been done in respect of Leopoldville, Elizabethville and Jadotville. Each is governed by a district commissioner who presides over an urban committee which is composed of eight members who must be of Belgian  
/nationality .....

nationality. These council members are not elected but appointed by the Provincial Government within whose jurisdiction the town is situated. In practice, however, the local chambers of commerce submit a panel of names which is taken into consideration in making the appointments. The tenure of office is for two years and the function of the committee is advisory only. It may deliberate only upon such matters as may concern the moral or material interests of the town. The urban committee may, however, impose local taxation within the towns with the approval of the Provincial Governor. Native cities can also be established within a "town", and where Europeans are not allowed to settle or reside in the native sections then the rule is automatically applied to the natives who are not permitted to live in wards which are generally reserved for European occupation in furtherance of the Belgian Government's policy of "non-discrimination on racial grounds"! (i)

In 1957 the central government passed legislation which makes it possible for representatives of both the European and the native cities to sit together in "equal numbers" on the urban committees of those towns which comprise both types of community.

The new reform is intended to resolve two  
/problems, .....

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(i) Annual speech of the Governor-General of the Belgian Congo - 1955: New Institutions of Local Government in the Belgian Congo. Journal of African Administration. Vol. IX No. 2, April, 1957, page 79.

problems, namely, a structural problem, that of integrating the Native and European areas of a town; and, a political problem, the devising of institutions which will make it possible for the inhabitants of towns, regardless of race, to take part in the running of local affairs. Provision is now made for the town to be divided into communes with no distinction whatever whether they be Native, European or mixed. In addition a town may include "annexed zones", that is to say areas outside the communes inhabited by unorganised squatters as well as areas under the organised jurisdiction of a chief. The town thus constituted has a separate legal status and forms a single administrative district within the province in which it is situated. Each commune is divided by the provincial governor into electoral areas and each such area returns one member to the council of the commune. The legal process is that the chief burgo-master (of whom more later) appoints the communal councillors after consultation, but from the beginning in Leopoldville consultation has in practice meant elections as was recommended by the Colonial Council and appointments will be made on the results of the poll.<sup>(i)</sup>

All males of the age of twenty-five years or more have the right to vote provided they can prove six months residence in the town (though not necessarily in the same commune) and are Belgians, Africans born in /the .....

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(i) Wallis, C.A.G.: The Administration of Towns in the Belgian Congo. Journal of African Administration - Volume X - No. 2 - April, 1958, page 95.

the Congo, or naturalised persons. A candidate in addition must be able to show five years residence in the Congo and at least one year continuously in the commune concerned and must be in order with the fiscal authorities. Also he must be the holder of a certificate of primary education or the owner of a dwelling-house of durable material in the town concerned. A candidate must be nominated by twenty electors living in the electoral area for which he is standing.

The council of the commune having been appointed, the provincial governor then nominates the burgomaster who may be either a civil servant or a non-official. At the higher level the town (municipal) council is composed of ex-officio, elected and appointed members. The town council is headed by a chief burgomaster who must be a civil servant appointed by the provincial governor. The ex-officio members are the chief burgomaster and the burgomasters of all the communes. The elected members are elected by the councils of the communes to a number fixed for each commune by the Governor-General. The appointed members are appointed by the provincial governor from the following classes:

- (a) representatives of annexed zones, to the number fixed by the Governor-General for each such zone;

/(b) representatives .....

- (b) representatives of special interests which are listed viz. capitalists, self-employed middle-class, employees. The Governor-General is to determine for each town and commune the associations or organisations which are entitled to present candidates;
- (c) notables.

The numbers who may be appointed under the latter two categories are fixed for each town by the Governor-General and the total of these two categories may not exceed the number of elected members. The chief burgomaster has all the powers and privileges of a district administrator and is responsible for carrying out the Colony laws and general administrative regulations throughout the town. A detachment of the territorial police is allocated to a town and comes under the command of the chief burgomaster.<sup>(i)</sup>

Except in cases of emergency, the chief burgomaster must submit to the town council drafts of executive orders which, in his capacity of administrator, he has the right to make in respect of general administration and police. Orders made to deal with an emergency

/must .....

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(i) Wallis C.A.G.: The Administration of Towns in the Belgian Congo - Colonial Office; African Study Branch. April, 1958.

must be communicated to the council after the event. If the council does not agree, the chief burgomaster must make a report to the provincial governor and send a copy to the council. In matters of general administration the burgomaster of the communes exercises such powers as the Governor-General may determine plus any powers that the chief burgomaster may delegate to them. If the council of the commune disagrees with any executive orders, the burgomaster must report to the chief burgomaster.

The local services which a town council is to provide are not specified, but are dealt with in a more flexible way. The Governor-General is to determine for each town what general services it is to provide and the town council is free to create additional services, provided that the authorisation of the provincial governor is first obtained. This proviso was inserted at the last stage in order to secure co-ordination and to prevent encroachment on or repetition of the mandatory general services. The powers of the councils of communes will be those delegated to them by the town council. The chief burgomaster or his deputy may attend any meeting of a communal council and he has the right to be heard whenever he demands. Moreover the chief burgomaster may veto a decision of the town council or of any of the communal councils, but he must state his reasons to the provincial governor, who must give a final decision within one month. The chief burgomaster is responsible for administering all

/services .....

services throughout the town (though he may delegate). He is required to ensure that all parts of the town get a fair share of any service, especially those relating to health, police and public works.

Apart from local taxes which both the town and communal councils may raise, the central government binds itself to give grants-in-aid on a fixed formula. Estimates are prepared by the chief burgomaster and submitted to the town council which may amend them provided that the budget does not become unbalanced. The final approval of the budget rests with the provincial governor. The communal budgets are prepared in the same way and submitted to the chief burgomaster for final approval.

Whilst the role of the chief burgomaster may resemble that of a technocrat, the "permissive" powers of the town council are nevertheless of considerable weight.

At the first election held in Leopoldville in December, 1957, the city consisted of eleven communes, of which eight are Native, two Europeans and one mixed. The eight Native communes were divided into 170 electoral wards and the other three into 29. There were 51,000 names on the electoral register, that is about one-fifth of the total population, and of these just over 43,000 voted. There were 1,765 Native candidates (including three women) and 93 European candidates

/(including .....

(including two women). Of the 199 seats in the various communal councils, the Natives secured 170 and Europeans 29.

(iii) Angola and Mozambique.

In dealing with the position which the native enjoys in municipal government, the ultimate aim which the Portuguese Government had in mind must be borne in mind. This task can be rendered in its lowest terms to the following three main aspects, namely, the laying of the material foundations upon which the future economic and social structure of Angola and Mozambique can be firmly established; the raising of the standard of living and the cultural level of the native inhabitants as far as they are capable of being raised; and the building up of an integrated community of black and white, sharing the same ideals, inspired by the same principles, accepting and governed by the same laws.

Angola is 481,367 square miles in extent which is slightly more than the area of the Union of South Africa. The principal urban centres are the harbours of Luanda (160,000 inhabitants of which 25,000 were Europeans in 1950), Lobito (90,000 inhabitants in 1940), Porto Alexandre (14,000), Mocamedes (15,000) and Benguela (35,000) while inland towns are Nova Lisboa (6,000 whites, 39,000 natives or, including the outskirts of  
/the .....



the municipality 167,000) and Sá da Bandeira (42,000).

The Portuguese Province of Mozambique (in other languages also called Portuguese East Africa) is 297,732 square miles in extent. It is only slightly smaller than Tanganyika and nearly two-thirds the size of the Union of South Africa. The estimated population in 1955 was about 6.8 million including approximately 54,000 Europeans. The only towns with a significant European population are Lourenco Marques, the capital, and Beira. The census of 1950 as given below, indicates for urban areas the composition of the population according to racial origin. (i)

Town.	Europeans.	Yellow Race.	Indians.	Coloureds.	Civilised Natives.	Uncivilised Natives.
Lourenco Marques	23,439	709	4,884	6,478	1,278	56,515
Inhambane	649	3	296	1,532	172	61,884
Gaza	548	6	132	636	113	78,555
Beira	6,574	665	2,236	1,854	176	31,034
Tete	663	-	127	790	371	90,527
Quelimane	1,213	2	487	1,575	314	138,668
Nampula	1,248	-	196	216	60	135,864
Porto Amelia	411	1	119	294	22	48,021
Vila Cobral	156	-	26	98	13	81,652

Whilst in Angola the number of educated and

/semi- .....

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(i) Breutz, P.L.: Know Africa - Angola and Mozambique - Bantu; No. 11, November, 1954 and No. 6, June, 1955, respectively.

semi-educated Natives who have attained the assimilated standard is not yet one per cent, the percentage in Mozambique is even less, and these are predominantly in the urban areas. As can be observed from the above table only 2,519 out of a total native population of 725,239 are classified as populacao civilizada, which is a proportion of about one-third per cent of the urban natives. Many natives who would be able to become "assimilados" do not want to because native life is more congenial to them.

As all over Africa, the civilised and uncivilised population groups are kept in separate suburbs of a town or in social life. Even the civilised groups of the various races generally and voluntarily keep socially apart. But this is more a matter of town planning than racial segregation. There is no such thing in Luanda as an "official" native quarter in the sense that natives must live there and nowhere else. In Lourenco Marques very attractive villages have been established for the unassimilated natives where the rentals charged do not absorb too high a proportion of the wages earned. When a tenant qualifies as a civilised native he is required to find other accommodation and so make place for an uncivilised native. The housing of the primitive people is the responsibility of the central government and not the municipality. The latter is only responsible for the provision of the necessary services to the native township and which are viewed more as compensation for the native's labour.

/The .....

The Portuguese and assimilated Bantu look upon the primitive native as an adult with a child's mentality who must be taught, guided and protected as such. The aim of this paternal governmental supervision is always to improve the Native's low standard of living and get him gradually to adopt the Portuguese culture, economics, language and faith.

In the municipal areas uncivilised natives are administered in every respect by a government official styled Administracao Do Concelho, (i) in much the same way as in the "circunscricao". Their movement, place of employment, accommodation, health and education matters, family disputes etc., are administered by the official mentioned. They have absolutely no place in the municipal complex. The underlying treatment of the Native is that he must understand that work is an indispensable element of progress. The Administrator occupies the key position in the evolution of the urban native since he is virtually the sole executor of Native policy.

Municipal affairs are vested in a Council consisting of a President nominated by the Government for a period of four years and four councillors, two of  
/whom .....

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(i) de Freitas, Senhor Afonso H.I.F.: (Administracao Do Concelho De Lourenco Marques). Native Administration in Angola and Mozambique - Paper read at the conference of the Institute of Administrators of Non-European Affairs (S.A.) at Umtali, Southern Rhodesia, Sept., 1955.

whom are elected by voters on a common roll on which civilised natives would be qualified to register. The remaining two councillors are elected by associations or organisations of a professional or economic nature and where the latter are non-existent, the twenty principal taxpayers, irrespective of colour, of the town constitute a voting unit. In theory therefore a native could be a member of the council. The Vice-President is elected by the members of the Council and normally the oldest councillor in age and not in service is proposed for this position. Three Councillors constitute a quorum but the President has a deliberative as well as a casting vote. No meeting can take place without the Administrator or his deputy being present as the Government's representative. The latter can take part in discussions but has no vote. His duty is to guide the Council on matters of national policy. The decisions of the Council are subject to veto by the Government where they are considered to be contrary to public interests or governmental policy. The activities of the Council are generally limited to matters of essential services, health and tourism. (1) Secretarial duties usually performed by the Town Clerk are vested in a Chief Secretary. All staff appointments are made by the Council through secret ballot.

To sum up, in municipal government the

/civilised .....

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(1) de Freitas, Senhor Afonso H.I.F.: (Administrator of Lourenco Marques): Information supplied verbally.

civilised native is in all respects, at least theoretically, equal to and grouped with the other inhabitants whilst the uncivilised native is for all purposes administered by the central government.

Articles 21 and 22 of Chapter 1 of the Native Statute promulgated in May, 1954, and applicable to Angola and Mozambique provide that "the Administrative authorities will exercise exclusive jurisdiction over, and policing of indigenas who have ceased to be integrated in the traditional political organisations", and "when there have come into being centres of population wholly made up of indigenas ..... the administrative authorities may appoint regedores and cabos de ordens from among the inhabitants, and entrust to them the functions of police and assistants in civil administration". Article 23 stipulates that no political rights in respect of "European Institutions" are conceded to indigenas. And the next Article says: "Indigenas have rights of petition and appeal which can be exercised through all the grades of the administrative hierarchy, and, in particular, to the protectors of indigenas (curadores dos indigenas), and inspectors of administration. It is an offence against discipline for any official to put an obstacle in the way of an indigena who seeks to exercise the right conferred in this article, or to attempt reprisals on those who do exercise it".

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The Administrator of Lourenco Marques (i)

very aptly described the position that broadly an uncivilised person is a Native who has not yet acquired the ability and customs of a European. He stressed the point that as an uncivilised person he is not subject to European rules and regulations which may bewilder him, but is governed by a system designed to be understandable to him. When he has acquired the necessary qualifications to be classified as "civilised" he is then subject to the European style of laws which govern the province. He is a Portuguese citizen and there is no question of a distinction according to race. He is civilised, therefore, he has the full rights of any Portuguese citizen, but he now also shoulders the duties and obligations expected of every Portuguese citizen. de Freitas maintained that the Portuguese people are proud of their system of colonisation, the high degree of honesty and the peaceful atmosphere among the different races. He agreed that the Portuguese territories in Africa have not developed as quickly as other parts of this controversial continent, but his reply to this is that it is a deliberate part of their colonising policy to "hasten slowly". The immediate stress is on the improvement - and ultimately the civilising - of African life. He thus summed up the two pillars of Portuguese policy, firstly, "Aqui Portugal" - this is Portugal, and secondly, "no race discrimination" only "civilised and uncivilised".

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(1) *ibid.*

It may be added here that in these days the success of a civilising mission depends essentially on the personal relationship which an Administrador is able to establish with those he administers. The Portuguese native is not interested in abstractions, but in what he considers to be real and immediate. Remote authorities are like remote deities. The Portuguese Administrator is always on the spot. To the native he represents Portugal and everything that Portugal stands for. And by him Portugal is judged!

(c) SUMMARY.

In French Equatorial Africa which forms part of Greater France universal suffrage is enjoyed, if not in practice, then at least in theory. The ideal is for the natives to change into Frenchmen in all respects but the colour of the skin. Belgian attitude towards the Congo is one of benevolent paternalism. In local governmental matters throughout the Belgian Congo a policy of rigorous guardianship is the general practice. The crux of Belgian policy is that government must start at the base upon which will be erected the pyramid of governments at a higher level. Angola and Mozambique are Portugal's overseas provinces and accordingly governed identically as in the mother country. The indigenous inhabitants may either retain the status of aborigines or may qualify as Portuguese citizens in which case they receive the same identity as an ordinary citizen of Portugal.

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It was only as late as November, 1955, that the question of urban local government was finalised in French Equatorial Africa. Municipal government progress has generally been slow owing to the lack of financial backing. Township committees of which most of the members are appointed function under the chairmanship of a mayor who is an official, usually the district commissioner. Under the new Municipal Reorganisation Law full municipalities can be created provided the economic level is sufficient to enable the budget to balance. A common roll exists on which the native inhabitants qualify for the vote. The municipal areas are divided into wards of which each is entitled to a certain number of representatives as may be determined by the central government. In dividing the area the geographical situation of the racial groups is taken into account in order to ensure a measure of proportional representation.

Where large numbers of natives congregate just outside municipal areas in the Belgian Congo, extra-customary centres are decreed, and where Europeans generally are not allowed to reside. Here the inhabitants remain subject as far as possible to their own customary law and only a new system of administration is applied. The members of the advisory council to the chief are appointed (not elected) by the district commissioner but in accordance with the wishes of the local inhabitants. In the municipal areas native cities are constituted and are administered by the

/European .....



European administration assisted by native chiefs and councillors as may be appointed by the district commissioner. The native cities as compared with the extra-customary centres do not have their own budgets. However, the normal governing of some native cities may be removed from the district administration and granted the status of towns. An urban council of advisory powers consisting of eight members is appointed by the provincial governor from a panel of names submitted by certain organisations and over which the district commissioner presides. New legislation passed in 1957 now also permits of representatives of European and native cities sitting together in equal numbers on the urban committees, the aim being one of integrating the two communities. The town can be divided into communes, and communal councillors are appointed by the chief burgomaster on the results of the poll. The provincial governor then nominates a burgomaster to preside over the communal council. At the higher level is a town council on which serves the burgomasters of all the communes ex-officio, members elected by the communal councils, and members appointed by the government as representing special interests as may be listed as well as a fixed number of notables. The council is headed by a chief burgomaster, a civil servant appointed by the provincial governor, who may veto decisions of both the town and communal councils. The former may delegate powers to the latter.

An integrated community of black and white is

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the aspiration in the Portuguese territories in Africa. The "civilised" and "uncivilised" are kept apart and administered apart. In a municipal area the latter are housed and governed by the central government, the municipality being responsible for the provision of essential services only. For the Portuguese citizens who live within the municipal boundaries a small council of four members and a president administer the affairs of the town. Two councillors are elected by voters (who could be natives) on a common roll and the other two by certain associations or a number of principal taxpayers. When an indigena qualifies to become an assimilado then all the rights, privileges, duties and obligations of the ordinary white citizen devolve upon him. But whilst he prefers the less onerous and more congenial life of the indigenous people, he is looked upon as a child and looked after like a child.

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/CHAPTER 111 .....

CHAPTER 111

BRITISH EAST AFRICAN TERRITORIES.

(a) CENTRAL POLICY.

(i) Kenya.

The eventual achievement of self-government has for long been the declared objective of British colonial policy, and the political institutions which have been created in a number of dependencies as a first step towards that end have demonstrated clearly the intention of the British Government that all the major communities should as far as possible be represented in the local Legislatures which will be the organs of self-government. In practice, therefore, the crucial issue has resolved itself into the question of the weightage to be given to European and non-European interests respectively in the political structure of the country. (i)

A most typical instance of the part played by this issue is afforded by Kenya, and it provides an instructive chapter in the record of the British

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(1) Hailey, Lord: An African Survey - Revised 1956.  
Chapter V.

endeavour to solve the problems involved in the development of dependencies with a multi-racial population. In Kenya this problem was at an early date responsible for a conflict of view between the British Government and members of the local European community. They had maintained that the principle of devolution culminating in full Responsible Government, which had been followed by Great Britain in her relations with other British settlements in Africa and elsewhere, was applicable also in their case. There was reasonable precedent for this claim. Cape Colony had acquired a status of Responsible Government in 1872 and Natal in 1893 when the native population by far outnumbered the Europeans. (i) Southern Rhodesia achieved Responsible Government in 1923 when its European population only numbered 32,600. When confronted with the demand put forward by the European community in Kenya the British Government showed that it was no longer prepared to accept as a rule of practice the procedure which had been followed in the Cape Colony, Natal or Southern Rhodesia, and which had left the European community in each case in a position to control the share to be taken by other communities in the future government of the country.

The decision of the British Government was expressed in a declaration which, though made with

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(i) Cambridge History of the British Empire: Volume VIII - pages 487, 542.

special reference to the position of Indians in Kenya, was widely understood to reflect a statement of general policy. The Devonshire White Paper of 1923 declared that:

"primarily Kenya is an African territory, and His Majesty's Government think it necessary definitely to record their considered opinion that the interests of the African Natives must be paramount, and that if and when those interests and the interests of the immigrant races should conflict, the former should prevail. In the administration of Kenya His Majesty's Government regard themselves as exercising a trust on behalf of the African population, and they are unable to delegate or share this trust, the object of which may be defined as the protection and advancement of the Native races." (i)

By its reminder of the fact that the European settlers in Kenya had been responsible for providing the stimulus to such economic progress as the Colony had shown, various conferences followed as a result of which the British Government issued in 1927 a White Paper of which one object was to soften some of the feelings aroused by the categorical assertion of the paramountcy of Native interests contained in the earlier declaration. The responsibilities of trusteeship must, it asserted, rest for some considerable time mainly on the agents of the Imperial Government, but the Government desired "to associate more closely in this high and honourable task those  
/who .....

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(i) Wight, M: British Colonial Constitutions, 1947, page 82.

who as colonists or residents have identified their interests with the prosperity of the country." (i)

A White Paper of 1930 made a further attempt to allay this feeling. It agreed that the creation of a field for the full development of Native life was the first charge on any territory; but this charge was not incompatible with the common duty of any Government to promote the prosperity of all the inhabitants, including the immigrant communities within it. Dominion status was the ultimate goal of Kenya but this could not be attained until the native community was able to participate in self-governing institutions. (ii) The sentiment thus expressed was not sufficient to reassure the European settlers, and a Joint Select Committee of Parliament was appointed to deal specifically with the issue of providing a final statement of policy. The principle of paramountcy, it was pointed out, had been enunciated in relation to specific points, particularly in connection with land and labour questions, on which a direct conflict of Native and non-Native interests might arise, and it was added that "the doctrine of paramountcy means no more than that the interests of the overwhelming majority of the indigenous population should not be subordinated to  
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(i) British Command Papers : 2904.

(ii) Memorandum on Native Policy in East Africa  
(Passfield White Paper) 1930.

those of a minority belonging to another race, however important in itself." (i) This matter accordingly ceased to be the object of active attack by the European community. Their demand was now for an elected non-official majority in the local legislature rather than for an early grant of Responsible Government.

The Europeans in Kenya have never wholly abandoned their contention that the control of the Colony's affairs should rest in their hands, and some of their leaders have shown a doubt whether this can be sufficiently secured by means of an unofficial European elected majority in the Legislature. They have sought accordingly to secure greater influence in the field of executive government. For example in 1937 the Executive Council was reconstituted to include four officials and four unofficials, the latter consisting of two Europeans normally chosen from the elected members of the Legislature, one Indian, and one member representing Native interests. (ii) The inclusion of unofficial and especially European members in the Executive Council which was reorganised in such a manner that each member would be directly responsible for the affairs of a Department or of a group of Departments, was one of the measures designed

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(i) House of Commons Debate, 1931 - Col. 156.

(ii) Hailey, Lord: An African Survey (Revised 1956), page 192.

to increase the effective influence of the European settled community without openly claiming a guarantee for the permanence of European control.

But if European unofficial influence in the executive conduct of affairs was thus increasing, changes were also occurring in the representation of the Natives in the Legislative Council. The first Native member was appointed in 1944, taking the place of a European nominated to represent Native interests; the second European member representing the interests of natives was similarly replaced in 1947 and in 1948 two more nominated unofficial Native members were added. In 1952 the unofficial member of the Executive Council representing Native interests, who had hitherto been a European, was also replaced by a Native.

It was in these circumstances that the word "partnership" began to be widely employed to describe the relations between members of the European and other communities which it was the aim of British policy to establish in East Africa. Its use in Great Britain had an earlier history. It had originally been employed there with a general connotation designed to indicate the relationship which should exist between the United Kingdom and those dependent territories which were emerging to self-government. It was thus designed to

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mark an advance over the concept of "trusteeship", the term hitherto accepted as signalling the nature of the responsibilities of the United Kingdom towards its dependencies. "Some of us feel now", said the Secretary of State in the House of Commons,<sup>(i)</sup> "that the word 'trustee' is rather too static in its connotation, and we should prefer to combine with the status of trustee the position also of partner".

In his more recent attempt to define the assumptions made by official policy in regard to territories in which a number of different racial groups are established, the Secretary of State emphasized that the objective continued to be the achievement of self-government by the territory, but indicated that self-government must include proper provision for all the main communities which have made their home in East Africa. He added that it was essential that the United Kingdom should maintain its control until the assistance given to the indigenous people in developing their resources had set them so far on the path of progress that they could take their full part, together with other sections of the community, in the political and economic life of the territory. <sup>(ii)</sup>

During the past decade the constitutional  
/structure .....

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(i) House of Commons Debate, 13th July, 1943, Col. 48.

(ii) Hailey, Lord: An African Survey (Revised 1956). Chapter V.

structure of the Colony frequently came under review owing to an unusual combination of circumstances. Each of the various racial groups was showing signs of apprehension regarding its own position in view of the growing political activity among natives. On the constitutional plans the problems seemed to be threefold. There was now a feeling that the time had arrived for appointing Natives to the Executive Council, and for increasing their number on the Legislative Council. But the Europeans held strongly to the view that if this were done steps should be taken to preserve the existing numerical parity of European elected members with the representatives of the two other communities put together. A further problem concerned the adjustment of the ratio between official and unofficial members, a point to which the European community had from the first attached great significance.

As a first attempt certain interim adjustments were made in the Constitution in 1952. The unofficial side of the Legislature was increased to 28, namely 14 European and six Asian elected members (four of the Asian members were to be non-Muslim and two Muslim) one Arab elected member, six African "representative" members, and one Arab "representative" member. In 1954 the constitution was again reconstructed with a view to establishing a multi-racial system of government in the Colony. There was to be set up a Council of Ministers, composed of the Governor and a Deputy Governor, six official members, two nominated members

/and .....

and six unofficial members. Of the unofficial members three would be European, two Asians, one being Hindu and the other Muslim, and one African. The Executive Council would continue in existence and comprise the members of the Council of Ministers, together with one Arab and two Natives. In addition to the Ministers there would be created a number of Parliamentary Secretaries who are not necessarily members of the Executive Council; at the end of 1955 these comprised three Natives, one Arab, and one Asian.

Further concessions followed until in November, 1957, the Natives had elected eight representatives to the Legislative Council against fourteen for the Europeans. The cabinet could then have consisted of three elected Europeans, two Natives and two Indians, the other members of the Government being European officials. The Native Representatives, however, decided to boycott serving on the Executive Council unless certain of their demands were met. The constitution generally referred to as the Lyttleton constitution stipulated that it was to remain in force until the end of 1960 except when the Secretary for the Colonies should find that it could not be enforced any longer. Because of the uncompromising attitude of the Native Representatives, there followed a deadlock which enabled the Colonial Secretary to regard the constitution as unworkable and at the end of 1957, he announced the new constitution. The number of Native representatives was increased by six and so equals the

/total .....

total of fourteen European members of the Legislative Council.

Thus, three years after the original constitution, and for the first time in the Colony's history, the total non-European representation was to exceed that of the European, a ratio which it may never be possible to reverse. The Native members are entitled to two ministerial posts and two assistant ministerial posts. The Colonial Secretary while granting these concessions provided certain safeguards, the most important being the following: (i)

1. The Governor reserves the right to nominate as many additional members to the Legislative Council as may be required to ensure a majority vote in favour of the government;
2. A Council of State would be established with defined powers to veto legislation which in its opinion may discriminate against minority groups;
3. The Governor and through him the Colonial Secretary retains the right of veto over all legislation.

The new constitutional arrangement is intended to remain in force for a period of at least ten years and should the Native Representatives refuse to take part in the Government then the new constitution makes provision for the formation of a Government without them.

/Ironical .....

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(i) Van Heerden, W.: Die Week in die Politiek. Dagbreek en Sondagnuus, 17 November 1957.

Ironical as it may seem, the white community has now abandoned its original demands for responsible government in favour of the status quo. Their fear is based on the inequality of numbers. Kenya's population consist of 50,000 Europeans (only about 35,000 of whom are permanent inhabitants) 200,000 Asians and 6,000,000 Natives.

(ii) Tanganyika.

That Tanganyika territory was between the years 1920 and 1946 administered under a mandate of the League of Nations, influenced the policy on Native administration to a considerable degree. The doctrine embodied in the covenant that the well-being and development of the native peoples form a sacred trust of civilization, was, in Lord Lugard's words, only a more precise definition of the ideals of the British Colonial system. (i) The procedure of administration which came into force owed nothing to the initiative of the League of Nations or its organ, the Permanent Mandates Commission, but was a deliberate adaptation of Lord Lugard's system of indirect rule as then practised in Nigeria.

The Territory has since 1947 come under the system of international trusteeship inaugurated by  
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(i) Hailey, Lord: Native Administration in the British African Territories, Part 1, Chapter III, Page 211.

the United Nations Charter of 1945. The Trusteeship Agreement contains one important addition to the original Mandatory Instrument. It provides that the Administering Authority (in this case Great Britain) shall promote the development of free political institutions suited to Tanganyika and to that end shall develop the participation of its inhabitants in advisory and legislative bodies and in the government of the Territory, both central and local, as may be appropriate to the particular circumstances of the Territory. This, of course, only amounted to a formal endorsement of an accepted principle of British Colonial policy, but it is perhaps more the objective stated rather than the procedure followed which appears likely to engage the chief attention of the Trusteeship Council.

As indicated, the system of government aimed at making the fullest use of the traditional institutions of rule existing in the society of the indigenous people, and this course was chosen in the case of Tanganyika not merely as a matter of expediency, but as part of a philosophy of rule which has been practised elsewhere. The memorandum of Sir Donald Cameron issued in 1925, contains, inter alia (i)

"Being convinced that it is neither  
just nor possible to deny permanently to the  
natives any part in the government of the  
/country .....

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(1) Buell, R.L.: The Native Problem in Africa. Volume 1, page 451.

country, the Government of this Territory has adopted the policy of native administration which aims ..... at making it possible for this to evolve in accordance with their traditions and their most deeply rooted instincts, as an organised and disciplined community within the state ..... This policy is their strongest safeguard, the surest and safest foundation on which their existence in this Territory can be built, for it enlists on the side of law, order and good government all responsible elements in native society, and it aims at preserving that society intact and in protecting it from disintegration into an undisciplined rabble of leaderless and ignorant individuals."

It would not be reasonable to draw any comparison between this outlook on the policy of native government and such principles as underly the procedure adopted by the Germans in the period which elapsed between the declaration of their Protectorate in 1889 and the termination of their rule of German East Africa after the first world war. The Germans lacked previous experience of dealing with large African populations, and, moreover, their primary concern was not for the problems of native administration so much as for those of economic development. It is in this direction they showed much activity as evidenced by the early construction of railway lines and the establishment of various industries. (1)

In the early history of the Mandatory Administration attention was directed less to purely  
/constitutional ....

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(1) Hailey, Lord: Native Administration in British African Territories, Part 1, Chapter III.

constitutional developments. At a later period, when political issues began to occupy a more important place in the Territory, they never provided the same occasion for inter-racial discord as in Kenya. That was no doubt partly due to the difference between the character of the European and Asian communities in Kenya and Tanganyika. In the latter area the Europeans formed a far less homogeneous group; they represented a number of different nationalities, and they had not the advantage of occupying a compact block of country such as the Highlands in which most of the Europeans of Kenya were concentrated. The Asian community of Tanganyika was smaller in number than that of Kenya, and it was also more scattered and was less efficiently organised. The 1952 census recorded 499 Germans, 12,154 British and 4,944 other Europeans while the Asians numbered 77,609. The estimated population in 1955 is reflected as follows: (i)

Europeans	25,000
Indians and Goans	72,500
Arabs	16,100
African Natives	8,205,000

It was not till after the Second World War that there developed in the European community of Tanganyika an outlook on the relative parts to be played by the various communities which could more

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(i) Year Book and Guide to East Africa : 1957, page 87.



correctly be expressed by the word "partnership" than by that of "paramountcy". This attitude was crystallized in the report of a Committee on Constitutional Development which was issued in 1951. The Committee stated that the responsible opinion of all races agreed that for the next few years the Legislative Council should continue to have a majority of official members. Accepting the principle of partnership as that which should regulate the relations between the different communities, it held that the most practical method of giving effect to it would be to divide the seats allocated to unofficial members equally among the three races. This principle has also permeated into spheres of local government.

The evolution of the Tanganyika Legislative Council dates back to 1920. The Tanganyika Order in Council and Royal Instructions of 1920 established an Executive Council which was wholly official in composition. A Legislative Council was established in 1926; this consisted of 13 official and ten nominated unofficial members; it was the practice that two of the latter should represent the Indian community and that one of the European members should be selected to represent Native interests. In 1945 an amendment to the Constitution provided for an enlarged membership consisting of 15 officials and 14 nominated unofficials. Of the unofficial seats, seven were allotted to Europeans, including a European representative of Native interests, three to Asians, and four to Natives.

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In 1949 it was decided to appoint a Committee of the Legislature, partly to consider a re-organization of the constitutional structure and partly to give a more effective and at the same time more popular form to the institutions of Local Government. The Committee, which reported in 1951, recommended the retention of an official majority in the Legislature, but there was a divergence of opinion as regards the maintenance of the previous ratio of European representation. The Government finally accepted the view that the only solid foundation for the political development of the Territory lay in the equal distribution of the unofficial seats between the three communities. There were also important recommendations regarding the establishment of Local Government institutions on a basis which would permit all three communities to take part in their working. (i)

A special Commissioner was appointed in 1952 to consider, among other things, the most appropriate system for election to the Legislative Council. His conclusions were that the ultimate goal should be a system of common roll elections with safeguards for minority representation, but that such a system was not practicable in the greater part of Tanganyika in the near future; he thought, however, that such elections, with an educational qualification and safeguards for

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(i) Report of the Committee on Constitutional Development 1951 : Tanganyika page 18. London H.M.S.O.

minorities, might be tried as an experiment in two three-member constituencies. Meanwhile, European and Asian representation should be chosen by communal election, or, where this was not feasible, by nomination. African Natives would if possible be represented through some form of indirect election. These proposals were accepted in principle by the British Government, and the new Constitution came into force in April, 1955. It gave effect to the principle of racial parity. The number of members of the Legislative Council was raised to 61, of whom 31 were official members, namely, 19 officials and twelve nominated unofficials, these latter being divided equally between Europeans, Natives and Asians. The 30 Representative members on the unofficial side are also divided equally between the three communities. The system of appointment has been by nomination, but in 1956 the Government was studying the possibility of the adoption of a system of elections in certain districts in 1958. (i)

(iii) Zanzibar.

Zanzibar Protectorate, 22 miles away from the African mainland, consists of the islands of Zanzibar and Pemba 640 and 380 square miles in extent respectively. The population as returned by the 1948 census is 264,162 (Zanzibar Island 149,575), (Pemba /Island .....

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(i) Hailey, Lord: An African Survey (Revised 1956) - Chapter VI.

Island 114,587). The racial composition is as follows: (i)

Europeans	294
Arabs	44,560
Indians	15,892
Africans	199,860
Comorians	3,269
Somalis	287

Among the African population a certain percentage claim Persian descent and are referred to as Shirazi.

Zanzibar was in Arab hands at the time of the appearance of the Portuguese who captured it in 1503. In 1698 the fall of Mombasa broke the power of the Portuguese to the north of Mozambique, and the Arabs reoccupied Zanzibar in about 1730, under the rule of the Imam of Muscat. In 1832 the Sultan transferred his capital from Muscat to Zanzibar. It was during this time that Zanzibar town (population now about 46,000 i.e. both the Stone Town and Ngambo) became both politically and commercially the principal town in East Africa and a famous centre for the slave market. In 1890 the islands of Zanzibar and Pemba were proclaimed a British Protectorate. The head of the Protectorate is the Sultan whose plain red flag flies over his palace, and the Government is administered by a British resident.

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(i) Year Book and Guide to East Africa, 1957, page 117.

Although Zanzibar is usually referred to as a Protectorate, it seems to fall rather within the definition of a "Protected State", since there is some element of division of sovereignty based on a treaty agreement between Great Britain and the Sovereign of the State. (i) But the degree of control over Protected States varies widely and in actual practice the control exercised over Zanzibar does not differ greatly from that which normally characterises a protectorate. Zanzibar retains, however, one distinguishing mark of the status of a Protected State, namely, British authority in the island is represented by a Resident and not by a Governor. Laws passed by the Legislative Council of Zanzibar and assented to by the Sultan issue as Decrees of the Sultan, but if they affect interests other than those of the Sultan's subjects, they require to be countersigned by the British Resident. (ii) It was in pursuance of this procedure that the Sultan first established in 1926 (iii) an Executive and Legislative Council.

The administrative and judicial systems are so organised as to maintain the tradition that Zanzibar is an Arab State under British protection, while retaining in the background a definite element  
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- (i) Wright, L.: Colonial Constitutions, page 9.  
(ii) Zanzibar Order in Council of 1924 - Article 42.  
(iii) Laws of Zanzibar Protectorate, 1924 Chapter 28.

of British control. It is interesting to note, for example, that though the judicature comprises two categories of Courts, namely, Her Britannic Majesty's Courts and those of the Sultan, a conflict of jurisdiction is avoided by the arrangement that in practice the two series of Courts have the same personnel. (i) In the Sultan's Courts the law of Islam is declared to be the fundamental law in civil matters.

Representatives of the Arab association have claimed that circumstances in the islands justify the creation of an advanced form of self-government under the sovereignty of the Sultan but based on a Legislature elected on a common roll. Consequently in October, 1955, the British Government announced its decision to modify the existing governmental institutions on lines which will enable Zanzibar to attain by appropriate stages a status of "internal self-government within the Commonwealth". (ii) A Privy Council is established to be presided over by the Sultan. It consists of the British Resident, two other British officials and three other persons to be nominated by the Sultan. The Executive Council continues in existence, with the British Resident as President, four ex officio official members, three other official members nominated by the Sultan on the advice of the Resident, and three /unofficial .....

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(i) Year Book and Guide to East Africa, 1957, page 117.

(ii) Hailey, Lord: An African Survey (Revised 1956)  
Chapter VI.

unofficial nominated members (one Arab, one African, and one Asian.) The Legislative Council now has 26 members, namely, the British Resident as President, four ex officio members (being the ex officio members of the Executive Council), nine official members, and twelve unofficial members. Half of the twelve seats will be filled by election on a common roll, but voting will be confined to persons who are subjects of His Highness the Sultan. The remaining half will be nominated by the Sultan on the advice of the Resident from among candidates who can prove that they have the support of a hundred registered electors. It is hoped by this means to secure some balance of representation between the different communities. The Privy Council is to have a purely advisory function, and appears to have been devised as being a body more suitable for the presidency of the Sultan than the Executive Council. The Executive Council will continue to be the chief instrument of policy and an African now becomes for the first time a member of it. So far, therefore, the constitution will continue to have a predominantly official element.

For the first time in its history the Protectorate elected six of the twelve unofficial members in July, 1957. (1) The two islands are divided into six constituencies. It was the first common role election in East or Central Africa. Of the total

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(1) East African Standard : 19th July, 1957.

population of about 260,000 only approximately 39,000, including one European, qualified for registration as voters. The main qualifications for the vote is that the person must be a male subject of the Sultan and be not under 25 years of age. It is anticipated that at the next election to take place after three years consideration will be given to the introduction of adult male suffrage. Although women have not been granted the right to vote the assurance has been given by the Government that their case will be considered in due course. Apparently there is nothing in Muslim custom which debars women from voting, and, while purdah is still practised among the large Muslim elements, the menfolk say they would raise no objection to women going to the polls.

(b) MUNICIPAL GOVERNMENT.

(i) Urban Population.

Except on the coast there were few towns in East Africa prior to the establishment of European administration. Many of the coastal ports have a long history and were described as important centres of population by such early travellers as Ibn Batuta and Vasco da Gama. Away from the coast there were a number of organised concentrations of huts which surrounded the headquarters of hereditary chiefs but these were temporary growths which bore no resemblance to the permanent urban centre as known today. During the nineteenth /century .....



century a number of trading centres were set up inland by the Arabs. Towns developed along the routes which were opened up into the interior by European enterprise from the beginning of the present century, especially as a result of the building of railways.

As new areas were brought under European administration, headquarters were set up which were the origin of many of the larger towns in East Africa today. The European population in many towns is still composed for the most part of government officials. In some of the larger centres such as Mombasa, Nairobi, Dar es Salaam and Tanga, there are also considerable European trading communities. But in addition there is the Indian community generally of much larger size. Indians had been established on the East African coast for many centuries and by the nineteenth century held most of the trade of that area in their hands. Later, as East Africa came to be opened up as a result of European enterprise, Indian traders penetrated into the remoter areas and some of the early records describe how they were to be found in places where no settled administration had been established.

The traditional social organization and economic activities of the inhabitants of East Africa did not lead to the growth of towns, which have grown up mainly as a result of Non-African enterprise. For many years the indigenous people were regarded as temporary residents of the towns, in which they worked

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as unskilled labourers. They lived in traditional huts either inside or outside the township boundaries, and when urban authorities found it necessary to provide them with accommodation, it was on the assumption that they would work for short periods in the towns, unaccompanied by their families, and would then return to their areas of origin. The part played by them in the life of the towns is now more important and they themselves have become increasingly dependent on wage-earning employment. They are still, however, regarded socially and financially as liabilities for whose housing and welfare the urban authorities are responsible. The problem is to make it possible for them to become an element in town life which shares responsibility with the other communities for the development of the towns and which also contributes to urban revenues. But the growth of the native element in urban centres has led to the continuous extension of the urbanized area beyond the official town boundaries.

When European administration was established early in the present century, the East African territories were unhealthy for Europeans. Centres had to be established where they could live free from the dangers of tropical diseases and from which the surrounding countryside could be administered. The theory of indirect rule as well as the personal inclinations of many administrators led to a concentration on the development of rural tribal societies rather than the training of an educated urban élite, and also to the

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view that the town was not a suitable habitat for a permanent Native society; there has, indeed been a tendency to look on the westernized Native with suspicion. The towns have, therefore, been regarded rather as bases for administrative and commercial activities than as centres of civilizing influence, still less of permanent native population.

This attitude has had two important results. The first is the contrast between conditions in the non-Native and Native areas in the towns. The central parts of the towns are, as a rule, well laid out with wide roads and open spaces. The standards of building and of services are similar to those to be found in towns in the Union and Europe. In these central parts the inhabitants are mostly non-African. Outside these areas, with the exception of government-owned housing estates, standards of building and of hygiene are often as primitive as in the tribal areas. The second result is that those indigenous people, who have abandoned their customary way of life, find themselves excluded from the social and cultural life to which they aspire.

As the economy of East Africa is predominantly rural the percentage of the whole population which lives in towns is small. In Tanganyika, for example, in 1948 only two per cent of the total population were living in urban areas. When the non-indigenous population alone is considered the picture is entirely different. Fifty per cent of the Europeans

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and seventy per cent of the Indians live in eighteen of the largest towns and, of the remainder, the majority live in some kind of urban centre. The majority of the non-indigenous populations of the two main territories, Kenya and Tanganyika, are therefore not only highly urbanised but are mainly concentrated in a few large towns. The European populations vary in size in each territory according to climatic, economic and political circumstances. There are fewer Europeans in the towns of Tanganyika, which is not a country of permanent white settlement, than in those of Kenya.

Throughout East Africa the rate of growth of the European populations in the towns was extremely slow in the early years of the century and thereafter was only marked in the largest towns. The most rapid development has taken place since the last war. Although the total number of Europeans has increased, they still tend to be a transitory element in the population of the towns. Only in Kenya has an appreciable number of Europeans, resident in the towns, been born there. The majority of Europeans do not intend to make their homes in Tanganyika and, even in Kenya, many government servants and business men leave the country on retirement. Europeans form less than 5 per cent of the total urban population in the majority of larger towns. Nairobi is an exception.

Europeans in East Africa make a contribution to town life in the fields of administration, of commerce  
/and .....

and of the professions which is out of all proportion to their numbers. But the fact that many of them are not permanent residents tends to prevent the growth of a civic consciousness among them. A large proportion of the urban populations is Indian. According to the 1953 estimates they are 33 per cent of the total population of Nairobi, and 29 per cent of that of Dar es Salaam. The entrepreneurs and artisans of East Africa are still mainly Indians, although Native craftsmen are beginning to emerge. In 1948, according to the Non-Native Census figures, 82.2 per cent of the Indians in Kenya were employed in private industry or trade, of whom approximately half were in the wholesale and retail trades, 10.9 per cent were employed by government (including local government) and 6.9 per cent were employed in public transport services. Unlike the European population the majority of the Indian population is permanently settled in East Africa, where a considerable percentage has been born. Although many preserve their ties with India, few intend to establish their home there. They are the most stable element in the towns and the increase in their numbers is creating problems, both of shortage of living space and of opportunities for earning a living.

The number of Natives in the towns has grown very rapidly from a few unskilled labourers and domestic servants until it now forms a considerable proportion of the total urban populations, which was in 1953 for example, 57 per cent in Nairobi and 66 per

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cent in Dar es Salaam. This includes not only large unskilled labour forces, but clerks, foremen and artisans. There is now also a small number of Native professional and business men, such as doctors, barristers and builders. There is much evidence of the transitory nature of the native urban population. One manifestation of this is the presence in East African towns of Natives from a large number of tribes, who have not yet begun to merge into a homogeneous urban society; members of tribes who live at a distance from the towns very often retain their landholdings in their areas of origin, where their wives and children remain in order to cultivate them. Another is the preponderance in the number of men over women in most of the towns. The proportion varies and in Dar es Salaam, for example, there are as many as 72 women to every 100 men. It does not follow, however, that where the ratio between the sexes is approximately equal there are large numbers of stable marriages. A desire for economic and social freedom, which they may be unwilling to sacrifice by establishing new marital ties, may bring both men and women to the towns. A Tanganyika Report to the United Nations Organization says: (1)

"There is a perceptible drift of Africans from the country districts to the towns, in many cases the numbers involved

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(1) Report to General Assembly of the United Nations on the Administration of Tanganyika, 1951, paragraph 678.

bearing no relation to the industrial or commercial opportunities offered by the town."

So far only urban populations who live within the gazetted (i.e. Municipal) boundaries of the towns have been referred to. But a much larger urban population, mainly Native, lives outside the boundaries of nearly all the larger towns. "Urban" in this sense is taken to mean those who depend mainly on the town for their livelihood and who live in conditions which are urban in character, although in practice any delimitation must be artificial as town gradually merges into country.

(ii) Urban Administration.

In 1903 a Township Ordinance was passed in Kenya which laid down the procedure for the establishment of townships, the responsibility for their administration, the levying of rates, and provided for the making of rules. In Tanganyika the first Township Ordinance, under British administration, was passed in 1920. The administration of townships was the responsibility of the district commissioner assisted in the larger towns by nominated advisory boards. These usually consisted of the district commissioner as chairman and executive officer, the district medical officer, the local representative of the Public Works Department, and some European and Asian unofficial

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members. The unofficial membership of the boards of larger towns has been gradually increased until today some have unofficial majorities. Members are normally nominated. The final responsibility for the administration of these towns rests with agents of the central governments, but some of the townships have certain financial responsibilities. In Kenya, for example, the largest townships have township accounts. These are not fully fledged authorities since the township committees are not corporate bodies and their functions are merely to advise the district commissioners. They have, however, a degree of independence, since they have full control over the finances, subject to the approval of their estimates by the Executive Council.

The most advanced stage of administrative development is reached when a town becomes a municipality and thereafter enjoys considerable independence in the management of its own affairs. Among the factors which determine whether towns are to be made municipalities are the size of their population; the presence among their inhabitants of a sufficient number of people who are capable and willing to undertake the responsibilities of local government, and the expectation that the municipal council will be able to raise a sufficient proportion of its revenue from local sources. Dar es Salaam became a municipality in 1949 and other towns are moving towards municipal status. There are six municipalities in Kenya. The first town to become a municipality was Nairobi in 1919, although a

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municipal committee had been in existence since 1901. In Kenya there are two kinds of municipalities; those with municipal councils and those with municipal boards. Out of the six municipalities, two are governed by councils and the remainder by boards. The latter, unlike the municipal councils, must submit their estimates to government for approval. The municipalities in Tanganyika must also obtain approval for their estimates. The constitution of the municipal councils varies in each territory. In Kenya some of the members are nominated and others are elected on a racial basis. The Dar es Salaam Council differs from the other municipal councils in that each racial group has an equal number of nominated representatives. The district commissioner is still the executive officer of the majority of township authorities, but full time officers are often appointed to the largest towns and in Tanganyika, for example, ten towns have their own executive officers. Officers of the Medical and Public Works Departments are normally responsible for the whole of a district, but separate officers are sometimes appointed to the larger towns.

In the majority of towns the system of administration as outlined only extends to the areas which are inhabited by Europeans and Asians. Many Natives either hold temporary occupation licences or are squatters, and live in houses of a rudimentary nature which they build for themselves. There are also African housing estates in the larger towns which are  
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administered either by housing officers employed by the municipality, as in Nairobi, or by agents of the central government. These estates are usually provided with essential services, although the conditions which exist in them are often unsatisfactory. In Kenya the administration of Natives in all towns other than municipalities is the responsibility of the district commissioner. The responsibility for the administration of the Natives who live in a municipality is shared between the municipal authority and the central government, although their spheres are not always clearly defined. In a memorandum (i) submitted by a witness to the East African Royal Commission it was averred that the responsibility for urban African administration is defined in Nairobi and Mombasa. There is no clearly defined division elsewhere in the urban areas of the (Kenya) colony. The responsibility of the Central Government can best be summarised by saying that the Central Government is responsible for the administration of the Ordinances, Proclamations, Rules and Regulations of the Colony of Kenya. The Local Authority is responsible for public health, housing, medical treatment (other than that required in a hospital), public works, the development of housing estates, recreation, community development and social welfare.

In Tanganyika the indigenous people living  
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(i) East Africa Royal Commission - 1955: Part IV - Chapter 19.

in the towns are the responsibility of the urban authorities. These, in all towns, are under the control of the district commissioner, with the exception of Dar es Salaam Municipality, where the District Commissioner has had to be reappointed to deal with certain aspects of African affairs. Native residents are subject to urban African courts and are supervised by either liwalis or town headmen who are appointed by the District Commissioner. Each municipality in Kenya has an African affairs committee, which normally includes the African members of the municipal council or board. The Nairobi Committee, for example, has twelve members who advise the Council. Under the municipal councils or boards are African affairs departments headed by municipal African affairs officers. In Dar es Salaam the African Affairs Committee has been abolished because it was purely advisory - and its functions were covered by committees with executive responsibility on which Africans were represented in equal proportions with other races. It was felt that the African Affairs Committee represented an unnecessary intermediate stage between the raising of any matter by the African population and a decision made by a committee with executive powers.

It is significant, however, that District Commissioners have been re-introduced both in Nairobi and Dar es Salaam, in spite of the fact that in Dar es Salaam, Africans had been given equal representation on the

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Municipal Council with other races. The main reasons for their re-introduction appear to have been, first, that a central government agent was needed and the municipalities were not thought to be the right bodies to represent the central governments; secondly, there were the non-police functions of maintaining law and order to be performed, such as promoting good relations, removing grievances and providing administrative conciliation between Africans and the Municipal Council; and thirdly, it was felt that the Central Government was more likely than the Municipality to promote representative institutions for the African population.

Ways are being tried of increasing the participation of Africans in urban administration. The policy in each territory has been to increase the unofficial membership of all races on the governing bodies of municipalities and townships, whether by election or nomination, and a number of Africans have been included on the boards. There are four African elected members on the Nairobi Municipal Council. In Dar es Salaam there are seven African and Arab members which gives this group a representation equal to that of each of the other racial groups. This aspect will be dealt with in further detail under another heading. One or two nominated African members do not truly represent a diversified indigenous population who may consider them merely as agents of the government. Only a minority of the Africans who live in the towns are a settled element in the population, and they are divided  
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into a large number of tribal groups. An interesting attempt has been made at Nakuru in Kenya to make the African members truly representative by organising formal elections in which, inter alia, the candidates have to put down a deposit on the English system. Yet the African members are often insufficiently educated to comprehend the complexities of urban problems and consequently contribute little to the work of the councils. This is of particular importance in those municipalities where there is a majority of elected non-Native members on the council who therefore determine the proportion of the municipal revenue to be spent on Native services. The experience of Dar es Salaam suggests that an increase in representation alone does not solve the problem of administering the native people who live in the towns. Further measures are needed to establish a satisfactory system of administration for people without experience of town life, whose cultural and economic level is below that of the other races, and who do not recognize among themselves any community of feeling other than that of race.

A system of African advisory councils has been set up in some of the larger towns in Kenya and Tanganyika. In Nairobi the Advisory Council includes representatives of various ward committees and great care has been taken to see that as many interests as possible are represented. In Tanganyika ten townships have advisory councils which are considered to be a temporary means of securing the representation of

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African views and as a training ground for municipal affairs. The weakness of these councils is that they are purely advisory and there is no certainty that the views of their members will receive consideration. There is, therefore, the danger that, having neither responsibility nor executive functions, the members feel frustrated, which leads to irresponsible criticism of the conduct of affairs. An important administrative development is that a number of townships in Tanganyika have African ward organizations. Each ward has a council which in some towns, for example, Tabora and Moshi, recommends members for appointment to the township authority. In Dar es Salaam African ward councils are elected by the inhabitants and some of the members are eligible for appointment to the Municipal Council.

While the areas of the towns which are mainly occupied by Europeans and Asians are satisfactorily administered, the Native areas, whether within or without the nominal boundaries of the towns, are often without an effective administration except in the housing estates. Central government and local authorities share responsibility for the indigenous population, but their spheres are ill-defined and there is uncertainty and overlapping. The areas outside many towns are becoming densely populated, and the native authorities are incapable of providing the controls and essential services which are needed in an urban area. Until comparatively recently the problem of urban development has been given scant consideration,

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although studies have been made of particular aspects. But the administrative problems which arise in the towns are of an entirely different nature to those met with in the countryside. When a native goes to work in a town his whole way of life is changed. In his tribal area he grows his own food and he builds his own house with the help of his neighbours. His behaviour is controlled by the sanctions of tribal custom and the authority of his chiefs. In the town he is a wage earner in isolation, who must buy his own food and hire accommodation. In these circumstances he is unlikely to be able to keep his family in the town. He is free not only from the influence which customarily controls his behaviour but also from the responsibilities of family life. The urban administrator is, therefore, confronted with a new set of problems. Grass huts, for example, may be well adapted to the needs of rural society. But, if crowded together in a small area in a town without administrative or sanitary controls, they may give rise to undesirable social conditions and be a danger to health. The essential services needed in a town are costly and lead to problems of finance. The lack of social cohesion and self-help leads to a demand for all kinds of social services. Problems arise which are themselves difficult to solve, and are closely interconnected.

In considering the problem of administering Natives in the towns two apparently conflicting aims emerge. The first is to further the growth of multi-

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racial communities, and the second is to provide a simple and personal system of administration which is suited to the needs of people who have had no experience of town life, many of whom are illiterate. At present the indigenous populations of the towns are regarded as a liability, the responsibility for whom is shared between the central governments and urban authorities. There is still a need for an administrative system in the predominantly native urban areas which gives them financial independence of the present urban authorities. Endeavours in this direction will be dealt with below under a separate heading. The problems of urban development would be much simpler if the numbers of people who live in the towns could be controlled, and the desirability of restricting the influx into the towns from the countryside was often considered. But it was felt that such control is undesirable on economic grounds because it restricts mobility and therefore inhibits the development of the exchange economy, and is impracticable.

(iii) Municipalities in Kenya.

There is a wide difference between the circumstances of Natives living within the periphery of a European township such as Nairobi and those who inhabit coastal areas such as Mombasa, the latter with its large Asian, Arab and indigenous populations. Mombasa differs in character from Nairobi, for its

/Native .....



Native and Arab communities are of much longer standing than the European, while the commercial element is mainly Asian. Natives are not restricted to locations reserved for them nor is control exercised over their residence in the town of Mombasa. Up to recently they lived chiefly in villages laid out on land owned by Arabs and Asians, after which the various responsible authorities started providing separate accommodation for their native employees. Nairobi has the status of a city council, Nakuru is a municipal council whilst Mombasa, Kitale, Kisumu and Eldoret have the status of municipal boards. The latter town expects enhanced status soon. The remaining smaller townships are administered by the District Commissioners with nominated advisory committees. Since 1946 Native representatives have been nominated as members of all these bodies.

Where there are municipalities there are in addition African advisory councils, the members of which are elected either by wards or by tribal, occupational or religious organisations. Names for nomination to the Municipal Boards are put forward by these advisory councils and where there are Municipal African Affairs Officers they are also advisory to these officials.

The estimated population figures for these centres as communicated by their respective town clerks (1957) are as follows:

/GOAN .....

	<u>GOAN</u>	<u>ARAB</u>	<u>EUROPEANS</u>	<u>ASIANS</u>	<u>NATIVES</u>
Nairobi			15,000	40,000	140,000
Nakuru			2,000	6,000	15,000
Mombasa	2,534	13,847	2,027	23,847	42,853
Kisumu			600	10,000	10,000
Kitale			680	3,250	5,250
Eldoret			1,200	3,000	6,500

Nairobi owes its creation to the British occupation of Kenya, and the European population has always shown itself anxious to maintain the full representation of European interests in its institutions and services. It takes pride in the fact that the Municipal Council with an elected Mayor has a greater measure of autonomy than any similar institution in East Africa. The constitution of the Council is laid down in the Municipal Ordinance for the Colony and has been changed from time to time. (i) The most recent amendment to the principal ordinance has the effect that the Nairobi City Council is composed of seven aldermen elected by the Council (at which aldermen who are ex-councillors of long standing shall not vote) for a period of six years; ten Europeans for a period of three years; eight Asians for three years provided that five shall be members irrespective of creed and three shall be of the Muslim faith; two members nominated by the Member of the Executive Council of the Colony responsible for Local Government; the Administrative Officer of the Nairobi District; two members of /the .....

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(i) Municipal Ordinance for the Colony and Protectorate of Kenya, Chapter 136, section 4.

the Nairobi District Council nominated by the Member for Local Government; one member representing East African Railways and Harbours nominated by the Member for Local Government; and four African members elected. The Asians are registered on two different rolls. The total of six nominated members hold office at the Governor's pleasure for a period not exceeding three years. A special duty of the nominated members (at present all Europeans) is to guard the interests of the native people. Until 1958 the four African members were also nominated.

The Council further maintains an African Affairs Department in charge of which is an official styled "Chief African Affairs Officer". The present incumbent is a European whose appointment or dismissal is subject to the approval of the Governor. (i) The Assistant Chief African Affairs Officer is a Native but it seems doubtful whether for the foreseeable future anyone other than a European will be in charge of this department which is controlled by the African affairs committee on which also serve the four African councillors as well as the District Commissioner. For the first time in Nairobi's history an African councillor was elected as chairman of the African affairs committee in July, 1957. The first African advisory council was established in Nairobi in 1939. Between 1939 and 1955 little change took place in the nature  
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(i) *ibid* - section 20.

of its composition, although its size increased from about 30 to 47 members. It provided for four types of representation of Native interests, namely the tribes from the various provinces; vocational such as the traders and sports organisations; zonal, for example the village committees and Railway estates; residential areas and lastly, the ex-officio members consisting of various officials.

In 1955 the Nairobi city council abolished the African advisory council and substituted in its place the African General Ward Council. Its President is the Officer-in-Charge of the Nairobi Extra-Provincial District, and the Vice-President is the City African Affairs Officer. The Chairman is one of the African members of the city council. The other African members of the city council are ex-officio members, together with the Chairman of the African affairs committee of the city council and the Assistant City African Affairs Officer. The Chairman of each village committee is automatically a member of this Council whilst the Officer-in-Charge, Nairobi Extra-Provincial District also nominates three additional members. All councillors of the Nairobi city council are entitled to attend meetings of the General Ward Council, but may not vote on any matter put to the General Ward Council for decision. This body meets at least once a month to consider matters relating to or affecting Nairobi's Native population. If necessary it makes special representations upon any of these matters to the

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African affairs committee of the city council although the city council must in any case note the contents of the minutes of the Nairobi African General Ward Council at its monthly meetings.

There are a number of estates which are not controlled by the city council and further provision has been made for representation of their interests at both the Ward Committee and General Ward Council levels.<sup>(i)</sup> The Nairobi General Ward Council meets monthly in the very attractive City Council Chamber and conduct its business through the medium of the English language. The standard of debate is reported to be good and the demeanour of members restrained and responsible. A favourable impression was quickly made on the city council who paid great heed to requests put forward by the General Ward Council and gave the new body every encouragement. For example the African General Ward Council decided to recommend to the city council that the poll tax for Natives living in Nairobi be increased by Shs. 2/-, the extra income derived therefrom to be paid to the Nairobi City Council African Trust Fund to help meet the deficit on welfare services. This proposal has not yet been accepted by Government though the spirit in which it was offered has been acclaimed by the city council. The formation of the Nairobi African General Ward Council is a considerable advance in local government for Natives living in

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(i) Nairobi African Affairs Circular dated 19th May, 1955.

Nairobi and may prove to be so for the colony as a whole as a similar body has already been set up in Nakuru. It may be that in the near future some form of financial control will be given to this council and as it progresses so will various matters of procedure and methods of elections on more constitutional lines be improved.

In terms of its constitution it shall be the duty of the Nairobi African General Ward Council to receive and consider complaints, representations and suggestions having a bearing on the general well-being of the African population of the city of Nairobi, and, if necessary, to make representations thereon to the African affairs committee of the city council. It shall also be advisory to the Kenya Government. Members hold office for a period of three years which is the duration of all future councils. Apart from resignations, the seat of any member shall ipso facto become vacant if such member is sentenced, in respect of a conviction for any offence, to imprisonment without the option of a fine for a period of more than seven days, or with the option of a fine for a period of more than one month; or fails without leave to attend three consecutive meetings; or by reason of any physical or mental disability become unfit to hold office; or if an elected member, ceases to reside in the village the committee of which he represents; or if a nominated member, ceases to reside in the City of Nairobi. These are very similar to the provisions

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applicable to advisory boards in the Union and Rhodesia. This council may from time to time appoint such committees either of a general or special nature consisting of such number of members as it may decide for any purposes which in its opinion would be better regulated and managed by means of such committee. The Chairman and the Deputy Chairman are ex-officio members of every committee or sub-committee. The six standing committees each with eight members comprise the Finance, General Purposes, Welfare, Trade, Education and Housing committees. The constitution further details the method of filling vacancies, election of chairmen, convening of meetings and the hours thereof, adjournment, quorum, record of attendance, order of business, minutes, reports of committees, notices of motion, order of debate, closure, voting and suspension of constitution by two-thirds of members present.

As a result of the election of Africans in equal number to Europeans to the Legislative Council, local authorities seem to have little alternative but to expedite similar direct representation on a larger scale on municipal councils. Nairobi's Chief African Affairs Officer <sup>(i)</sup> has no doubt that Africans will play an ever increasing part in municipal affairs in Nairobi. He states that nowadays no opportunity is lost to ask for more African seats on the Council and

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(i) Passells, A.; (Chief African Affairs Officer, Nairobi); Opinion supplied verbally.

there is a great deal of interest in the activities of the General Ward Council. However, there are various city council by-laws which apply only to Africans and to African locations only, such as passes to be outside these locations at night, and remaining within the municipality without regular and sufficient means of maintenance. He fears that if the African representatives succeed in getting these by-laws repealed, much chaos as experienced elsewhere will result.

At Nakuru the municipal council is constituted of three African nominated councillors and fifteen non-African councillors. The Native areas of the town are divided into wards having an African Ward Council. Each Ward Council sends representatives to an African General Ward Council. The General Ward Council acts in an advisory capacity to the Municipal council in matters concerning African affairs and the municipal council refers certain matters to the General Ward Council for their comments. For instance, the council is planning a further African housing scheme to be built and rented to Natives and employers of Natives. The preliminary plans for this scheme have been sent to the General Ward Council for their comments. On the whole the General Ward Council works closely with the municipality which in turn does what it can to encourage and guide the General Ward Council. On occasions councillors or the mayor have attended meetings of the General Ward Council to advise them upon certain matters and the municipal council chamber

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is also made available for meetings of the General Ward Council. The District Commissioner is the President of the General Ward Council and the municipal African Affairs Officer is Vice-President. The Chairman of the General Ward Council is an African elected by the General Ward Council. The African Affairs Department at Nakuru is responsible for operating the African welfare activities of the municipality which include a community hall, library, reading room, radio diffusion service, women's homecrafts courses, nursery school, football league, together with a regular programme of cinema shows, lectures and dances. The African Affairs Officer has a European deputy and a European Trading Officer, plus the normal staff of Natives, who are being trained to assume full control of their own administration at some future date..

Mombasa differs widely in character from Nairobi. The large population of Arab descent is a reminder of its old standing as a township. Indians are predominant in its commercial life, and Europeans who are relatively few in number, have not the same reason as those of Nairobi for concern in the future of the town as a centre of permanent European residence. The presence of the indigenous people has not been restricted to locations provided by the Government or the Municipal Board, nor are there the same regulations as in Nairobi prescribing the period during which unemployed labourers are permitted to reside in the town. The Municipal Board of Mombasa consists of a Chairman  
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appointed by the Member of the Executive Council responsible for Local Government, seven European members of whom three are elected and four nominated, seven Indian elected members, two Arabs elected, two nominated African members, the Liwali (headman) for the Coast, four nominated members to represent the Government of the Colony, and one member nominated to represent the Port Administration. (1) The board maintains an African Affairs Department recently renamed the "African Affairs and Welfare Department" in charge of which is an African Affairs Officer who is at present a European. This department is subject to the control of the African affairs and welfare committee of the board on which all races are represented. An increasing number of executive posts are held by Natives in the African affairs and other departments, for instance Deputy and Assistant African Affairs Officers, Assistant Housing Manager, Managers of Social Institutions, Sanitary Inspectors, Market Masters and Assistant Building Inspectors. The African representatives on the Board are nominated through the African Advisory Council who submit four names for the two vacancies from which the District Commissioner recommends two to the Government for approval.

There is at Mombasa also an effective African Advisory Council whose function is advisory. In this council the District Commissioner and the African Affairs Officer (both Europeans) are President  
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(1) Municipal Ordinance : Chapter 136, section 10.

and Chairman respectively. The remaining members consist of two ex-officio members, six nominated by the central government, two representing the Christian and one the Muslim faith, twenty-four representing eight wards plus five others representing various organisations, making a total of 42 of whom 40 are Natives.<sup>(1)</sup> The standing orders of the Mombasa African Advisory Council follow very much the same pattern as the constitution of Nairobi African General Ward Council. The three remaining municipalities of Kisumu, Kitale and Eldoret have a set-up similar to Mombasa.

Of the urban advisory council system in Kenya it can be said that there has been a striking endeavour to marshall all shades of African opinion through natural tribal affiliations, territorial groupings and the unities of common employment, interests and sex. Mass meetings are as far as possible avoided with the exception of the election of ward representatives at open meetings. These ward members are chosen by acclamation or show of hands whilst the other representatives are left to be chosen by the groups themselves in their own way. These urban councils do seem to give a fair amount of ventilation to Native opinion but it is doubtful whether they have so far had much influence on the behaviour of the people. The incidence of disorderliness is still high, armed

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(1) Gardner, J.A.: (African Affairs Officer, Mombasa) - Circular Minute - Reference No. 2434/ADM. 15/1.

bands scare the people and attempt to intimidate those in authority. Local government authorities also feel that any representative body without responsibility and duties tends to go wrong and much thought is being given to the problem of assigning functions to these advisory councils, "even if only to replace the bulbs in the street lighting".<sup>(i)</sup>

(iv) Municipalities in Tanganyika.

Viewing the problem of the urban Native from the standpoint of native administration, it may be remarked that the British colonial governments in Africa have followed a variety of different policies in regard to the towns. In some territories, policy has had as its objective the adoption of the principle of segregation, in the endeavour to confine Natives to locations separate from the centres occupied by European or non-African communities. In other territories, where circumstances have not made it desirable or possible to follow this policy, the mixed populations in the larger townships have been placed under municipal corporations, while the smaller townships have either been placed under the management of administrative officers as township authorities, usually though not invariably with the assistance of local committees; or left under the control of the native authorities within whose jurisdiction they are situated. There are some thirty  
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(i) Howman, R.: African Local Government : Kenya.  
Part VII - 1953 (unpublished).

townships in which township authorities have been created, and a considerable number referred to as minor settlements, which have been brought within a simpler form of management, known as that of the sanitary authority. There are very few instances in which towns containing mixed native and non-native communities have been left under the control of the local native authority. (i)

In the coastal districts which had been under Arab rule for many years before the declaration of the German Protectorate, attempts were made to revive such of the traditional authorities as still existed, but it was found that they no longer had the standing which could make their influence effective, and they were replaced by nominated officials bearing the titles of Wakili, Liwali or Akida. These were appointed usually from native officials with previous experience whilst in the employment of a Native Authority or the Government. A Liwali was normally an official with increased responsibility both administrative and judicial. A Wakili was granted judicative powers either of an A class or B class court status. An Akida can be looked upon as a senior headman and a Jumbe a junior headman.

The town of Dar es Salaam which was recorded as having a population of between 3,000 and

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(i) Hailey, Lord: Native Administration in British African Territories. Part I, Chapter III, Section X.

4,000 in 1887, has now (1957) a population estimated roughly at 70,000 Africans, 26,000 Indians, 3,000 Arabs and 3,600 Europeans, the presence of a large number of the last-named being due to the fact that Dar es Salaam is the headquarters of the Tanganyika Government. Until lately the civil administration of the town has been in the hands of a Township Authority constituted under Ordinance 10 of 1920, but it received municipal status from the beginning of 1949, under the provisions of Ordinance 29 of 1946. Its municipal council now consists of seven nominated members from each of the European, Indian and Native communities the latter including one Arab, plus two European officials, making a total of twenty-three. On 10th January, 1958, K.S. Morambo was the first African councillor to be elected deputy mayor.

There was formerly an African affairs committee but this was discontinued some years ago as unnecessary in the absence of discriminatory legislation as between the races. It follows that no special legislation, regulations or rules are required in respect of the Natives as opposed to non-African representation on any body. Discussions are now taking place between the Council and Government on the question of the introduction of local government elections in Dar es Salaam, but these discussions are as yet largely exploratory. It is hoped, however, that it will be possible to hold elections soon after 1958.

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An African Affairs Department was established when the council came into existence in 1949 but this Department was abolished in 1955. During the early years of the council the African Affairs Officer had largely to act, on behalf of the council, as an agent for the central Government in land and other matters, but with the appointment of a District Commissioner and the general strengthening of the Government administrative service the necessity for an African Affairs Officer diminished to a point where he could be replaced by a Housing Officer acting under the Town Clerk. The African area is divided into three wards and a Wakili is placed in charge of each ward. Their control is co-ordinated under the supervision of the Liwali. A Wakili is again assisted by an Akida. Each ward is subdivided with a Jumbe in charge of each block. As regards the future, consideration is being given to ways and means of improving the administration of the high-density areas in the municipality which are mainly occupied by Natives, by some form of decentralisation.<sup>(i)</sup> There are three Ward Councils under the chairmanship of the three Wakili, to which the Liwali has also right of access. Each Ward Council consists of ten to sixteen members additional to the Chairman, five representing the Jumbes (headmen) of the Ward and the remaining number being non-official. The Ward Councils meet monthly and are mainly advisory. Each Ward Council

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(i) Town Clerk, Dar es Salaam Minute No. 2157/57 dated 19th August, 1957.

is linked to the municipality by an African member specially nominated to represent its interests.

A considerable part of the Native population of Dar es Salaam are residents of old standing, but the large influx of casual labour gives rise here also to the problem which is common to all those industrial or seaport towns which do not restrict entry or residence by a permit or pass system. The sporadic efforts made from time to time to reduce the scope of the problem by the deportation of "undesirables" have only served to confirm the general experience of the ineffectiveness of this remedy. There is a marked degree of congestion, and the rents charged by Indian or Arab houseowners are entirely out of proportion to the accommodation provided.

Township Authorities have been established under the Rules made under the Township Ordinance 10 of 1929. The constitution of an Authority may differ according to local circumstances. It normally consists of the District Officer as President, and officials of the Medical, Health, or Public Works Departments as members, but an increasing number of Townships now also have non-officials nominated as members. The most important feature of this system is that the Township is excluded, both for administrative and judicial purposes, from the jurisdiction of the Native Authorities within whose area it lies.

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The most important of the Townships is Tanga with an estimated population of about 40,000 of whom 700 are Europeans. The council consists of twenty-five members, one of whom is the District Commissioner and the remaining twenty-four being equally divided between the three races, viz., European, Asian and Natives. There is no African affairs committee, but the council owns a native liquor bar (Tembo Bar), the profits from which are devoted to the promotion of African welfare in the town. At the present time one of the African councillors is the chairman of the committee controlling the bar. At present (1957) none of the members of the council is elected, appointments being made by the Governor usually on the recommendation of the various representative bodies in the town. In the case of the Natives, these recommendations are usually made by the District Commissioner's African Advisory Council. (i) This Council is merely an advisory body for the District Commissioner but its secretary is a member of the Tanga Council which enables the Town Clerk to keep in touch with African opinion.

Tanga is divided into mitaa, or parishes, under minor Jumbes (headmen), but it contains members of nearly every tribe in Tanganyika and any effort to secure the representation of tribes is unusually difficult. The District Commissioner has, however, introduced a monthly "baraza" held in the open, at which  
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(i) Town Clerk, Tanga, Minute No. T.C./163/143 dated 14th August, 1957.

local opinion is freely expressed. The control of African affairs is conducted through a Liwali, who has under him an Akida, both being Government nominees, and a number of headmen (Jumbes), appointed to represent different sections of the town. The Liwali is not, however, gazetted as a Native Authority. He has a Native Court with A class powers, with appeal to the District Commissioner, and the Akida a B class Court, with appeal to the Liwali's Court. The Liwali, a local Muslim, has the assistance in Court of three assessors, and on occasion calls in advisers acquainted with the local law and custom of Africans from other parts of the territory.

In several of the other townships Africans have been nominated to the township authority. Thus, for example, Arusha has three European, two African and two Asian nominated non-official members; Mwanza has one European, two Indian and three African members; Dodoma has one European, two Indian and two African. The African members are nominated from the African advisory councils which consist of the Liwali and ten others of whom one is nominated by the District Commissioner and nine are elected, three from each of three wards. In practice the elections by acclamation attract so little attention that suitable persons have to be persuaded to serve. In Moshi instead of one advisory council there are smaller units called ward councils each of which makes recommendations for nominations to the township authority. In the townships of this class, the

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practical affairs of the Native community are normally regulated through a Liwali, who has sometimes an Akida subordinate to him, both being appointed and paid by Government. They usually have a number of headmen or Jumbes who are selected after consultation with the members of the communities to which they belong. In a few cases such as in the sanitary authority areas, the Liwali has been given powers as a Native Authority, but normally he derives his administrative powers by delegation from the District Commissioner.

Generally, therefore, policy is to give direct representation to the Natives on urban authorities and to that end African advisory councils have been set up which serve as electoral colleges to the central bodies. Where there are no such advisory councils, Natives are nominated and generally they are the local "headman" but the system has always been difficult to operate because Native interests in towns have been unorganised and there has been a dearth of English speaking Natives capable of taking part in the deliberations of the township authorities. These township authorities are really not genuine local government bodies. Their nature is rather that of giving all races representation on a body assisting the District Commissioner to spend Government money.

Advisory councils are reported on the whole to be working well in a purely advisory capacity. However, the aim is to give them some executive

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responsibility and it is admitted that this means control of funds. The means of doing this without an unacceptable curtailment or infringement of the functions of the central authority has yet to be worked out.

(v) Zanzibar.

The population of the two Islands, Pemba and Zanzibar, classed as urban was returned in the 1948 Census as 52,978 out of the total of 265,872, and only a small proportion of this urban population (7,703) was in Pemba Island. In that Island the small townships are now and will continue to be administered as part of the rural areas. In Zanzibar Island the urban population of 45,275 is centred in Zanzibar Town. Here a Town Board was set up in 1934, which was replaced by two Councils (The Stone Town and Ngambo Town Councils) in 1944. (i) The former, which deals with the portion of Zanzibar Town in which the European and Indian business centres are situated, has the Senior Commissioner as Chairman, two ex-officio Government members and thirteen nominated members representing the European, Arab and Indian communities. The Ngambo Council, dealing with the area which has a majority of Africans, has the District Commissioner as Chairman, four ex-officio Government members, and twelve nominated unofficial members, of whom nine are nominated on recommendations made /by .....

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(i) Decree No. 6 of 1944.

by an advisory committee in each of the three wards. The European Municipal Officer is secretary of both councils. The functions of these councils have hitherto been mainly advisory to Government, for the greater part of the public services are provided by the governmental departments. Claims have been put forward - particularly by the mainly Asiatic Stone Town Council - for the grant of full municipal status, based on election instead of nomination. These two town councils have since amalgamated but nearly half the services to maintain the town are still financed from revenue accruing from sources outside the towns.

(c) SUMMARY.

The aim of British colonial policy is self-government for the territories. The main problem which confronts the United Kingdom is that the presence of a considerable number of non-natives complicates the issue. In a multi-racial territory the more advanced minority section of the community always demands protection against the overwhelmingly primitive people. A most typical instance is afforded by Kenya. Whilst dominion status is the ultimate aim, this will not eventuate until the native community can participate fully. Generally the policy of trusteeship over the indigenous population has in recent years changed to one of partnership in which all the sections of the community must have a share. The new constitution of the Legislative Council

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formulated in November, 1957, gives the Natives equal representation with the Europeans, and as the Asians are also represented, the Non-Europeans are in the majority. Certain safeguards, however, are provided to ensure a majority in favour of the government, to prevent discrimination against minority groups and the right of veto is maintained.

Policy followed in Tanganyika has been determined largely by the fact that this territory was first administered from 1920 to 1946 under a mandate of the League of Nations and since 1947 under a system of international trusteeship inaugurated by the United Nations Charter, the aim being that the British government, as the administering authority, shall develop free political institutions suited to local conditions. The fullest use is accordingly made of the traditional institutions of the indigenous people and what has become known as the philosophy of indirect rule. Compared with Kenya, the presence of the small European population does not constitute the same political problem. Accepting the principle of partnership seats on the Legislative Council have been distributed equally among the three main races.

Zanzibar islands were proclaimed a British Protectorate in 1890. It is more a protected state since its sovereignty is divided by treaty between Britain and the Sultan of Zanzibar. Laws passed are issued as decrees of the Sultan. Out of a total

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population of over a quarter million people 75% originated from the East African continent. However, the government of the territory is so organised as to maintain the tradition that it is an Arab State, while at the same time it will by appropriate stages attain a status of internal self-government within the Commonwealth.

In municipal areas the presence of natives is looked upon as a social and financial liability but for whose welfare the local authority is nevertheless responsible. Due to the rapid increase of the urban native populations from many tribes, the residents have not yet begun to merge into a homogeneous society, a manifestation further complicated by the preponderance in the number of men over women.

The most advanced stage of administrative development is reached when a town becomes a municipality when it then enjoys considerable independence in the management of its own affairs. Before this stage is reached the administration of townships is the responsibility of the District Commissioner assisted in the larger towns by nominated or indirectly elected advisory boards. In Kenya there are six municipalities of which two are governed by councils and four by boards. The latter are required to submit their estimates for governmental approval in the same way as the municipal authorities in Tanganyika. The constitution of the councils vary in each territory. In Kenya some

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members are nominated and others elected on a racial basis. In Tanganyika each racial group normally has an equal number of nominated representatives where there is a sufficient number available. Where natives reside within the municipal area their administration is shared between the municipal authority and the central government. In Kenya each municipality has an African affairs committee which includes the African town councillors. This committee controls the council's African affairs departments headed by municipal African affairs officers. Due to the absence of discriminatory legislation no distinct African affairs committees or departments exist in Tanganyika.

In both Kenya and Tanganyika the municipalities make use of what is termed "advisory councils" for the native inhabitants and the constitution is so framed that as many interests as possible can be represented thereon. The membership is usually confined to ex-officio, nominated and indirectly elected members. It is only on the ward council level that actual elections take place and then only by acclamation or show of hands. The general masses of natives are still far too primitive, uneducated and backward to permit of a system of election by proper ballot.

The system of local government in British East Africa has proved most successful where the Council or Board has included a strong proportion of members with experience of commercial or business life who have

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hitherto been mainly European or Indian. Service on these bodies has on the whole not attracted Natives of standing because the range of their activities has been severely limited. Furthermore, Native members very seldom show themselves willing to face the responsibility for increasing taxation in order to finance an extension of essential services. The town inhabitant is not only more politically minded than his fellow countryman but he is also apt to be more exacting in his demands, and discontent with the management of municipal affairs is likely to react directly on governmental affairs of the territory.

A feature worth bearing in mind particularly on a long term policy basis is that the native advisory councils are directly represented by their own people on the main municipal authority, and that these very same representatives also serve on the advisory councils. There is therefore a very close link between the advisory council and the town council. This intimate and direct contact must eventually make its influence felt in the deliberations on the lower level. The African town councillors can be regarded as analogous to an executive committee of the urban African advisory council as most of them also serve on the latter body. As they report back to the advisory council, armed with first hand information, the impact of the educational value of such contact must ultimately penetrate the collective minds of the electoral community.

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CHAPTER 1V.

FEDERATION OF RHODESIA AND NYASALAND.

(a) Central Policy.

The Federation of Rhodesia and Nyasaland came into being on 4th September, 1953, when the first Governor-General assumed office.<sup>(i)</sup> In the first Federal Assembly of 35 members each of the territories consisting of Southern Rhodesia, Northern Rhodesia and Nyasaland was represented by two African elected members making a total of six. In addition three European members were charged with special responsibility for the interests of Natives. Of these one was elected in Southern Rhodesia and the other two appointed, one each by the Governors of Northern Rhodesia and Nyasaland respectively. In terms of the preamble to the constitution Nyasaland and Northern Rhodesia continue to remain as protectorates and consequently their indigenous peoples remained protected persons, whilst the indigenous people in Southern Rhodesia which is a colony, acquired British citizenship automatically by birth. This constitution was further amended in 1957 on which basis the election will be held in 1958.<sup>(ii)</sup> The new constitution provides that in future the Federal Assembly shall consists of a...  
/Speaker.....

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(i) Whitaker's Almanack, 1958.

(ii) Constitution Amendment Act of 1957.

Speaker and 59 members of whom 44 will be elected members (24 from Southern Rhodesia, 14 from Northern Rhodesia and 6 from Nyasaland); 8 will be elected African members (4 from Southern Rhodesia, 2 from Northern Rhodesia and 2 from Nyasaland); 4 will be special elected African members (2 from Northern Rhodesia and 2 from Nyasaland); and 3 special European members concerned with African interests, one elected in Southern Rhodesia and the other two appointed by the Governors of Northern Rhodesia and Nyasaland.

During the lifetime of the first Federal Assembly the Government was pledged to proceed with the enactment of an electoral law which has as its underlying aim the gradual extension of political rights and privileges to those who conform to civilized standards of behaviour and culture, with a corresponding diminution in special political representation.<sup>(1)</sup> In the electoral laws of all three territories the status of British subject in one guise or another was a prerequisite for the vote. Southern Rhodesia is a British colony, so the mass of its inhabitants are British subjects by birth, but the Northern Territories are protectorates and the indigenous inhabitants are British protected persons. The latter are therefore excluded from the franchise under the present laws unless they become naturalized as British subjects. Thus a new Citizenship Act was enacted early in 1957

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(1) White Paper, 1957 on Franchise for Federal Elections.

which has the effect that every person applying for registration as a Federal voter must be either a Federal citizen or a British protected person by virtue of his connection with Northern Rhodesia or Nyasaland. He must, in completing his form of application, make a declaration of allegiance to the Queen.

In the new Constitution it is provided that a quarter of the Federal Assembly's members should consist of Africans and Europeans charged with the duty of representing African interests. It provides no safeguard for European interests. Six of the fifteen special representatives are at present beyond the scope of the Federal electoral law, but nine of them fall within its scope, as do the forty-four elected members of unspecified race. The electoral law had therefore to cover the election of two different categories of members. In these circumstances the use of a single common voters' roll was not considered to be a satisfactory solution. Obviously if such a system were to be chosen and were to provide a guarantee of the retention of political power by civilized persons, the voters' qualifications would have to be set so high as to exclude all but a relatively small number of Natives. Expedients such as fractional voting and limitation of the numbers of special category voters would produce different results in each territory and in any event were considered questionable in principle.

The only solution which commended itself to the Federal Government was to have two common voters' /rolls.....

rolls to be called the general and the special rolls. Each voter with a much higher qualification on the general roll will be entitled to vote for one of the forty-four elected members and also for an African member and in the case of Southern Rhodesia, for the special European member. Voters on the special roll will only take part in electing African members and, in Southern Rhodesia, the special European member. The qualifications for the general roll are designed to ensure as far as practicable that only fully civilized and responsible voters are entitled to vote for at least three-quarters, and ultimately the whole, of the Federal Assembly, thus ensuring that political power remains with these voters. The qualifications for the special roll are designed to allow a reasonable number of Natives who have attained a measure of civilization and responsibility to participate in the election of the special representatives. The amended Constitution provides that, as and when Africans are elected as ordinary members, with effect from the next general election (November, 1958) there will be an increase in the ordinary members and a corresponding decrease in the special members. When all the special members are thereby substituted by ordinary members the need for the special voters will have disappeared and the special voters' roll will be discontinued. By the time this happens many of the special roll voters will have graduated to the general voters' roll. Of the 88,294 voters on the general voters' roll in October, 1958, only 1,747 were Natives,<sup>(1)</sup> which is exactly 1.978%.

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(1) The Star, 11th October, 1958.

Approximately 54,000 natives are on the special roll.<sup>(ii)</sup>

The Federal Government does not believe that special representation on a racial basis is desirable as a permanent feature and the Constitution Amendment Act provides for the ultimate removal of this representation. So long as it continues, special arrangements are necessary for the election of the special members and, this is the reason for two voters' rolls. It is important to note that both are common voters' rolls open to persons regardless of race. The Government considers that the participation of the general voter in the election of special representatives is fully justified by experience in the case of the Southern Rhodesian special members which has shown that Africans, if so encouraged can develop party loyalties which cut across considerations of race. The Federal Government believes that party political division, not racial division, must be the aim, and that the proposals in the constitution are the pillars upon which its official policy of partnership can be built.

Two more important points may be mentioned on the matter of native affairs from a central policy point of view. It is the function of the African Affairs Board, a standing committee of the Federal Assembly, to draw attention to any federal legislation of a differentiating character and to ask that it should be reserved for the signification of Her Majesty's

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(ii) ibid 24th October, 1958.

pleasure. Yet, contrary to the Union of South Africa, it is on the very plane of Native Affairs that the Federal Assembly has no jurisdiction. This important and national aspect remains as before the responsibility of the territorial governments. Such native affairs matters as local government, urban and rural, agriculture and primary and secondary education fall under the territorial government. It is quite feasible that at some stage or other the different policies and practices followed may have far-reaching effects. Thus an African member of the Federal Parliament may not qualify to serve on a municipal council because of discriminatory territorial legislation.

Southern Rhodesia, comprising Matabeleland, Mashonaland and Manicaland, is that part of Rhodesia lying south of the Zambesi River. The population according to the 1956 census numbered 178,000 Europeans, 5,100 Asiatics and 8,100 Coloureds; Natives are estimated at 2,290,000 giving a combined total of 2,480,000. The great majority of the natives of Southern Rhodesia are known as Mashona. The colony obtained self-government in 1923 and in the Federation it has retained its own territorial Parliament and Cabinet. The Queen is represented by a Governor who presides over the Executive Council. Municipal self-government has been established in the cities of Salisbury and Bulawayo, and in the towns of Umtali, Gwelo, Gatooma, Que Que and Fort Victoria. Smaller areas are  
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administered by Town Management Boards. Local self-government among the natives in the Native Reserves and Native Purchase Areas is encouraged and by the end of 1956 there were 56 Native Councils raising their own rates.

Northern Rhodesia protectorate, according to the 1956 census, showed a European population of 64,800, Coloured 1,550; Asiatic 5,400 and 2,110,000 Natives. The Government is carried on by a Governor appointed by the Crown and assisted by an Executive Council of official and unofficial members. The Legislative Council includes European as well as African members. A new constitution for this territory is at present (October, 1957) under consideration. In the rural areas Native Authorities similar to those in Tanganyika are in existence. In the urban areas most of the municipalities are concentrated on the copper belt.

Nyasaland Protectorate had an estimated population in 1956 of 2,617,000 comprising 2,600,000 Natives; 7,000 Europeans and 10,000 Asians and other races. The Government consists of the Governor and an Executive and Legislative Council, the former being nominated. The Legislative Council consists of ex-officio and official members appointed by the Governor, unofficial non-African members elected by direct vote and unofficial African members elected by electoral colleges. Due to the absence of large  
/concentrations.....



concentrations of the various races the small amount of the urban aspect of this territory is covered in this paragraph. In Nyasaland the urban Native population is small and consists of civil and domestic servants, and the like, with a relatively negligible element of industrial labour. The practice regarding the residence of natives in the existing small European townships is not uniform. Blantyre and Limbe prohibit it in principle to those who are not in employment; Port Herald excludes in theory all who are not domestic servants; Fort Johnston provides for the issue of special permits to other than domestic servants. Near Zomba the capital of the territory, a model village is being constructed by the Government to accommodate natives employed in the township who are not housed on their employers' premises. Blantyre has an estimated population of 9,600 of whom 790 are Europeans and 750 Asians; Limbe, 13,800 of whom 700 are Europeans and 1,110 Asians. Zomba has about 500 Europeans.<sup>(1)</sup> Negotiations are under way for the amalgamation of Limbe and Blantyre town councils on which will serve 14 Europeans and 5 Asians. When the African High Density residential area is incorporated, the question of giving the native representation will be considered. In 1949 a native was nominated on the Zomba Council, but in none of the other townships is there any specific provision for the representation of Natives, nor  
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(1) Year Book and Guide to Southern Africa - 1957.

is there any African advisory committee attached to the councils similar to those which are attached to the municipal bodies in a number of other territories. In most of the relatively few townships the members of the councils are nominated Europeans or Asians.<sup>(i)</sup>

The Federation hopes to obtain dominion status from Great Britain at the zero hour set for 1960. The political parties in power fear that the present Conservative Party in Britain might be ousted by Socialists at the next election and that the incoming Government might insist on the Native being treated on an equal footing irrespective of their numerical preponderance and tremendous backwardness. The policy of "partnership" as unequal as some may call it, seems to loom very largely in practically every sphere of government, be it Federal, Territorial or Municipal. It is clear, particularly to South Africans, how complicated a federal system of government may become especially where so much authority is vested in the constituent parts. Lack of co-ordination may yet prove a great stumbling block for these "States within a State". The inevitable outlook on national matters must always be tainted with a certain amount of provincialism or even parochialism.

(b) MUNICIPAL GOVERNMENT IN NORTHERN RHODESIA.

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(i) Hailey, Lord: An African Survey - page 574.

There are in Northern Rhodesia three different kinds of urban aggregates,<sup>(1)</sup> namely, African townships quite apart but not too far away from European towns where Natives may settle permanently; mine towns containing the employees and their dependants such as on the copper mines; and public townships which correspond to the Union and Southern Rhodesia towns with their Native urban areas.

Quite an interesting feature in Northern Rhodesia from the point of view of local government is the African township system which in fact offers the closest approximation to genuine local government among Natives to be found anywhere in Central and East Africa. These African towns originated from an idea in 1935 of providing areas outside municipalities where Natives of a better class with established businesses in the European towns could own homes of their own. By 1947 five such towns, about eight miles from their respective European centres, had been established under European supervision and trained Native supervisors for each town. Later the European supervisor was withdrawn and the Native supervisors were placed under the control of the appropriate District Commissioner. The towns were gazetted under the Township Ordinance with the District Commissioner as chairman of  
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(1) Howman, R.: African Local Government in Urban areas. Part VII - unpublished report.

an African board and the African supervisor as secretary for each town. However, the whole scheme in the earlier stages fell under the Provincial Administration which administered the funds derived from certain rates on residential and garden plots as well as government grants. The weakness in this scheme accordingly lay in the fact that these boards had no treasuries or bank accounts since the Government conducted all finance. As long as they had no treasury of their own, their sense of financial responsibility was non-existent and their willingness to raise additional revenue themselves negligible.<sup>(i)</sup> It was experienced that the Natives did not appreciate the privilege they enjoyed in living in such pleasant towns and that they regarded the central Government as

"a species of a bottomless financial well into which they can lower their buckets with endless capacity".<sup>(ii)</sup>

Consideration was then given to the question of converting the African boards into Native Authorities, which would have lined them up with the rural local authorities. It was decided, however, that as a first step the aim should be for the boards to meet recurring expenses from their own revenue while the Government will be responsible for European supervision, grants-in-aid, especially for extra-ordinary expenditure, loans for buildings, health, education and policing. In considering the question  
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(i) Cartmel Robinson Commission Report, 1949.  
(ii) Report of Provincial Commissioner, 1948.

of assigning to these township boards a portion of the tax rebate paid by those town residents to the rural Native Authorities, the governmental authorities were greatly impressed by the

"unanimity and depth of feeling shown by them against any suggestion that they should lose their affinity with their tribal areas and cease contributing to Native Authority Funds Funds".<sup>(1)</sup>

At this time, 1949, an important change of policy occurred. The administration of these African towns was transferred from the Department of Native Affairs to the Commissioner for local government. The decisive argument seems to have been a legal one. These towns had been gazetted under the Township Ordinance, therefore they were not the concern of the Secretary for Native Affairs. From this time on they were administered by the same machinery and legal provisions that existed for European towns but the Local Government Department recognised the importance of maintaining close contact with the Native Affairs Department by having the District Commissioner as chairman of each board and who assisted in much of the executive supervision.

Today each town levies rates and they are  
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Cartmel Robinson Commission Report, 1949.

almost self-supporting. They are inhabited predominantly by traders and craftsmen who take a lively interest in buildings and services. The fulltime employed and paid "African Town Secretaries" are fast acquiring a comprehensive grasp of their duties and the general appearance of the town is largely dependent on their interest and initiative and how they persuade the Native councillors to support them in their endeavours to improve conditions in the towns. Advice and persuasion have brought it home to them that Natives who enjoy such pleasant amenities of life must pay for the privilege. It was reported that

"This new outlook, though somewhat strange to many, is now being appreciated ... a sensible and strong board chased away the loafers and the town now has a better reputation".<sup>(i)</sup>

A European Townships Officer has recently been appointed to relieve the administrative officers of much of the work they had been doing but the District Commissioners still supervise the secretaries, the work of the boards and assist with drawing up the annual estimates. Steady progress is reported, rates have increased, loan funds, instead of capital grants, have been made available and the "townships virtually now stand on their own financial feet".<sup>(ii)</sup> An annual.....

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(i) Provincial Commissioner's report, 1956.

(ii) ibid

mual conference is also held which the chairmen, the secretaries and two members from each board attend and at which such questions as rating, election methods, employees' conditions, medical services and by-laws are discussed. Elections, confined to house owners, with ballot boxes and papers have worked well and each board consists of five to seven members with the District Commissioner as chairman and the Township Officer present by invitation. Each town forms a compact unit of about 500 to 1,000 stands. All the functions open to European municipalities are open to them but the emphasis is on what they want to do. Some African townships have provided their own schools. In order to raise revenue some have entered the field of private enterprise through the making of bricks and establishing timber depots. Others have undertaken the building of business premises and the anti-malarial spraying of dwellings not only as satisfying felt needs, but also being revenue producing. Generally a most refreshing interest is reported. The attitude so often described in Africa

"That where Africans have control they are reluctant to tax themselves and their representatives show little moral courage in the face of this attitude, reflects a reluctance to do what Europeans consider they ought to do" (1)

These little townships are imposing higher  
/rates.....

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(1) Howman, R.: African Local Government, Part VII - unpublished.

rates than in any other territory in East and Central Africa and the secret seems to be small communities meeting their own felt needs. The boards approve all new residents. The Union of South Africa seems to be moving in a similar direction in the native reserves except that it proposes to do so on a much larger scale.

Mine towns are administered directly by the mining authorities in conjunction with the District Commissioner. The residents are by and large migratory and tribal. The main feature in their administration is the outstanding success of the tribal courts which deal with both criminal and civil Bantu customary matters.

The presence of Natives in municipal areas is governed by legislation in terms of which separate areas referred to as "African Housing Areas" must be set aside wherein Natives employed within the municipal areas must be accommodated.<sup>(i)</sup> The various sections of this law then lay down the types of premises and where the accommodation is outside the housing area for natives the procedure is laid down for the licensing thereof. Not unlike legislation in Southern Rhodesia and the Union, certain matters are prescribed such as registration of householders, rentals, layout of the township, provision of essential /services.....

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(i) Laws of Northern Rhodesia, Chapter 234.



services, trading rights, management and control of the areas, the opening and keeping of African Housing Area accounts on similar lines to the Native Revenue Account in Southern Rhodesia and the Union, powers of entry, powers of the Governor when a local authority fails to carry out any provision of the Ordinance, and the issue of regulations to give effect to the principles and provisions of the enabling legislation.

In 1955 the estimated population in the principal towns of Northern Rhodesia was reflected as follows:-(i)

	<u>EUROPEAN.</u>	<u>NATIVE.</u>
Livingstone	4,000	27,000
Lusaka	10,000	60,000
Ndola	8,000	53,000
Mufulira	5,000	53,350
Kitwe	9,266	70,000
Luanshya	4,685	46,200

In these urban areas an ever increasing number of natives are divorcing themselves from tribal life in rural areas and becoming urban dwellers. Added to the growing element of the native population which is purely town-bred, has developed the inevitable core of more educated and alert individuals seeking a voice in the shaping of the country's pattern of life. Foreseeing this development the Government established in 1940, African urban advisory councils in the larger  
/towns.....

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(i) Year Book and Guide to Southern Africa, 1957.

towns. In their early stages these councils consisted of a number of elected and a number of nominated members under the chairmanship of the District Commissioner. Their functions were to advise the District Commissioner on African Affairs within the urban areas. The year 1943 witnessed the broadening of the basis of the urban councils and the introduction of provincial councils comprising elected representatives from each urban advisory council in the province together with representatives of the rural native authorities. The meetings of the provincial councils are presided over by the Provincial Commissioner.

In 1946, the African Representative Council was formed with the object of advising the central Government on Native opinion relative to all matters concerning that section of the community. The African Representative Council is constituted of elected representatives from all the African Provincial Councils. Late in 1940 the system of nominating members to the African urban advisory councils was changed and all members were elected, and, with the decision to include Native members in the Legislative Assembly, the African Representative Council chose two of its English-speaking members who were then nominated by the Governor-in-Council as African members of the Legislative Assembly. This method was also utilised to select the Native members of the Federal Assembly and a chain is therefore created by which it can be said that the Native members of the Legislative and Federal Assemblies are the elected representatives of the Territory's.....

ritory's native communities. The African urban advisory councils are virtually a Government responsibility, their formation and working being outside the sphere of the activities of local authorities and they are in fact the first rung in the ladder for those natives with aspirations towards wider political activities.<sup>(1)</sup>

In 1948 the African Housing Ordinance was enacted which provided for the establishment within urban native townships of "Urban African Housing Area Boards". Following very much the set-up of the Native advisory boards in the Union, a board consists of a chairman, who may be either a European or a Native appointed by the local authority, and such even number of elected members not being less than six as the authority may decide. This board as its name implies is intended to confine its attentions to the municipal native housing areas.

Liaison between municipal councils or boards and the African housing area boards is obtained by one of two methods - or both in some instances.<sup>(1i)</sup> The first is by arranging for the African affairs committee of a council to be represented on African housing area /boards.....

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(1) Howman, R.: African Local Government in Urban Areas Part VII - unpublished.

(1i) Pridham-Jones, H.: Urban Native Administration in Northern Rhodesia. A paper delivered to Institute of Administrators of Non-European Affairs (Southern Africa), Margate, September, 1957

boards and the second by the granting to the housing area boards of a measure of representation on African affairs committees. The conditions under which native representatives of housing area boards attend meetings of the African affairs committees of the larger local authorities differ throughout the territory, ranging between one or two natives being co-opted on to a committee with full voting powers in terms of an enabling section of the Municipal Corporations Ordinance<sup>(i)</sup> on the one hand, and a similar number being invited to attend, participate in debate but having no vote on the other.

The establishment, constitution and duties of urban African housing area boards are governed by regulations made by the Governor-in-Council, and the first set of regulations sets out the functions of Boards in that they shall consider:<sup>(ii)</sup>

- "(a) any rules which the authority proposes to apply to the area;
- (b) any matter referred to it by the commissioner through the authority, or by the authority;
- (c) any matter specially affecting the interests of Africans within the jurisdiction of the authority;
- (d) any matter brought to the notice of the board in respect of accommodation in the area".

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(i) Municipal Corporations Ordinance, Section 25(2)

(ii) Northern Rhodesia Government Notice No. 207 of 1952.

The regulations also make it permissive, firstly, for a board to carry out such measure of control over the area as may be delegated to it by the authority; and secondly, for an authority to delegate to the board the duty of collecting any revenues which the authority is empowered to collect.

Until recently, the functions of the urban housing area boards have been purely advisory. Local authorities in their wisdom have not seen fit to invest them with executive responsibilities and with the passage of time interest in the work declined. It became apparent that those natives best qualified to represent and serve their people were not offering themselves for election. In fact, it would be true to say that in some towns latterly, from the point of view of the local authorities the boards have existed for no other reason than that their establishment was a statutory requirement.

Almost aligning themselves with urban African advisory councils the boards tended to become no more than political platforms, and their members, although alive to problems facing the natives, seemed to accept uncritically the dictates of their self-appointed political leaders and were inclined to propose "solutions" with a complete disregard as to their practicability. Resultantly their value as advisers tended to fall away completely. This process of outgrowing usefulness in the evolution of a people and in all the circumstances is perfectly natural. The  
/boards.....

boards as established served their purpose among the former inarticulate and lethargic masses of migrant labourers who offered their labour within the towns for short periods and then returned to their tribal homes. But changes have been and are taking place. Urban native populations are becoming more stabilised and developing a voice concerning their general living standards. That the time is ripe for urbanised natives in Northern Rhodesia to be given increased opportunities to participate in the administration of the communities of which they form a part, is generally accepted in Northern Rhodesia.

During 1956 an appointed governmental committee enquired into ways and means by which these ends can be achieved and has issued its report. Pending any major amendments to the Ordinance in this direction however several local authorities had in the interim conferred upon their African housing area boards an increased degree of responsibility within the framework of the existing legislation. In Kitwe, for instance, a sum of money is set aside in the council's annual estimates of revenue and expenditure which is being spent on amenities at the discretion of the board, and this experiment designed only as a small introductory test and starting point has proved satisfactory. The board has been divided into standing committees each responsible for some specific sphere of the overall work and is now usefully contributing in greater measure to the administration of the

/Native.....

Native township areas. The pattern of this set-up thus closely follows the type of organisation which already exists in various centres in the Union of South Africa.

The findings of the committee appointed

"to examine and recommend ways and means by which Africans resident in municipal and township areas should be enabled to take an appropriate part in the administration of those areas".<sup>(1)</sup>

are based on evidence taken throughout the territory and from a wide and varied assortment of opinion. The report which has already been considered and accepted by the Legislative Council has been described as a most thought provoking document constructive in its suggestions and clearly practical in the solution it offers. Like most other reports dealing with controversial subjects, however, its recommendations have met with varied opinions regarding detailed implementation, but no doubt it is entertained that important and progressive strides, in harmony with the policy which Northern Rhodesia has chosen to follow, will emanate from it. New legislation dealing with the

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(1) Report of Committee appointed to examine and recommend ways and means by which Africans resident in Municipal and Township areas can take an appropriate part in the administration of their own areas. Published by Government Printer, Lusaka, 1957; hereinafter referred to as the Brown Report.

constitution and powers of the urban African housing area boards has now been promulgated.<sup>(1)</sup> In terms of these regulations the constitution of the urban African housing area board is dealt with first, followed by the constitution of the African affairs committee of a town council and then the delegation of powers and functions as approved by a council.

Where more than one Native township is in existence the various areas are taken as a whole for the purpose of establishing a board. The chairman is appointed by the local authority from the members of the board which consists of multiples of three Natives (in the larger towns usually fifteen), together with two European councillors, one of whom must be the District Commissioner or his representative. Of the Native members at least one-third must be elected by secret ballot, the others to be nominated by the local authority. The African affairs committee decides on the number of members which should be nominated, but is in any event restricted to a maximum of two-thirds. The local authority must also appoint a secretary. The Native areas are divided into wards with one representative for each ward elected for a period of three years, one third retiring each year. Every resident not being under twenty-one years of age and not owing the local authority any money may vote in the ward in  
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(1) Northern Rhodesia : Government Notice No. 141 of 1958.



which he or she resides. A person who has during the previous five years served a term of imprisonment of six or more months, or who has been adjudged as mentally disordered is disqualified from voting.

The African affairs committee is to be constituted of eight members namely, four councillors, one of whom must be the District Commissioner, and four African representative members of the area board, with the mayor ex-officio a member of the committee. Half of the African representatives (namely two) are nominated by the local authority from the Native members of the board and half (namely two) are elected by the board from amongst its Native members. The chairman of the African affairs committee is appointed by the local authority and he, in the case of equality of votes, has a second or casting vote.

The function of the African affairs committee is to advise the council on the administration of the African housing areas within the municipality and it shall also advise the council on all other matters affecting Native interests within the municipality. At the larger centres such as Kitwe, it was decided that those responsibilities which are not initially to be delegated by the council to either the African affairs committee or the urban African housing areas board are the following: <sup>(i)</sup>

/ (a) Raising .....

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(i) Director of African Affairs report, Kitwe.  
14th February, 1958.

- (a) Raising of loan funds;
- (b) The authorising of expenditure on capital votes where completed capital projects exceed £2,000 in costs;
- (c) The calling for and awarding of tenders where the amount to be expended required the calling for tenders;
- (d) The engagement, dismissal and conditions of service of staff both European and African; the imposition of disciplinary measures against staff or the fixing or adjustment of staff remuneration;
- (e) The overall control of finance and financial methods and the audit of all financial transactions;
- (f) The institution of legal actions and the drawing up of legal documents;
- (g) The control of licenced premises (i.e. outside the bounds of the housing areas);
- (h) Refuse removal, pest control, malarial control and all functions rightfully belonging to the Department of the Medical Officer of Health.

The balance of functions and responsibilities pertaining to the administration of African affairs is delegated to the African affairs committee, with a clear provision that the council is empowered to either reserve additional specific responsibilities to itself, withdraw responsibilities, or add further responsibilities in its discretion.

On its part the African affairs committee is empowered to delegate some of its delegated powers to the area board with the approval of the council. As an introduction to responsibilities the following powers have been delegated to the Kitwe African Housing Area

/Board .....

Board: (i)

- (a) The allocation of housing (to all African self-payers of rental) including cancellation and transfer of tenancy;
- (b) The allocation of trading facilities;
- (c) The compilation of voters' rolls and the detailed conduct of elections;
- (d) The submission of annual estimates of revenue and expenditure through the African affairs committee to the council;
- (e) The right to authorise expenditure within the approved estimates of amounts of up to £500 without prior reference to African affairs committee. (All purchases over £100 are to be made by the invitation of quotations in the ordinary manner through the municipal stores);
- (f) The responsibility of decision on action against African persons for non-payment of rentals and any other indebtedness by Africans to the African Affairs Fund;
- (g) The imposition of levies on African tenants;
- (h) Recommendations and guidance to the African affairs committee on all other matters pertaining to living conditions in the townships including aspects of welfare and the conducting of canteens.

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(i) Director of African Affairs, Kitwe, Minute No. OAA/16/d/58 dated 17th September, 1958.

From the aforementioned it will be observed that whilst the constitution of the board may be fairly flexible, sufficient safeguards have been provided whereby the local authority, by virtue of its powers to nominate up to two-thirds of the members of the board, can ensure that at the initial stages, the membership will be confined as far as practicable to persons of standing and ability. The remainder of the regulations cover the division of the areas for the purpose of election into wards, qualification of members, electoral procedure, the method of voting and other matters very much on the same lines as voting and election of the advisory boards in the Union. Following the lead set in the Union during recent years, the duration of office is three years, one third of the members retiring each year. The functions of the Board are prescribed very much in the previous fashion. An interesting point is the question of delegation of powers as covered in the regulations. The relevant section reads: "The Board may exercise such powers as shall have been lawfully delegated to it by the local authority".<sup>(i)</sup> The use of the word "may" would appear to make this clause a permissive one. If the Board does not feel inclined to shoulder certain responsibilities, as might well happen, it could decline the acceptance of such delegation of powers, particularly when such delegation carries with it responsibilities of financial implications.

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(i) Government Notice No. 141 of 1958 : Regulation 18(3).

No doubt the governmental authorities had in mind starting on a small scale in the hope that from small things greater ones will develop and in the early stages not to force anything on an unwilling body.

Since the urban African housing area board is now directly represented, not on the local authority, but on one of its standing committees, to wit the African affairs committee, the necessary precaution appears to have been taken on two important issues, namely, the constitution of the committee, and the powers it may enjoy. The African affairs committee, it may be true, consists of eight members half of whom are to be Africans. By this deduction the Africans become in conformity with central governmental policy the equal partners of the Europeans. However, the mayor who is a European, is ex-officio a member, which gives the European members a majority of one. The chairman of the African affairs committee is appointed by the parent body (the local authority) and not elected by the committee as is the standing procedure. For the foreseeable future the chairman will no doubt be a European councillor. The chairman has a casting or second vote. Thus, if the chairman appointed is a European, the European section could outnumber the Native section by six votes to four. However, if the local authority in its wisdom appoints one of the natives to preside, the voting if on racial grounds could in certain circumstances be equal. But it should be remembered that two of the four African members are  
/nominated.....

nominated by the local authority from the members of the urban African housing area board of whom again two-thirds could also be nominated members. It is therefore quite likely that all four African members on the African affairs committee could be four originally nominated members. As experienced in the Union of South Africa, nominated members who are not to the same extent subject to electoral censure, more often than not adopt a more moderate and objective attitude on matters of local government.

The other safeguard or precaution taken is that the local authority promptly divests its standing committee on native administration of most of its primary functions even to the extent of the engagement of Native staff, so that this committee has really little power or functions left to delegate to the urban African housing area board. And even such powers as could be delegated are subject to veto by the local authority. On the face of it, the urban African housing area board now becomes advisory to the African affairs committee who in turn becomes advisory to the town council. Be that as it may, there is a certain amount of wisdom in this method. Instead of initiating the natives on the higher plane of municipal government, the local authority concerned no doubt decided first to bring them in on the lower level of administration. Thus where the rentals of houses are paid for, not by employers, but by native tenants, the allocation, cancellation or transfer of tenancy is left in the hands  
/of.....

of the area board. So also is the matter of granting trading facilities delegated to the board. The right to authorise expenditure "within the approved estimates" of amounts of up to £500 may at first sight appear a mere formality. To illustrate, an amount of £1,000 is provided on the estimates for repairs to and maintenance of roads. The Board authorises an amount of say £400 to be spent on roads A, F and Y, the execution of which was previously done administratively. In this commendable effort is one of the small ways through which the board members could receive some detailed tuition in the arts of municipal government.

In the power delegated to the board to impose levies on African tenants lies the sting! Is it the intention to combine the representational aspect with the educational or is it only an attempt at education? Some local authority experts consider a combination of the two aspects as quite incompatible and doomed to failure unless a distinction between the two is drawn. Other authorities differ in that they are adamant that the representational (i.e. political) must be combined with the educational (i.e. financial responsibility) as a sine qua non to prudent and sound municipal government. The success of this new system will largely depend upon the extent to and tempo at which the authorities and executives will be prepared to translate the new policy into positive action, accompanied naturally by sympathetic assistance and per-

/sistent.....

sistent guidance, and of course, the willing co-operation of the indigenous people themselves which will be influenced largely by the degree of financial responsibility the Native residents will be prepared to shoulder. In the field of local government it must be conceded that Northern Rhodesia is embarking upon a brave experiment in conformity with central policy of racial partnership.

(c) Municipal Government in Southorn Rhodesia.

(i) Native Townships.

Until 1890, the only Europeans in Southern Rhodesia were a handful of missionaries, traders and hunters. In that year the first wave of immigration started with the pioneers entering Southern Rhodesia in terms of the Rudd concession granted to Rhodes by Lobengula. Mining and farming were the principal pursuits of the original settlers and for the next forty years remained the main economic activities of the territory. Neither developed fast and the European population grew slowly. But by 1936 the total population of the territory was 1,321,950 of whom 55,570 were European. Of the Europeans 24,000 lived in Bulawayo and Salisbury, which were the largest settlements and about equal in size, and the rest were scattered about in small townships and isolated mining villages. In the early thirties a definite attempt was made to en-

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courage industry. This started the developments witnessed today -developments that were accelerated by wartime industrial demand and thereafter stimulated by post-war immigration and high prices for Rhodesian tobacco and base metals. The urban population has vastly increased as the following table shows: <sup>(i)</sup>

	European Native ( Estimate )		European Native	
	1953.		1936.	
Bulawayo	40,500	100,000	12,392	25,070
Gatooma	2,100	7,806	242	1,697
Gwelo	6,400	14,000	1,487	3,125
Que Que	3,000	6,750	-	-
Salisbury	50,000	98,823	11,321	30,010
Umtali	7,000	21,069	2,134	6,523

The estimated native population for 1956 has been furnished by the Statistical Department of Southern Rhodesia in respect of the six largest municipalities as follows:- <sup>(ii)</sup>

Salisbury	151,000
Bulawayo	116,000
Umtali	22,000
Gwelo	21,000
Gatooma	8,900
Que Que	7,800

As may readily be imagined, this lightning  
/growth.....

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- (i) Ashton Dr. H.: Urban Native Administration in Southern Rhodesia. Institute of Administrators of Non-European Affairs (S.A.) Durban, September, 1954.
- (ii) Report of the Urban African Affairs Commission, 1958. Page 17 Paragraph 82.

growth led to all sorts of stresses and strains and difficulties. A large proportion of the early and recent immigrants are from the Union of South Africa and of both English and Afrikaans speaking stock, and so many of the institutions, thoughts and customs originate from or have been directly influenced by South Africa. There has always been constant coming and going between the two countries, which has maintained the close tie between them that existed from the beginning. Much of what happened there thus has a familiar ring to South African ears. But Rhodesia has always had a strong individuality of her own, and in native administration, as in other spheres of life, she has taken her own line, which, though similar in some ways to South African practice, differs in others. From time to time areas were set aside for the sole and exclusive occupation of natives, and during the years some natives acquired property as individual freehold and others sold what they had been given or acquired. Others again, and they are in the majority, lived on Crown land or European farms. In 1925 a Land Commission was appointed to go into the whole question of land tenure, and as a result of its recommendations an Act<sup>(1)</sup> came into operation which in its simplest terms, divides the whole Southern Rhodesia into five main groups, namely European, Native, Forest, Undetermined and Unassigned. The latter are areas whose future is as yet undecided. The Act aims

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(1) Land Apportionment Act of 1930 (Act No. 29 of 1930).

at - and largely achieves- residential segregation.

The Land Apportionment Act was replaced in 1941, and then amended in 1945, 1946 and 1949<sup>(i)</sup> and the legislation now provides for five types of urban residential areas for Natives, namely:

- (i) Native Urban Locations,
- (ii) Native Urban Areas,
- (iii) Native Village Settlements,
- (iv) Railway or Statutory Commission Native Areas, and
- (v) Native Townships.

The first four are situated on land in the European area. A Native Township can be established only within a Native area or reserve. A Native urban area and Native urban location inside or outside the boundaries of the municipality are controlled by the local authority concerned. A native village settlement is an area of land owned or acquired by the Crown in the vicinity of a town or other centre where large numbers of Natives are employed, and set aside by the Governor for occupation by Natives and their families. Such examples are found at Highfield near Salisbury, Luveve near Bulawayo and Senka near Gwelo.<sup>(ii)</sup> A Railway or Statutory Commission Native Area is an area of land within or outside a local authority area, owned or occupied by the Rhodesian Railways or other statutory corporate body and set aside by it, with the  
/authority.....

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(i) Land Apportionment Act. Acts 11 of 1941, 14 of 1945, 6 of 1946 and 28 of 1949.

(ii) Report of the Urban African Affairs Commission, 1958. Page 164.

authority of the government subject to certain conditions as a residential area for the accommodation of Natives in its employ and of their families and for the provision of facilities necessary for their requirements.<sup>(i)</sup> Such areas are found at Rugare near Salisbury, Wankie, Lalapanzi, Banket, all under the Rhodesia Railways, and areas at Bulawayo and Gatooma under the Cold Storage Commission, and the Cotton Research and Industries Board, respectively. A native Township can be established only in the native areas or reserves. In them Natives may purchase residential and business stands and obtain a title for them in contrast to their leasehold property in the other settlements. So far three such townships have been proclaimed in the vicinity of Salisbury, Bulawayo and Umtali namely Seki, Ntabazinduna and Zimunya.

The administration of a Native township is carried out by the Department of Native Affairs. No other law relating to local government shall apply to it.<sup>(ii)</sup> Comprehensive regulations have been issued for this purpose which, in brief, provide for the payment of rates, setting aside various sites, enforcing suitable health and sanitation measures, and generally for maintaining good rule and order within the townships.<sup>(iii)</sup> No councils or advisory boards have been  
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<sup>(i)</sup> Land Apportionment Act, 1941, as amended, section 33A.

<sup>(ii)</sup> Act No. 11 of 1941, Section 12.

<sup>(iii)</sup> Government Notice No. 2 of 1954.

established although small ad hoc committees have been formed to assist in the administration. As these townships are in the native reserves it is the intention to create Native Councils which in terms of the Native Councils Act of 1957 may acquire even more powers than municipal local authorities.

Native Village Settlements schemes are administered by a departmental committee called the Management Committee consisting of representatives of the Departments of Native Affairs, Local Government and Housing, Lands and Townships, Engineering and Construction and the Treasury. It is administered in terms of regulations similar to the Native Townships.<sup>(i)</sup> The Government's intention is to apply the Native Council's Act to these areas also.

Railway or Statutory Commission Native areas are controlled by the corporate bodies concerned. The Governor may at any time revoke the authorisation of such area.<sup>(ii)</sup>

From the point of view of municipal administration the Land Apportionment Act is mainly important as setting the administrative frame within which it works. It provides for urban residential areas for natives and specifies the conditions under which they may be established. It makes three other practical.....;

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<sup>(i)</sup> Report of the Urban African Commission, 1958. Paragraph 177, page 40.

<sup>(ii)</sup> *ibid* paragraph 161, page 35.

tical provisions which affect local authorities. One is that no European - other than the Government or Local Authority itself may own or occupy land or premises in a native urban area except (subject to the Governor's permission given with the Local Authority's approval) for administrative purposes or for educational, religious or other such purposes for the benefit of the residents. The second is that in Local Authority areas no native may lease (or occupy) land outside the Native urban area unless he has a ministerial permit or is employed by the occupier of that land. In the former case, the permit may be issued for a specified or indefinite period and may be revoked on twelve months' written notice, and may be granted to a native who was already in occupation before the establishment of the Native urban area. The third allows the Local Authority to give permission to any person to manage any entertainments, beer hall, dance or sporting activity or to erect churches or schools for natives in the European or Native urban area. Little use has been made of this provision except to cover the establishment of beer gardens and recreation centres by the Local Authority itself in the European areas and by large employers such as the Rhodesia Railways in their native housing schemes, which are technically part of the European area.

Like in the Union of South Africa, the last world war stimulated industry tremendously, native labour flocked to the towns and the shortage of accommodation.....

dation became even more acute. There was a real danger of slums developing, and of slum populations being bred. This the Government was determined to avoid. So immediately after the war it promulgated the Native (Urban Areas) Accommodation and Registration Act, 1946, which borrowed a good deal from the Union Natives (Urban Areas) Act of 1945. This is their magna carta, and paved the way for the establishment of Native Administration Departments in all municipalities. Its principal features may be very briefly described. Its preamble sets out its intention quite clearly:

"..... to make provision for employers to provide free accommodation for their native servants and certain wives of such servants, and for purposes connected therewith, and for the regulation and control by local authorities of natives seeking employment in or visiting local authority areas and for the registration of contracts of service with native servants therein....."

Its most important aspect is contained in the first part, which requires every employer to provide free accommodation for his employees. This accommodation may be in:

- (a) private premises as licensed by the municipality,
- (b) a native village settlement, i.e. Government township.
- (c) a native residential area, i.e. municipal township.

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As in the Union this act requires municipalities to keep a Native Revenue Account. This is kept in two parts - General Revenue and Native Beer Funds, the latter dealing with health and welfare services. The working of the General Account is of interest, as this is where Rhodesia has made an original contribution. Into the General Revenue Account various monies are paid, of which the most important are-

- (1) Rents of houses, business premises and plots, including accommodation in the Native residential areas occupied by the municipality's own employees;
- (2) Fees for the licensing of private premises;
- (3) Fees for the registration of service contracts.

The Account may be charged with all or any services rendered to the Native residential area, i.e. cost of administration, capital charges and the usual charges for cleansing, maintenance, repairs, water and electricity. When promulgating the Act in 1946, the Government expected that the Fund would keep itself solvent without recourse to grants-in-aid. The municipalities have accepted this assumption, and although the Act permits a deficit to be met by a grant or an advance from local funds, they have aimed pretty consistently at avoiding any subsidies from rates. The legislation does not specifically prescribe or en-

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courage this attitude, but it does provide the machinery by which it may be attained. This is perhaps its greatest contributive factor for Rhodesia's excellent post-war building achievements. The relevant provision is extremely simple : it is merely this, that the employer must pay the rent, and that this shall be the same for married as for single accommodation. The ostensible purpose of the latter part was to prevent employers from discriminating against married employees, whose rentals would, in the usual course, have been higher - perhaps considerably higher - than single. Some say this was never necessary as married labour is more stable and efficient than single, and the intelligent employer would have been prepared to pay the higher rent in order to get the better workman. However, soever this might be, the clause certainly does prevent discrimination and even encourages employers to clamour for a greater proportion of married. It has also gone further by making it easy for municipalities to balance the Native Revenue Account. The costs of native administration, registration of service contracts, licensing of private premises and of all housing schemes are aggregated : the revenue from registration and licensing is deducted : the balance is divided by the number of tenants - and heigh presto, the quotient is the rent. It is as simple as that. However, present trends of opinion in both Northern and Southern Rhodesia are to adopt the Union's Services Levy system.

This Act as amended and consolidated in 1951

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provides the necessary legislation, very similar to the relevant sections of the Union Natives (Urban Areas) Act, for the general administration and other services, influx and other control measures, licensed premises and the establishment of native advisory boards. (i)

(ii) Advisory Boards.

It is laid down that for every native residential area and, if the Minister of Native Affairs after consultation with the local authority concerned so directs, for any portion of a native residential area there shall be established by that local authority a native advisory board; provided that where two or more native residential areas are in the same vicinity the local authority concerned may establish one native advisory board for both or all such areas. (ii) The board shall consist of not less than three natives resident within the local authority area in addition to a chairman who may be either a European or a native. The mode of election or selection of such boards, the procedure, the periods and conditions of office and their functions and duties shall be defined by regulations made by the Governor. A native advisory board shall consider and report upon -

- (1) any by-laws or regulations which the local authority proposes to make or apply under the provisions of section 38 of the Land Apportionment Act; / (ii) .....

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(i) Natives (Urban Areas) Accommodation and Registration Act, 1951.

(ii) ibid - section 35.

- (ii) any matter referred to it by the Minister or by the local authority;
- (iii) any matter specially affecting the interests of natives in the local authority area upon which the board may consider it useful or desirable to report; and

shall forthwith transmit its report to the local authority or to the Minister through the local authority as the circumstances may require.

A native advisory board may also recommend to the local authority the making or the application of any bye-laws or regulations which it considers necessary or desirable in the interests of the natives in the native residential area. As stated under the previous heading, this section as with others, was taken over almost word for word from the Union's Natives (Urban Areas) Act of 1945.

In 1952 the regulations were promulgated in respect of native advisory boards which followed by and large the model regulations of the Union.<sup>(i)</sup> Generally, these regulations lay down the constitution of the boards which like previously in Northern Rhodesia must consist of such "even" numbers as the local authority may determine. The chairman of the board is appointed by the local authority who may also appoint a vice-chairman who presides when the former is not present.....

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(i) Southern Rhodesia Government Gazette No. 524 dated 20th June, 1952.

sent at the meeting. In the Union the chairman of the standing committee responsible for native affairs is automatically chairman. Members are elected for a period of two years, half of whom retire each year. The remaining regulations deal with the questions of dividing the native townships into wards for the purpose of electing one representative for each; appointment of returning officers; qualification of candidates; procedure at elections; filling of vacancies; conduct at meetings and the appointment of committees.<sup>(i)</sup> Again like in the Union, some of the larger urban centres have adopted standing orders or "rules of procedure and rules of order of Advisory Board meetings" which regulate the holding of ordinary and special meetings, notices of meetings, quorum, adjournment, minutes, order of business and rules of debate. A disadvantage in Southern Rhodesia seems to be that no provision has been made for the appointment of some members to the board in addition to elected members as is the case in the Union.

Native advisory boards are what they are called advisory. Subject to their inherent limitations they do as much as they can be expected to do. They cover a wide range of subjects and their advice is frequently sound and representative of native public opinion, or at any rate of the more vocal or /articulate.....

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(i) African Affairs Department Memorandum July, 1957: City Council of Salisbury.

articulate section of the public. The percentage of the potential electorate who turn out to vote is fairly low in Bulawayo and Salisbury - less than 10% for the last election or two, and it is difficult to say whether this apparent lack of interest is due to public satisfaction with and confidence in the board, to apathy, or to conditions generally - possibly a bit of all three.<sup>(i)</sup> If insufficient nominations are received to fill all the vacancies the Native Commissioner of the district concerned appoints the requisite number of additional members. This power has had to be exercised several times in Umtali. Inevitably, not all the board's recommendations are accepted by the local authority and sometimes their relations are not very happy. This may give rise to mutual recriminations and to feelings of dissatisfaction which may lead, as in 1953 happened to one board in Bulawayo, to their adjournment sine die.

Examples of advisory board recommendations which have not been approved include requests for more frequent buses covering wider areas at reduced fares, and higher salaries for native bus drivers when the transport account already shows a deficit; demands for more tarred roads, street lights, house wiring and electricity without being prepared to contribute to-

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(i) Ashton, Dr. H.: Proceedings of Institute of Administrators of Non-European Affairs (S.A.), 1954.

wards the costs; the provision of ceilings in houses, internal doors and laid on water at the cost of the local authority; application for a number of lodgers exceeding health requirements; increased welfare and recreational facilities beyond the financial capacity of the Native Beer Fund; provision of robots at uncontrolled streets where traffic does not justify the expenditure involved; substitution of European personnel in Native areas in respect of positions where qualified and trained Natives do not exist; the non-enforcement of health regulations in respect of hawkers and other traders; remuneration of advisory board members when European councillors do not receive any; application for taxi licences on routes of and in opposition to buses; increased wages for municipal native employees. These requests may appear reasonable if not viewed from the overall financial aspect, hence the feeling of frustration among the boards if their recommendations which carry no financial responsibility are not upheld.

The numbers of members are fixed by the local authority. All are elected for a two year term of office. Half the board retire annually and are eligible for re-election. The area may be treated as one, or divided into a number of wards. Every tenant and his wife are eligible to vote and to stand for election, subject to one year residential qualification and various other conditions such as payment of all rents due, absence of a criminal conviction within  
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three years carrying a penalty of imprisonment without the option, or imprisonment of three months with the option of a fine. The chairman of the board is appointed by the local authority, and is usually the chairman of the town or city council's African administration committee. This direct contact between council and board is viewed as most valuable. The secretary is appointed by the chairman, and is usually a member of the council's African Administration Department.

In spite of their shortcomings native advisory boards in Southern Rhodesia do fulfil a useful function.<sup>(1)</sup> They air and bring to the authorities the views, grievances and desires of the people, although admittedly many of them could be communicated by other means. They also provide an opportunity for those who really want to know, to learn something about the functions and methods of local government. But as they have no administrative responsibilities they have little incentive to go very far with this. In some areas an attempt has been made to encourage a greater sense of responsibility by making them realise that their recommendations on administrative matters will be acted upon if at all feasible. This has met with some success, but it is still too early for them

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(1) Ashton, Dr. H.: Report to African Administration Committee. Bulawayo City Council; Ref. 2/255/OL  
- June, 1956.

to give public support to unpopular measures, no matter how convinced they are privately of their need.

It is not really surprising that they are not more effective for they labour under considerable handicaps. Most of their members are of very limited education, they have very little experience of public affairs and none at all of practical administration. They are subjected to all sorts of pressures which would take tremendous moral courage to withstand, and they are caught up in the stresses of nationalism and racialism which encourage emotion rather than reason. "The Boards mirror the strains of a multi-racial society" in Ashton's estimation.<sup>(i)</sup> It is sometimes doubted whether the board members can be otherwise than they are without a fundamental change in policy and attitude. As it is they are in a position of conflicting aims and duties. Many if not all of them, especially the most active and vocal, owe their position largely to their opposition to authority, especially European authority, and it is difficult for them to reconcile this with their function as board members to co-operate with that same authority.

To give them some administrative responsibility as was suggested in certain quarters, and as many would like to see, would in the opinion of native affairs.....

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(i)  
ibid.



fairs administrators possibly only worsen their schizophrenia for they would then be actually identified with the exercise of authority, and this would only run more sharply in conflict with their position as representatives of the opposition to such authority. This dilemma can be softened by administrative sympathy and understanding, but the only ways in which it can be resolved, as far as can be seen, are firstly to appoint members. As such members would then owe their position to authority there will be no ambiguity about it. However, with all the talk of democracy that floats about, this would not be acceptable to many people, and would subject the members to considerable criticism from the native side. It may possibly work. In Bulawayo as in Umtali provision is made for election but insufficient candidates come forward, thereby leaving the way open for appointment. Secondly, to let the native areas be practically autonomous under such loose European control that the boards would be virtually responsible only to the native residents and would not be able to attach to or shelter behind European authority. To avoid the evils of corrupt and ineffective administration would require faith of a very high order, and extremely tactful, competent indirect European supervision. In this method trouble over maintenance of services undertaken by Europeans is anticipated as well as over the allocation of funds. Thirdly, to adopt the opposite policy to the latter and cease to regard the native areas as separate from the European. This

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implies acceptance of multi-racialism and common municipal franchise. Although Rhodesia has accepted the concept of "partnership" as the basis of the Central African Federation, it has not yet gone as far as this.

The need for greater native participation in public affairs has been recognised in another sphere, namely, judicial. At present all disputes are settled by outside authorities. The Location Superintendents deal with many domestic and minor civil disputes, the Native Commissioners deal with more important disputes, especially those that involve some process of law such as inheritance, divorce and custody of children, and the Magistrate's Court deals with offences. Under this system much of the administration of the law is impersonal and removed from the community itself, and tends to be regarded as alien and imposed from without, rather than accepted and supported from within. One of the great needs in the urban areas is stability and the emergence of a code of behaviour that has the support of the people and which will secure the conformity of the people. The wider the variety of tribes that comprise the community, the smaller the common denomination of culture, and the greater the need for guidance and unification. This is where a Native Court in the ordinary process of settling disputes could do so much to harmonise conflicting customs, and encourage a positive public opinion. Urban Native Courts exist in the federal territories of Northern Rhodesia and Nyasaland, and suggestions have been made  
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via the Urban Bantu Authorities Bill for their establishment in the Union of South Africa as well.

According to the annual reports<sup>(1)</sup> of the Directors of the various Native Administration Departments, an advisory board sometimes falls completely in the hands of one organisation, the members of which display symptoms which indicate that if occasion demands they preferred to foster the interests of their organisation rather than subordinate their duty to the general public. In spite of an intensive election campaign the number of votes cast in Salisbury in 1955 was lower than the previous year as the date clashed with an important football match. At Umtali the electorate of just over 10,000 nominated only two candidates and so no election was held, the remaining eight vacancies being filled by appointment in 1954. From these reports emerge several factors. The impression is gained that the Native electorate is completely indifferent to the existence of the advisory board and that there is no desire on the part of the so-called leaders to so serve their fellow men. The elected member must realise that he is representing those who elected him and report back to them. The representative must realise that when he is elected to a body such as the advisory board, he must represent the views of the people who put him there and  
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Clark, G.F.: Development of Local Government - S. Rhodesia. Paper read at Institute of Town Clerks, Livingstone, Northern Rhodesia. May, 1957.

not those of his workers' union. The cry of apathy in local elections is of course not new and comparison could well be made with European municipal elections. Whilst there is no knowledge of any instances in which an insufficient number of candidates have been nominated, the average percentage poll in municipal elections in the larger towns of Southern Rhodesia varies from about 18% to 45%.

Despite all the deficiencies, the various native advisory boards in the colony of Southern Rhodesia are reported over the past few years, to have considered a wide variety of subjects including siting of new cemeteries; postal facilities; nursery schools; speed limits; bicycle licences; naming of streets; road signs; accommodation of young married couples with parents; electric lights in communal latrines; the local authority's policy in regard to trading in the urban area; street lights in new areas; security of tenure for residents; maternity hospital; restaurants for natives working in town; control in residential areas; the Harmful Liquids Act; bus routes; the treatment of corpses at hospitals; shop hours; rents of shops; control of hawkers and unlicensed hairdressers; siting and conditions of beer gardens; use of beer profits for housing and bursaries, and a variety of other matters of a purely domestic nature. Most of these items have emanated from the advisory boards themselves and are an indication /that.....

that although progress will be slow, continuous guidance and encouragement on the part of administrators of native affairs can result in the members of advisory boards accepting an increasing responsibility for decisions affecting township administration.

(iii) Urban Advisory Councils

There are no government sponsored urban native advisory councils in Southern Rhodesia as in the case of Northern Rhodesia. In 1953 the Government Department of Native Affairs<sup>(i)</sup> suggested the formation of urban native councils. It was pointed out that the Bulawayo and Salisbury urban centres are numerically equivalent to a province in terms of adult males; politically they form the nerve centre of African Affairs. Yet there is no link between them and the Government. The urban native council as envisaged was to be a superimposing advisory body representing all shades of opinion. It was not intended to replace the native advisory board of a local authority but in addition to it as "an advisory institution" on all urban affairs to the Government. From this approach it can be implied that there should be a direct link between the people and the Government. But this is not a realistic view of the actual situation. The formation of municipal African administration departments stemming from the Native Urban Areas and Land Apportionment Acts / has.....

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(i) Annual Report of the Chief Native Commissioner, 1953.

has created a different situation and therefore requires a different approach. The municipalities are concerned with the day-to-day problems of the native people - their housing, recreation, their beer drinking, their personal troubles and disputes, their personal relations with employers - and also with matters of considerably wider interest. The central governmental departments are only concerned with natives when the judicial or high level mediation is involved.

On the suggestion to establish urban native councils, local authorities hold the view that there are two distinct problems which should be kept separate; firstly, that of communication between Government and mass urban opinion ( a two-way service through which the central Government can inform or be informed of Native public opinion); secondly, the inculcation of civic responsibility and self-help among urban residents. It is inferred from the proposal quoted that one is purely a matter for the central government and the other for the local authority. But this ignores the fact that native affairs are of joint concern. Local authorities are charged with administering certain functions and dealing with certain aspects of native affairs. In doing so they act on delegated authority from the central Government, and are as much a part of Southern Rhodesia's administrative machinery as the Native Affairs or any other Government

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Department. To the natives, an attempt to separate the two would be meaningless, or else a great opportunity for playing one authority off against another.

The two problems posed above are facets of one fundamental problem, namely native participation in, and acceptance of, the government of the country. On the other hand it is impossible to inculcate civic responsibility and self-help unless native public opinion is properly informed, and unless both the Government and others in authority are aware of the opinion. At the same time, it is impossible for native public opinion to be adequately informed unless the natives themselves have some civic responsibility - and in using the word "civic" it is referred to in its wider sense and not as equivalent to "municipal". Government and municipal interests in these matters are largely identical. Both the Government and the Local Authorities need this "two-way service" for informing and being informed of natives' opinion. And both bodies are equally concerned in good order and administration and in the development of native civic pride, responsibility and self-help. In this respect the urban problem is similar to the rural, but it is complicated on the one hand by the existence of two authorities (whose overlapping must be avoided) and on the other by the comparatively unstable and unorganised human material it has to deal with. The first complication can be reduced by the closest co-

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operation between the two bodies, and by Government recognition of the peculiar position and responsibilities of the municipalities in being in close contact with the people. The latter needs great patience and also the courage to deal with superficially unpromising material and the absence of any accepted indigenous social organisation on which to build.<sup>(i)</sup>

The proposed urban native council could be likened to the present Chief's assemblies in Southern Rhodesia. Structurally they may appear similar, but, basically they are very different. Although their function is only advisory, the Chief's assemblies are composed of people who have a recognised status in their community and who have executive responsibility in the administration of their local affairs and in maintaining law and order. The proposed urban council, like the advisory boards, will have only advisory functions and its members, as a body or as individuals have no material responsibilities whatsoever. It is this absence of responsibility that has perverted the boards, and this same circumstance will stultify the council. It is essential that this defect be remedied not only in the interest of boards or councils, but to arrest the disintegration of urban Natives. Participation in the process of Government accompanied with definite responsibilities will give them a sense of pride and place and civic responsibility,.....

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(i) Ashton, Dr. H.: Annual Report to the City Council of Bulawayo : 1955.



lity, and reverse the growing tendency to equate the exercise of authority with European control and domination.

At the same time doubts are cast on the present ability of the urban Native to assume responsibility. In fact, there are very strong feelings on the subject, such as<sup>(i)</sup> "To take a group of vagrants - here this month and gone the next - a group of care-free, boisterous adolescents in the age group of 16 to 25 of many tribes and uninhibited by either tradition or respect for seniority and to give them the apparatus of local government is obviously futile and asking for trouble". This statement, however, does not reflect the true social situation of the towns. Amongst others in Bulawayo and Umtali, there is a large solid core of settled people. Even among single people a stable and responsible element is to be found.

In their opposition to urban native Councils, local authorities do not suggest that the advisory boards have proved particularly helpful instruments of administration. That they can become valuable there is no doubt. There is good material in  
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(i)

Hartley, G.: Memorandum to City Council of Salisbury. June, 1957.

many of the members; and if they are handled properly and made to feel that they are regarded as responsible people by the authorities, if their advice is seriously considered and if they can play an active part in administration, their attitude can be fundamentally changed. This has been shown by the experience at some centres in the Union where particular pains have been taken to play the Board up and make it an integral part of Native Administration. Signs that the same thing could be done in Southern Rhodesia are not lacking.

With regard to the proposals for a special urban council it would seem on the face of it that these are most attractive, particularly as an effort is made to seek out various bodies and organisations to be represented on this council and not to depend simply on popular vote. But as already indicated, there is a very close connection between the political leaders on the advisory board, and various sporting, religious and social bodies, from whom it is proposed some council members should be drawn. So in practice the selection of representatives from these various bodies would not in actual fact produce a council very much different to the present type of board although a few comparatively independent people and bodies might be representative. The general reaction is that a native advisory council might for a time work enthusiastically.....

tically but that as soon as the first flush of enthusiasm has worn off it would go the same way as the ordinary advisory board. It is doubtful whether, even if it were to be made up of representatives of sports organisations, burial societies, business associations, etc., the political factor would be kept out. Recent studies at the Copperbelt make it clear that any organisation is or can become a vehicle for political expression and action.<sup>(i)</sup> Although no parallel study has yet been made elsewhere, there are indications that a similar trend exists. Consensus of opinion has it that if the proposed assembly were to be established along the lines suggested, it would either within a short while become a larger version of the present native advisory boards (in which case it might indeed prove virile and its very virility a cause for political embarrassment) or it would die an early death because its non-political and far-flung constitution is too unwieldly to satisfy the specific needs for self-expression (non-political) which do exist among the less articulate people.

Then there is the awkward question of the relationship between this proposed urban native council and the advisory boards. It is not considered that the Natives will clearly recognise any basic distinction between the two. So they will compete, and such competition will lead to the downfall of one or  
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(i) Bettison, Dr. D.G.: Political Organisations - Northern Rhodesia. Rhodes Livingstone Institute, Lusaka. Unpublished report. 1955.

the other. Either the unopposed council will die an early death because it is non-political and its far-flung constitution is too unwieldy to satisfy the needs of self-expression, or the boards will die because the urban advisory council has greater social and political prestige. Furthermore, one cannot see any good purpose being served by having two separate organisations as experienced to some extent in Northern Rhodesia. Although theoretically one can maintain a distinction between general and local matters of interest, it is doubtful whether this can be done in practice. A very natural Native reaction would be to see the new assembly as a "Government" institution and they would try to play one off against the other.

To meet the problem of lack of contact by Government and native urban opinion, closer contact and co-operation between the respective Native Affairs Departments is suggested as a part solution. Greater use for purely "information" purposes could be made of the present advisory boards by the Native Commissioner attending the board meeting. As is wellknown this is in fact the procedure followed in the Union. And generally the board system should be adapted in such a way that it becomes a more effective part of the urban machinery and for which no legislation per se is necessarily required.

/(iv) Native.....

(iv) Native Councils.

As a premise to the next paragraph it may be appropriate to mention at this juncture that from the day the Federation came into being the Government tried its best to find as many ways and means by which closer consultation and contact between the central authorities and the indigenous people could be brought about. But whenever the central Government formulates a scheme with this end in view it seems to clash with the interests of local authorities. The reasons are threefold. Firstly, it is mainly in the towns with their large concentrations of various races that the demands by the native section of the community are most pronounced in the matter of participation in the administration of every aspect of the country's affairs. Secondly, the central government unequivocally committed to a policy of partnership, is careful not to create the impression of pursuing a practice which may resemble a deliberate policy of differentiation. Hence its endeavour when proposing legislation affecting natives to minimise the emphasis which has been placed on the vast distinction between urban and rural natives. Thirdly, it is still freshly in the minds of local authorities that in 1946 legislation was passed which made it an obligation on the part of local authorities to put their houses in order in so far as the native residents of the towns were concerned.

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That the municipalities have during the past decade succeeded admirably in achieving what the central government wanted them to do is an undeniable and undisputed fact. To achieve the object for which the authorities were striving enveloped into formidable financial involvements. In the end the people who really footed the bill were the employers of the town who were made liable for the rentals and registration fees of their native employees. And these employers are the rate-payers of the town, the people who elect the town councillors from amongst themselves. The local authority is therefore not only proud of its contribution towards the solution of its native problem, but it is also proud of the autonomy it enjoys, and this it is determined to guard jealously and vigorously. Here it might be recalled to mind that Southern Rhodesia as far as the white people are concerned is a sparsely populated country, that the town population is well represented in the central government and the urban constituents form a reasonably homogeneous group. Hence no central government can altogether afford to estrange urban public opinion on controversial municipal questions. This particular point is worth bearing in mind on the events to follow.

On the 8th June, 1956, a statement by the Minister of Native Affairs on the "Native Council's Bill" was published in the Gazette. In terms of the bill it is proposed to pioneer a new approach to lo-

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cal government for Natives. The main purpose of this Bill is briefly "to give the Native freedom to organise himself into communities expressing the needs and emotional, spiritual and aesthetic qualities of those communities." Whilst the main provisions of this Bill may have been intended principally for rural native reserves, Native towns and native village settlements under central government control, it had a provision that after consultation with the municipal local authority a Native Council could be established in Native urban areas. The Native Councils will be generally controlled by the Minister, with the advice of the Native Councils Board.

This board will consist of:-

1. The Secretary for Native Affairs or his nominee;
2. Officers of: (a) The Native Department.  
(b) The Treasury.  
(c) Department of Local Government.
3. One or more persons appointed by the Minister to represent such interests as he may consider desirable.

The duties of the Native Councils Board will be to advise the Minister of the establishment of Native Councils, to control and allocate grants and loans to these councils, to examine all estimates of revenue and expenditure and generally to advise the Minister on all matters referring to Native Councils. The Minister

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may direct that the native councils shall be established in any particular area after considering the report of the board and the general wishes of the inhabitants of the area concerned. In the case of a Native Urban Area, he must also consult with the Local Authority. A native council will be established by a warrant issued by the Secretary for Native Affairs, and this warrant will, inter alia, specify its powers, the matters about which it can make bye-laws and systems of rating it may adopt. The Native Commissioner shall be the president of the native council and will act in an advisory capacity to it. As president he may be chairman, but would not necessarily be so, and the warrant may provide for the appointment or election of someone else as chairman as well as the constitution of the council. The Provincial Native Commissioner may also appoint an officer of the Native Affairs Department as vice-president, who then, ex officio, shall be chairman. Alternatively, the president or the Native Commissioner may, subject to the Provincial Native Commissioner's approval, appoint a vice-chairman or permit one to be elected from the native council's members.

The provisions for the election of native councils follow the usual lines, except that the terms of office after the first year are for three years, one-third of the native members retiring annually. The Minister, Secretary for Native Affairs or his nominee and the Provincial Native Commissioner may

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attend the meetings, speak but not vote. The councils may appoint a "Senior Council Officer" and other officials subject to the approval of the Secretary for Native Affairs. The duties of the former may be prescribed by regulation or warrant. These councils may have the same powers as municipal councils or town management boards, and particularly the power to make by-laws regarding payment of fees and licences and for services. In addition, it may be authorised by the Minister, to do anything considered by him to be for the welfare, advantage and betterment of the community. Encouragement will be given particularly to acts which are likely to foster a sense of community and citizenship, promote initiative and a sense of responsibility, and the development of the area with the active participation of the inhabitants. It may provide services, facilities and amenities, maintain any undertaking and make grants to its inhabitants for education or any beneficial purposes. The native council will have very wide powers to levy rates per capita or on land and/or buildings. It may declare that labour for minor undertakings shall be provided on a communal basis up to six days per quarter. There is a whole section dealing with financial provision and audit, covering the sources of revenue, accounts, estimates, borrowing powers and so on. Very wide powers are given to the Minister to make regulations covering all the above points.

/Public.....

Public reaction to this new trend was one of mixed feelings. Some local authorities felt that the object of the Bill was admirable. Anything that would encourage the Natives to share in public administration, acquire a sense of responsibility and show initiative for the public welfare is greatly to be commended and supported. On the other hand it was discovered that on closer examination the Bill poses several interesting political problems and also raises a number of real practical difficulties so far as the urban areas are concerned.

From the political angle the most important question raised was that of integration versus separation. The avowed policy of the Federation is integration and yet the Bill would establish a measure of political and administrative segregation that "the Union Government itself has shrunk from introducing, although it has had a similar bill (the Urban Bantu Authorities Bill) prepared for several years."<sup>(i)</sup> This view is not shared by all in the Union. The suggestion of making a native township situated in what is referred to as European South Africa, autonomous in its own sphere, has been criticised not as a measure of segregation, but as one of integration. Now in Southern Rhodesia a similar proposal is referred to as separation as opposed to integration. The trend of thought

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(i) Ashton Dr. H.: Report to City Council of Bulawayo.  
6th July, 1957.

in the Union now seems to be that there should be established a closer link between the tribal authorities and the urban native.

On the practical side it was felt that the establishment of an urban native council may lead to innumerable cases of dual control within the municipal area - e.g. of rents, of over-crowding, of standards of building, of trading, of administration of the Native Beer Act (i.e. operation of beer halls and gardens) - all of which could be the source of considerable conflict, not to mention matters such as the standard of various services, which might lead to competition. The latter might be healthy, but the former certainly would not be. The only way these particular difficulties could be overcome would be for the local authority to have a considerable measure of control over the native council - or over the powers given to it - or for the council warrant to be carefully drawn up after mutual consultation between the Government and the local authority in order to exclude such issues. Too much of the former would undoubtedly lead to frustration of the local Native inhabitants and so prejudice the fundamental purpose of the Bill itself. The latter might work, but would require close co-operation between the Government and the local authority. These problems are, however, merely facets of the central issue - namely, in local authority areas, where does the real power lie; with the local authority itself, or with the native council with the Government

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in the background? As it is the local authority's land, investments, improvements, welfare and security that are at stake, the answer must surely be with the local authority. In other words, the Local Authority must have ultimate control within the general framework of governmental policy.

If this is accepted, it raises another and equally fundamental question - what real power will the local authority be prepared to grant the native council? As the Minister has put it in his charge "a council must be free to do the things it wants to do and not what the Government thinks it ought to do"<sup>(i)</sup> If the urban Native council is to succeed as an educational instrument and encourage initiative and a sense of responsibility, it clearly must have freedom. That is fine in the native reserves, where the councils are isolated and where their doings or failures will be concerned with comparatively simple things which will not necessarily have immediate repercussions on their neighbours. But in urban areas the position is different. A native urban council going haywire would gravely embarrass the local authority of which it formed part or to which it was adjacent. So arises this dilemma - to be successful, the native council should have freedom, while at the same time the local authority must be safeguarded. Some form of compromise is clearly necessary. This could only be achieved if the local authority is prepared to have faith and thereby give a native council a fair measure of freedom. But

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(i) White Paper: Statement by Minister of Native Affairs - June, 1956.

this it could be only be expected to do if it retains ultimate control.

General opposition on the part of local authorities to this Bill was so violent that the Minister eventually decided to drop the particular clause by which reference was made to municipal areas, and the remainder of the provisions which were applicable more to the other Native areas became law. Instead a commission was appointed to examine all aspects of urban native affairs, including the question of Native representation. The report of the Urban African Affairs Commission was published and considered by the Government in July, 1958.

The report of the Urban African Affairs Commission dealt among other matters with the administration of the native urban areas and native representation in local government.<sup>(1)</sup> The commission in its recommendations rejected proposals for the creation of either

- (i) Native Urban Council,
- (ii) Improved Native Advisory Boards,
- (iii) Central Government Administration,
- (iv) Establishment of a new Statutory Commission,

and firmly recommended not only that the local authority.....

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(i)  
Published by Government Printer, Salisbury, July, 1958.

rity should continue its present responsibility, but should extend it to encompass, on the one hand native areas at present under governmental and other control, and on the other, peri-urban areas and town management boards on its periphery. In considering native participation in the local administration of the urban areas in which they reside, it concludes that some definite provision should be made for their representation. The commission accordingly recommends:

"..... that a system of representation on standing committees of local authorities be adopted in respect of the African section of urban communities. We further recommend that at this stage the system should apply only to the larger municipalities..... in respect of (which) ..... there should be two persons, either elected or nominated, ..... to represent African interests, one to be a member ..... of a Standing Committee on Finance, and the other to be a member of the Standing Committee concerned with African administration. The terms of office of these two should be so arranged that they do not both retire in the same civic year.." (i)

It is clear that the commission is convinced that the aim of policy should not be towards the separation of urban communities on a racial basis in so far as civic administration of urban centres is concerned.....

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(i) Report Urban African Affairs Commission, 1958, page 110 paragraph 519.

cerned. The fact that native urban residents are not ratepayers under prevailing circumstances makes a proposal for election to the council a difficult one, hence the suggestion that they be elected or appointed to some of the council's standing committees, a system now operating in Northern Rhodesia. As an example on which to regulate the basis of qualification of persons competent to elect such native representatives the main provisions of the Town Management Act is quoted:<sup>(1)</sup>

"Every person who is enrolled on a roll of voters under the Electoral Act (i.e. of the territory) and who

(a) is the registered owner of immovable property in the board area;

OR

(b) is ordinarily resident in the board area and has been so resident for a period of not less than three months and is in occupation of immovable property in the board area for which payment is made by way of rent or for board and lodging;

shall be entitled to be enrolled on the voters' roll of such area:"

Realising that the number of native voters residing in urban areas who would comply with the aforementioned provisions would be relatively small, the commission favours a system of nomination by the Government (not by.....

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(1) Town Management Act No. 31 of 1953, section 13(1)

by the local authority). Where this system does not apply the commission favours the retention of the existing advisory board system.<sup>(i)</sup>

The Prime Minister on behalf of the Government rejected the commission's recommendations.<sup>(ii)</sup>

The Government considers that the local authorities must in future administer only the migratory native labourers and that the central government must assume all responsibilities for that part of the native community having settled permanently under family conditions in the town. The Government does not believe that any municipality in Southern Rhodesia would at the present time accept a proposal for direct native representation by natives on a local authority.<sup>(iii)</sup> It proposes instead that the Native Councils Act should be extended to all the urban native townships.

As local authorities may be unwilling to co-operate, the central government intends to take the following steps, firstly, the native townships already administered by the government, will in terms of the Native Councils Act gradually become autonomous with Government investments adequately protected. Secondly

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- (i) Report of the Urban African Affairs Commission, 1958: paragraph 517, page 110.
- (ii) Whitehead, Sir Edgar: Speech made in Legislative Assembly. 17th July, 1958.
- (iii) Whitehead, Sir Edgar: Prime Minister, Southern Rhodesia: Address to Rhodesian Institute of African Affairs, Que Que. 20th August, 1958.



the control of those urban native towns not under a municipality will similarly be transferred to the central government and thus automatically bringing them within the purview of the Native Council Act of 1956. Thirdly, all future housing schemes within municipal areas will be undertaken by the central government and governed in terms of the Native Council Act. The present unbuilt-up areas in the native towns under the jurisdiction of the local authorities must be reserved for the erection of hostels (so planned that they can be converted into married accommodation) in which unattached migratory labourers must be housed, or transferred to the central Government. Fourthly, the administration of the existing native urban areas will gradually be taken over from the local authorities by the central government in every aspect and the Native Councils as described earlier under this heading, will be established.

All the functions of local government will eventually be undertaken by the native residents of the native urban areas. The Prime Minister emphasized that this is a long term policy and that he did not intend to interfere with the present situation for some time. Where autonomous native councils are created it will be a specific requirement that they must be financially self-supporting, and in order to assist in this direction the central government proposes to permit of Native Beer Fund monies being used for gene-

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ral purposes in the native township. As it is the declared policy of the central government to stabilise the urban native population and to reduce migratory labour, the implication is that municipalities would play an ever diminishing part in native housing and administration.<sup>(i)</sup>

With the proposed development of the native reserves and the large scale extension of the native council system in the native rural areas, the Prime Minister foresees more scope for employment of the present urban migrants in their own areas.<sup>(ii)</sup>

But he is also worried about the large number of married Native families who have to exist. It is estimated that there are at present 392,000 married

Southern Rhodesian natives. Within ten years time the number will have increased to 527,000 and after twenty years it will be 718,000. The head of a family must earn a living and in terms of policy must have his family living with him at his place of employment. Some will be absorbed into mines and farms, but the balance must go to the towns which in the estimation of the Prime Minister will be 11,000 per annum. Foreign natives of which there are many will be prohibited from entering the territory, and those already within will be ordered to return to their countries of origin.

When the Land Husbandry Act is implemented in full, no more land will be available for allocation to native

/families.....

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(i) Cleveland, J.: Minister of Local Government. Southern Rhodesia: Statement made at Salisbury, September, 1958.

(ii) Information Services Branch, Causeway, Bulletin No. 2. August, 1958.

families and the landless people of the future will have to move from the rural to the urban complex. And, vice versa, the families in urban areas who own land in the reserves must return thereto.<sup>(i)</sup>

The municipal authorities now fear that as a result of the central government initiating native local self-government in native towns near urban centres it will soon lead to demands for similar development in municipal native areas, and if these were unduly pressing, the municipalities will, in order to avoid political embarrassment, be forced to hand their urban native areas over to the Government much sooner than anticipated. The central Government has already indicated its willingness that, as soon as municipalities found their positions untenable, it will solve their dilemma by taking over their native urban areas.<sup>(ii)</sup>

It should be stressed at this point that the central government plans are merely in blue-print form. It has clearly been stated all along that in the initial stages Native Councils will be granted limited powers only, and that whatever they want they will have to pay for by themselves imposing rates on the native residents. They will be given all the scope of local governmental powers which they can make

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- (i) Cleveland. J.: Minister of Local Government, Southern Rhodesia: Statement made at Salisbury, September, 1958.
- (ii) Municipal Executive ; Statement issued at Salisbury, September, 1958.

use of in improving their living conditions. Only when they have substantially proved that they can assume full responsibility, especially from the financial angle, then only will they become autonomous bodies.

To the author the central government's new approach to native policy, both in the native reserves and in the native urban areas situated in the European municipal centres, seems to resemble very closely one of "parallel development" of "separate development" or "separate parallel development".<sup>(i)</sup>

At this stage attention may be drawn pertinently to the earlier remarks made in connection with the relationship of the local authorities vis a vis the central government in a country such as Southern Rhodesia.

The municipalities have totally rejected the central Government's proposals as the following resolutions confirm:<sup>(ii)</sup>

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(i) The author developed this theme for urban areas in a paper read at the conference of the Institute of Administrators of Non-European Affairs (S.A.) at East London in July, 1953 and subsequently at other conferences. In submitting evidence to the Urban African Affairs Commission various witnesses quoted the author's theme which they strongly criticised as a trend towards "separate or parallel development" and as an "apartheid measure".

(ii) Municipal Executive, September, 1958.

- "(1) That we totally reject the policy of dual control of urban African administration and the principle of the Government establishing Native urban areas in or near municipal areas;
- (2) That the administration of African urban areas should vest in local authorities, and therefore all existing urban African residential centres including Native urban areas, Native urban locations, and urban Native village settlements adjacent to Salisbury and Bulawayo, should be administered by these Local Authorities;
- (3) That the interests of all concerned and the continued stability of local government in the Colony, can only be assured by development and fostering of African representation and responsibility in association with the established local government system."

Considering the uncompromising attitude adopted by the municipalities, the Government modified its previous decision to the effect that if the under-mentioned conditions are satisfied the Prime Minister would be prepared to allow local authorities to continue to control and develop their native areas:(i)

- "(i) People should not be automatically ejected from their accommodation because they have become unemployed. Circumstances should be taken into account, and greater consideration should be given to indigenous Africans than to non-indigenous and to those who are permanently settled in town than to those who still

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(i) Verbal assurance to municipal delegation at Salisbury. 19th October, 1958, by the Prime Minister.

have land rights.

- (ii) Some degree of African participation in administration of their own local affairs should be provided for."

After the Prime Minister's latest views the air has been cleared. Preferential treatment in the matter of housing must be given to landless natives who are indigenous to the territory, and provision must be made for increased participation by the natives in the administration of their own affairs in their own areas. On the part of the local authorities they have (for the time being) decided to stop agitating for the transfer to them of the governmental administered native towns on the pretext that if the two authorities work in harmony "the existence of separate forms of administration encourages experimentation and enables different needs to be met."<sup>(1)</sup> Meanwhile municipalities are to prepare a detailed report for submission to the Government on their proposals to give natives a greater share in their own administration.

Basically there is now general agreement throughout the municipalities in Southern Rhodesia that the present advisory board system should be given "another chance". They accept that perhaps all the blame for the alleged ineffectiveness of the system  
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(1) Municipal Executive decision, 9th October, 1958.

should not be placed entirely upon the shoulders of the advisory boards. With a change of approach on the part of the European town councils and sympathetic handling of various administrative matters by administrative officials, the advisory boards may yet develop into instruments of representative government. Like in the Union, the various authorities emphasize very strongly that any additional power or function must go hand in hand with financial responsibility. One other important way in which Native participation in local affairs could be encouraged is by letting them deal with the day-to-day problems of social behaviour. This could be achieved as in Northern Rhodesia by the establishment of Urban Native Courts. In the author's view there is absolutely no doubt that eventually the local authority will be faced with either of two alternatives, equal representation by natives on the town council or full autonomy in their own native areas. Present indication is towards the latter.

(d) Summary

Central policy has as its underlying aim the gradual extension of political rights and privileges to those who conform to civilized standards of behaviour and culture. Meanwhile at least one quarter of the representatives of the Federal Assembly must consist of Natives or others representing their interests. Two common voters' rolls exist, namely the general and special. On the latter a reasonable  
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number of Natives who have attained a certain measure of civilization are registered. The intention is that in due course the need for a special voters' roll will fall away. Less than two per cent of those who qualified to be on the general roll constituted Natives. Native Affairs are the responsibility of the territorial governments. Southern Rhodesia retains its own Parliament and Executive Council over which the colony's Governor presides. In its native reserves Native Councils are established. Northern Rhodesia remains a protectorate with a Legislative Council and an executive consisting of official and unofficial members. In the rural areas Native Authorities are in existence. Nyasaland protectorate is administered more or less on similar lines to Northern Rhodesia.

Three types of urban aggregates are formed in Northern Rhodesia, viz. African townships, mine towns and public townships. The first of these offers the closest approximation to genuine local government among Natives in Central and East Africa. These townships consisting of up to a thousand houses are situated about eight miles from European centres. Each town has its own board consisting of five to seven Native members under the chairmanship of the District Commissioner and a full-time employed Native secretary. Each township has its own treasury and levies rates. An annual conference attended by the chairmen, secretaries and two native councillors from  
/each.....



each board is held to go into various local government problems. Mine towns are controlled by the mining authorities in conjunction with the District Commissioner and in respect of which is the feature of the successful functioning of Native courts.

In the municipal areas legislation lays down that in Northern Rhodesia separate areas styled "African Housing Areas" must be set aside for Natives. In the municipal areas a dual type of urban council system is in existence, the one is advisory to the government and the other to the municipal council. The former is called urban African advisory council consisting of elected Native members under the chairmanship of the District Commissioner, their functions being to advise the latter on matters of urban Native affairs. These advisory councils elect representatives on the provincial council which again elect representatives on the African Representative Council which is advisory to the central government on Native affairs matters. The last body is used as a medium through which representation is obtained in both the Legislative Council and Federal Assembly. These councils function outside the sphere of municipal activities and in reality act as channels for political aspirations.

For the municipal authorities urban African housing area boards are established. The members.....

bers are all Natives under a chairman appointed by the local authority. Each local authority has an African Affairs committee on which may be co-opted a number of natives with or without the vote. The board is advisory although some powers could be delegated to it. These boards have not proved a success and have existed for no other reason but that their establishment was a statutory requirement. They aligned themselves more with the urban African advisory councils as political platforms. Legislation introduced during 1958 provides for the reconstitution of African housing area boards at least one-third of which must be elected on a ward basis, the tenure of office being three years. Two European councillors including the District Commissioner are appointed by the local authority as members of the board. From the members of the board two Natives are elected by the members of the board to the town council's African affairs committee and the local authority also appoints two Native board members to the latter committee the chairman of which is appointed by the local authority. The town council can delegate powers to its African affairs committee which in turn may, with the prior approval of the local authority, delegate any of its powers and functions to the urban African housing area board. The most important power that can be delegated to the boards is considered to be the right to impose levies on Native tenants.

Close ties have been maintained between  
/Southern.....

Southern Rhodesia and the Union so that much similarity is noticeable. The territory is divided into areas in which only members of a particular race can obtain rights, on similar lines as in the Union. In the urban areas five types of native towns are provided for, two of which are controlled by local authorities, two (of which one is in a native reserve) are administered by the government, and one by corporate bodies. Europeans have no property rights in native areas and likewise are natives not to acquire rights outside the native towns. The magna carta for the administration of urban towns is the Native (Urban Areas) Accommodation and Registration Act, 1946, which borrowed a good deal of its provisions from the Natives (Urban Areas) Consolidation Act, 1945, of the Union. An important difference is that in Southern Rhodesia the employer is responsible for the payment of the native employee's house rental.

A native advisory board of not less than three native members must be established for a native residential area or portion thereof. The chairman may be either a native or European appointed by the local authority and the members are all elected. The board has a statutory right to consider the making of bye-laws and regulations. Members are elected for a period of two years half of whom retire each year. Every tenant and his wife are eligible to vote or stand for election. As the boards are only advisory with no responsibility they have not proved a success.

/Many.....

Many members owe their position to their opposition to authority. To remedy this deficiency would be to appoint the members who would then owe their position to authority. Despite their shortcomings advisory boards have proved useful in many respects and with sympathetic guidance and encouragement they may yet prove to be the forerunner of responsible local government institutions.

In 1953 the idea occurred to the central government that urban native advisory councils representing all shades of opinion should be established as a direct link between the urban natives and the Government. Seeing a method of dual control and the one playing the other off against each other, local authorities were opposed to yet another advisory institution.

In 1956 the Native Councils Act was passed. A Native Councils Board is established by the Government and will have overall control of Native councils. Whilst the original Bill included a municipal area as well, the latter was omitted for the time being. Thus only native urban areas not under municipal control were provided for. A Native Council, under the chairmanship of a person (who may be a Native) appointed by the Government, consisting of a number of natives with such powers and conditions as are specifically laid down by warrant, may be established for an urban native town not under the jurisdiction of a municipal council. These councils may have the same powers as an ordinary local authority. The members hold office for a period  
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of three years. Owing to strong opposition from municipalities it was decided not to make the provisions applicable to them but instead to appoint a commission of enquiry into urban African affairs.

The Urban African Affairs Commission published its report in July, 1958. It recommends that in larger towns urban natives be represented by two natives, one on the council's Finance committee and one on the African administration committee. Until a sufficient number of natives qualify as voters in terms of the Town Management Act, the representatives should be appointed by the Government. Where the system does not apply advisory boards must continue. The central Government rejected these proposals. The Government considers that in future the municipalities must only administer migratory labourers and the central Government will take over all Native towns to which will be extended gradually the Native Councils Act. Owing to strong opposition from local authorities the Government has reverted to the status quo provided local authorities take active steps to give natives more responsibility in the government and administration of their own areas. In the long run it seems that either natives will have to be directly represented on an equal basis on the municipal council, or the native area must become autonomous and quite independent of the European local authority. As the central Government seems to be moving on lo-

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cal government affairs in the latter direction, there seems little doubt that a similar policy will eventually have to be followed by local authorities.

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/CHAPTER V. ....

CHAPTER V.

UNION OF SOUTH AFRICA .

(a) Central Policy.

(i) Pre-Union.

The Union of South Africa is comprised of the four provinces of the Cape of Good Hope, Natal, Orange Free State and Transvaal, and in addition has been entrusted with the trusteeship of the mandated territory of South West Africa. With regard to the latter all matters on native affairs have been placed on exactly the same footing in as well as under the administration of the Union Native Affairs Department since 1st April, 1955.<sup>(1)</sup>

As a background to the native problem which was to follow in the various decades after the formation of the Union it may be pertinent at this juncture to give a very short resumé of a comparison of the policies pursued by the four colonies prior to Union with regard to the granting of political rights and status to their indigenous populations as reflected in legislation and administration.

When representative government was granted  
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(1) South West Africa Native Affairs Administration Act No. 56 of 1954.

~~Cape~~  
to the Cape in 1854, all males who complied with the necessary franchise qualifications were in terms of the Cape of Good Hope Constitution Ordinance of 1852, given the right to vote on a common roll irrespective of their racial origin. When responsible government was instituted at the Cape in 1872 the voting qualifications were left unchanged. In other words, there was no specific racial discrimination. Fearing that the Europeans would ultimately be outvoted by the Natives, the Cape Government raised the franchise qualifications.<sup>(i)</sup> Later the Glen Grey Act of 1894 laid down that the possession of an agricultural plot in terms of the act would not serve as an immovable property qualification for the franchise. This virtually prevented the franchise from being extended to the Natives of the Ciskeian and Transkeian native territories. The Cape policy with regard to the granting of political rights and status to their Native population (that is, within the predominantly European areas) was in accordance with Rhodes' slogan of "equal rights for all civilised men", provided that the number of "civilised" natives remained within safe distance from that of Europeans. In the Cape urban areas a native would qualify to vote in municipal elections provided he complied with the additional qualifying provisions laid down in the local government ordinance.

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(i) Act No. 9 of 1892.



In accordance with the Charter of Natal (in terms of which representative government was instituted in Natal in 1856) all males (including Natives) who complied with the required qualifications had the right to vote. This general franchise provided by the Charter was considerably curtailed as regards the Native population through the passing of the Native Franchise Act which among other provisions laid down that a native voter had to be exempted from Native law for at least seven years.<sup>(i)</sup> During the administration of Sir Theophilus Shepstone not a single Native obtained exemption from Native law and resultantly did not qualify for the franchise. Even after Shepstone's resignation Natives were never officially encouraged to apply for the franchise, with the result that up to 1904 only two Natives had qualified in Natal. As the municipal franchise is confined to Europeans and Coloureds only, no native (or Indian) may qualify to vote.<sup>(ii)</sup> The restrictive measures laid down by Natal with regard to the granting of political rights and status to their Native population are aptly described by Brookes as a "mere disingenuous device for maintaining a political colour bar without saying so".<sup>(iii)</sup> They were probably intended to woo the liberally minded at home and overseas. On the other hand the Natives' traditional /political.....

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(i) Act No. 11 of 1865.

(ii) Municipal Corporations Elections Law, 1893.

(iii) Brookes, Dr. Edgar: History of Native Policy in South Africa.

political institutions (chiefs and councils) were recognised and left intact to a considerable extent, whilst Native law was almost fully recognised.

From the inception of the Transvaal one of the basic principles of the Zuid Afrikaansche Republiek was that of "geen gelijktelling in staat en in kerk" and accordingly the right of franchise was restricted to the Europeans.<sup>(1)</sup> In the Free State the exercise of political rights was likewise confined to the European population, the relevant provisions being embodied in its constitution.<sup>(ii)</sup> When the two Republics forfeited their independence in 1902 a safeguarding clause was included in the Treaty of Vereeniging to the effect that the franchise question would not be raised until self-government had been granted to the former Republics. When responsible government was granted to the Transvaal (in 1906) and the Orange River Colony (in 1907) the right of exercising the vote was restricted to European males. It follows therefore that the municipal franchise was confined to Europeans only.

By way of comparison it may be stated that as regards the granting of political rights and status to their Native populations, the Cape on the one hand and the Transvaal and Free State on the other pursued  
/policies.....

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- (1) "Grondwet van de Zuid-Afrikaansche Republiek", 1858 and Acts Nos. 1 of 1876, 7 of 1882 and 4 of 1890.  
(ii) "Constitutie van den Oranjevrijstaat" chapters 1 and 11.

policies that were diametrically opposed to one another, with the Natal policy occupying an intermediary position. The latter resembled that of the Cape in making it (at least theoretically) possible for certain civilised Natives to exercise the vote on a common voters' roll, while in practice it strongly resembled that of the Transvaal and Free State in restricting the franchise to the Europeans while at the same time recognising (and perpetuating) the Natives' traditional forms of political control. The policies were, however, similar in this respect that they all proposed (at least for the time being) to maintain the political supremacy of the European, while none of them can be described as consistent or farsighted to any appreciable extent.

At the National Convention in 1909 the question of the granting of political rights to Natives (as well as other Non-Europeans) almost proved to be an insurmountable obstacle to the union of the four Provinces. The delegates from the Transvaal and Orange Free State were adamant in their resistance to the granting of the franchise in any form whatsoever to Non-Europeans, while the Cape delegates were equally adamant in their insistence on the preservation of the franchise system which had until then been in operation in the Cape Province. The position of the Natal delegation was strongly inclined towards that of the Cape, so that the only way out of the impasse was to compromise. The compromise eventually arrived at

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was embodied in Sections 35, 36 and 152 of the South Africa Act (9 Edward VII). Section 36 laid down that the qualifications for exercising the parliamentary franchise would remain the same as it had been in the four Provinces up to the time of Union. Thus the status quo was maintained.

In the Cape the Natives who complied with the required qualifications continued to exercise the vote on a common voters roll, as was the case with the few Natives who qualified in Natal, while in the Transvaal and Orange Free State Natives continued to be completely barred from exercising the franchise. Sections 35 and 152 constituted the so-called "entrenched clauses". According to Section 35, Parliament was authorised to prescribe the qualifications required for exercising the parliamentary franchise except that in the Cape no registered voter could be deprived of the right to vote on the common roll on the ground of his race or colour, unless by an act passed with a two-thirds majority at a joint sitting of both Houses of Parliament. Section 152 authorised Parliament to amend the South Africa Act with the exception of Section 35 (as well as Section 137 which guarantees the equal status of the two official languages), which could only be amended by the said two-thirds majority. It is noteworthy that no two-thirds majority was required for extending the franchise to Natives and other Non-Europeans in the Northern Provinces. The Constitution, however, laid down specifically that

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only Europeans were to be eligible as members of Parliament, a stipulation which meant a decided concession to the views of the two former Republics. In the Cape Province only the Native therefore retained the municipal franchise.

(ii) Post Union.

Subsequent to Union, however, the opposition to the Native franchise grew stronger as the number of Native voters on the common roll in the Cape increased. (The number increased from approximately 8,000 in 1903 to approximately 16,000 in 1927). In 1927 the laws which enabled Natives of Natal to be exempted from Native Law were repealed by the passing of the Native Administration Act and with that the possibility of Natives being registered as voters in Natal went by the board.<sup>(i)</sup> Also, as a result of the granting of the franchise to European women in 1930<sup>(ii)</sup> and the abolition of all franchise qualifications in respect of European voters in 1931<sup>(iii)</sup> the Natives' voting power was considerably weakened. In 1936 the Prime Minister (General J.B.M. Hertzog) obtained the required two-thirds majority for the passing of the Representation of Natives Act which as regards the Native voters in the Cape had the effect

/that.....

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- (i) Native Administration. Act No. 38 of 1927.  
(ii) Women's Enfranchisement. Act No. 18 of 1930.  
(iii) Franchise Laws Amendment. Act No. 41 of 1931.

that they were to be removed from the common roll and placed on a separate Cape Native Voters' Roll, and they would henceforth be entitled to elect three (European) members of Parliament and two members of the Cape Provincial Council.<sup>(i)</sup> The act laid down that a two-thirds majority would be required to deprive the Native voters in the Cape of the franchise or to change the number of their representatives.<sup>(ii)</sup> With regard to the Natives of the Union as a whole, they were to be provided with four (indirectly) elected representatives in the Senate and a Natives Representative Council. The Natives of the Transvaal and Free State, Natal, the Transkei and the Cape excluding the Transkei would each indirectly elect a European Senator, the voting units in the Transkei being the members of the United General Council of the Transkeian Territories (the "Bunga") and in the other areas the Local Councils, Urban Native Advisory Boards, Chiefs and Headmen, and Native voting units in the European rural areas.

The Native representative Council has since been abolished and substituted by tribal, regional and territorial Bantu authorities which also constitute voting units in respect of the election of the four senators already referred to.<sup>(iii)</sup> The Governor-General.....

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- (i) Representation of Natives. Act No. 12 of 1936:  
(ii) ibid Section 44.  
(iii) Bantu Authorities Act No. 68 of 1951, section 18.

ral also nominates sixteen senators half of whom are nominated for their knowledge of the needs and wishes of the Coloured races of the Union.<sup>(i)</sup> Of the four senators representing South West Africa two are nominated by the Governor-General, one of whom for his knowledge of the needs and aspirations of the coloured races of the area.<sup>(ii)</sup> Therefore in addition to the four senators elected directly, nine senators are appointed making a total of thirteen members in the Upper House, consisting of altogether ninety senators, representing the views of natives. The House of Assembly comprises 163 members of whom three are elected by registered Cape Province Native voters. The Native policy of the governing party which has entered its third successive term (five years) of office in April, 1958, is broadly that of territorial segregation.<sup>(iii)</sup> In each territory the interests of the /race.....

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- (i) Senate Act of 1955 Section 2(1)(a).
  - (ii) South West African Affairs Act No. 23 of 1949 section 30.
  - (iii) Government State Information : Digest of South African Affairs. Vol 5, No. 5, 14th March, 1958. "As a basic principle of its attitude towards Natives and Coloureds, the party recognises that both are permanent parts of the country's population, under the Christian trusteeship of the European races. It is strongly opposed to any attempt which might lead to the mixing of European and Non-European blood, and strives to cultivate a spirit of goodwill and mutual trust between European and Non-Europeans as being in the best interests of South Africa. In accordance with this principle it desires to give the Non-European races the opportunity to develop themselves, each race in its own field, in both the material and spiritual spheres, in keeping with their natural gifts and abilities. Furthermore, the party assures them fair and just treatment under the law and in the administration of the country. It also declares itself in favour of the territorial and political segregation of the

race for which the area is reserved are paramount. The term "interests" has a very wide meaning and includes residential, political, economic, social and biological spheres.

Whilst everything possible is being done to house the urban natives in European areas in separate townships in which the residents are to play their part, it is clear that the State has no intention of permitting townships in European areas to become autonomous but would allow these areas to form a sort of training ground. It is in the Bantu reserves that the natives are to play their part fully and to the exclusion of non-natives. Accordingly, great progress is being made with the development of the Bantu reserves in the Union both politically and economically. In order to educate the Bantu in civic government the development of Bantu cities is also receiving the active attention of the Government. Altogether 125 towns are being planned in the reserves of which  
/25.....

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(iii)-continued Native, and of separation between Europeans and Non-Europeans in general and in the residential and - as far as is practicable - in the industrial spheres. In the economic spheres the party desires to knit together people of all sections and level having a right of existence, so as to provide security and foster a spirit of mutual trust, solidarity and joint national responsibility. It therefore strives to create economic conditions that will ensure a proper livelihood for each section and which will protect all, particularly the economically weaker sections, against exploitation in any form."

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25 have reached an advanced stage of construction.<sup>(1)</sup>

The Bantu are also being educated in the art of general government and to shoulder political responsibilities in their own areas by means of the Bantu Authorities Act.<sup>(ii)</sup> The Act provides for a measure of self-rule for the Bantu by the creation of local Bantu authorities which will gradually be given more administrative, judicial and executive powers, commensurate with the development of the Bantu themselves. More than three-quarters of the Bantu in the reserves have already accepted the principles of the Bantu Authorities Act which open up wide avenues of administrative, executive and judicial self-expression. The Act is designed to give the Bantu the greatest possible degree of self-rule in their own areas. The only ceiling to their developing these authorities is their ability to make responsible use of powers granted them in terms of the legislation. The basic idea of the Act is to awaken the interest of the Bantu, first in the development of their respective local areas by creating local Authorities-in-Council which consist of the local headman and a number of councillors, and then gradually building up administrative organs with greater powers for wider areas. On the foundation of local councils, regional councils are being established -  
/and .....

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(1) Sherwin, L.C. (Chief Engineer of Department of Native Affairs: Address to Institute of Civil Engineers, on Bantu Cities. 31st October, 1958.

(ii) Act No. 68 of 1951.

and from these territorial Bantu authorities, as the highest administrative bodies. Judicial, executive and administrative powers are vested in these authorities according to Bantu law and custom, which are preserved as far as possible, except when they are in direct conflict with accepted Christian principles.

Provision has also been made to give the Bantu authorities financial responsibilities and they are being granted control of their own treasuries as soon as personnel have been trained. As the Bantu gain experience in self-rule the functions of the European officials will be confined to those of advisers. The measure of self-rule that can be granted varies from tribe to tribe, some being more responsible and progressive than others. This development in self-government is not forced. Each tribe is given the choice whether it wanted to accept both the responsibilities and the privileges of having these authorities. At present there are more than three hundred such authorities throughout the reserves that were voluntarily formed by the respective tribes. Many of them still cannot function properly without guidance from the Europeans in such matters as the handling of the budget, in the drawing up of domestic regulations and even in keeping minutes of every meeting, but the progress during the past few years has on the whole been satisfactory. A great milestone was reached last year (1957) when the Paramount Chief of the Zulus, who had up to then been reluctant to

/accept.....

accept the system, expressed his approval. In Zululand alone sixteen Bantu authorities have been established.

Meanwhile, the first college for the training of heirs-apparent to chieftainship and other sons of chiefs and prominent headmen is being completed in the Northern Transvaal. Two more colleges will be constructed in the Western Transvaal and Zululand. During the past few years the Department of Native Affairs has called meetings of chiefs to ascertain their wishes on the proper training of future chiefs. At the last meeting of chiefs of the Sotho-speaking areas of the Transvaal, Free State and Northern Cape just over a year ago it was finally decided that heirs-apparent, other sons of chiefs and prominent headmen should receive comprehensive training to fit them for their future task.

At the same time the welfare of those Bantu who live outside their own areas has also been safeguarded. A Native Affairs Commission of which the Administrator of South West Africa is ex-officio a member is constituted under the chairmanship of the Minister of Native Affairs.<sup>(i)</sup> Three members have the status of "under Ministers" representing portfolios analogous to the following:-

/(i) The.....

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(i) Native Affairs Act, No. 23 of 1920.

- (i) The Bantu in the Bantu areas;
- (ii) The Bantu in the European areas;
- (iii) Bantu education in both areas.

Each of these commissioners has under him a corresponding sub-department. Ultimate authority of the three "Under Ministers" and their sub-departments is co-ordinated by and vested in the Minister of Native Affairs and Secretary for Native Affairs respectively.<sup>(1)</sup>

(iii) Urban Complex.

According to census figures the presence in urban areas of natives from 1911 to 1946 is reflected as follows:-

/Men.....

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(i)

An innovation which became operative in October, 1958, was the Prime Minister's announcement of appointing a Minister of Bantu Administration and Development and a Deputy Minister for this portfolio. A separate Minister was appointed for Bantu education. These two Ministers and the Deputy Minister form a sub-committee of the Cabinet under the co-ordinating chairmanship of the Prime Minister himself. The present Prime Minister (Dr. H.F. Verwoerd) has until October, 1958, himself been Minister of Native Affairs for a period of eight years. This "inner-cabinet" system conforms generally to the State's policy of creating almost independent Native areas within the general framework of the Union of South Africa.

	<u>MEN</u>	<u>WOMEN</u>	<u>TOTAL</u>
1911	410,161	97,981	508,142
1921	439,707	147,293	587,000
1936	784,769	356,874	1,141,643
1946	1,152,022	642,190	1,794,212

The census figures of 1951 reveal that the population of the Union (which is 472,685 square miles in extent) is comprised of the following:

Europeans	2,643,187
Asiatic	365,524
Cape Malays	63,557
Other Coloured	1,038,766
Natives	8,535,341
<b>TOTAL :</b>	<b><u>12,646,375</u></b>

The urban population is reflected as follows:

European	2,071,301
Asiatic	283,318
Cape Malays	61,594
Other Coloured	653,202
Natives	2,305,086

The question as to how many Bantu are permanently settled in the urban areas was considered by the Tomlinson <sup>(1)</sup> Commission whose finding is reported as follows:

/ "When....."

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(1) Commission for the Socio-Economic Development of the Bantu Areas within the Union of South Africa. Chapter VII. U.G. 61/1955. (hereinafter referred to as the Tomlinson Report).

"When it is desired to determine how many of the Bantu are already 'permanently' settled in the towns and cities, we are confronted with the problem that the interpretation of the term 'permanent' presents many difficulties in itself, and that probably a number of degrees of 'permanency' can be distinguished. Various methods have been applied to determine the extent of the established Bantu urban population. The conclusion has been drawn that there may have been a minimum of 1,036,000 and a maximum of 1,618,000 of such Bantu in 1951, and that the actual number cannot differ much from 1,500,000. On the basis of data relating to family dwellings for the Bantu, it may be assumed that 314,000 families have already accepted the urban areas as their abode. Migration of Bantu women to the towns is usually of a permanent nature."

Prior to the union of the South African Colonies in 1910, little general interest had been evinced in that phase of South Africa's Native problem which has since come to be designated "Natives in Urban Areas" and which has assumed such vital importance in the country's economic and political life. In South Africa, with its determination to remain a "White Man's Country" and its preponderance of Native over European population in the ratio of more than three to one, the major problem, which will always confront every section of the community, will be the adjustment of relations, social, economic and political, between Black and White.

/Whatever.....

Whatever the nation's aspirations are, whether for Black or White, and discarding the possibility of absorption by one or other as in the view of both unthinkable, South Africa must ever bear in mind that the two races will remain in contact to a greater or lesser degree as circumstances and environment vary. The country's thought and policy have been directed to reducing possible friction at such points or areas of contacts as must and will arise, and its hopes and proposals for either race have been circumscribed and conditioned by a recognition and appreciation of what will be the effect of their fulfilment on the other. One obvious line of action has been to endeavour, as far as lies in its power, to minimize the extent of possible contacts. This is the underlying idea of the policy of segregation.

Meanwhile, the juxtaposition of the two races involves for the more advanced a moral obligation to use its superior position in a manner consonant with the ideals on which its civilization is founded. "Trusteeship" is generally accepted as defining the attitude of the European to the Native. There may be, there no doubt are, differences of opinion as to what the aim and scope of this trusteeship should be. At the least it cannot fall short of ensuring to the "wards" such health, comfort and happiness as western civilization does not deny to the lower animals who serve their needs; at the most

/it.....

it means making available for them all the advantages of their civilization which, without danger to themselves, they can appreciate and enjoy. The South African nation is thus faced with the double task : the adjustment of relations between the races at their points of contact and the fulfilment of their ideal of trusteeship towards the less privileged.

It is obvious today that contact is closest and most likely to be productive of difficulty where large numbers of both races are brought together in industrial or urban communities. The general problem of the country's attitude towards the Native and the problem of making available land for the rural Native population had prior to Union been the main concerns. This was no doubt due to the fact that prior to 1912 there were few concentrations of Native population (in the non-migratory sense) in urban areas except in three or four of the larger cities. Since that time however, the growth of industrial enterprise has brought about many changes. The new industries have looked to Natives from the rural areas for their labour supply, the increasing European populations have called for larger and larger numbers for domestic and distributive purposes, the Native himself has felt the glamour and allurements of town life, he has been told in the kraals of the attractions and higher wages, and so has come about that migration from country to town which has made the problem of Natives in  
/the.....



the urban areas one of the most formidable and complex which the country has had to face. It is no longer, as it was nearly fifty years ago, a side issue; it has become a major question, which during the past decade has received constant and energetic attention.

Before proceeding to the subject of municipal administration, it may be appropriate now to clarify the unique position in the Union of South Africa with regard to local government. The functions of the Provincial Councils are laid down in the South Africa Act and all local authorities derive their powers and rights as well as their limitations from the Provincial administration.<sup>(i)</sup> But on the question of native affairs the act provides in the clearest terms that all matters pertaining thereto in the whole of South Africa are vested in the central government.<sup>(ii)</sup> In accordance with the spirit of discussions at the National Convention it was the intention that the country should have one national policy in respect of this one great issue. It cannot (as may happen in the Federation of Rhodesia and Nyasaland) have a variety of Native policies. In the light of this fact it has always been recognized that the central Government lays down the Native policy for the whole country. The laws passed by Parliament are based on  
/Government.....

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(i) South Africa Act, 1909, 9 Edward VII, section 85.

(ii) Ibid section 147

Government policy. The central Government therefore is solely responsible for laying down policies and when it appoints a local authority to act as its agent in terms of the law, and assigns to it the functions embodied in the law, then such a local authority derives its power to act from the authority and in terms of the policy of the central Government. "Just as little as a town council can decide whether or not to declare war, so little can it decide what Native policy it will adopt".<sup>(i)</sup> To give effect to this unambiguous principle, the senior Native Affairs officials of the municipalities are licensed by the Minister of Native Affairs in order that they can be held responsible not only to the town council which pays them but also to the State in order to ensure that the local authority is acquainted with the national policy.<sup>(ii)</sup>

In conformity with the aforementioned principle, urban native legislation lays down specifically the responsibility of the local authority for the accommodation, control and overall welfare of the Native residents within its boundaries. The Government, however, is charged with the administration of Native Affairs throughout the country, and it is essential that in such administration there shall be a general uniformity of policy. Furthermore, the Bantu have no  
/representation.....

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<sup>(i)</sup> Verwoerd, Dr. H.F. (Prime Minister and Minister for Native Affairs): Hansard No. 10 col. 4056; 1958.

<sup>(ii)</sup> Ibid.

representation on governing bodies in urban areas, and it is appropriate that the Department of Native Affairs which charges itself with the duty of safeguarding Native interests, should exercise supervisory care over those interests where Natives have no direct voice in the management of matters which concern them. The State, therefore, is given authority to intervene at a large number of points in the administration of Native Affairs within the urban area, and there is considerable limitation of the local autonomy of the urban authority, which it otherwise enjoys in respect of its powers derived from the provincial administration. It is a position which calls for the exercise of a wise and tactful discretion on the part both of Municipal and State Departments. The great majority of local authorities are now fully alive to the advantages which the whole community derives from the existence of a well-housed, healthy and contented Native population, and are very willing to give every consideration to suggestions advanced by the State Department of Native Affairs for the better administration of their local affairs.

The State Department acts as a clearing house of ideas which it makes available to all concerned with urban Native administration. The history of the administration of urban Natives has revealed a wonderful spirit of co-operation and understanding between Municipal and State Departments, in spite of the obvious opportunities for annoyance and interference.....

rence latent in their relative positions. That spirit can be fostered and maintained by the realisation on both sides that the common aim is the welfare of the whole community, black and white alike. The local authority must recognize its obligation to the urban Bantu, who are in the municipal areas mainly for the benefit of the Europeans. It should realise that the Government Native Affairs Department has a duty to the State to see that the policy laid down in legislation is carried out, and the further duty, as the guardian of Native interests, to see that these are adequately safeguarded. On the other hand, the Government officials should constantly bear in mind that, while the law has placed in their hands the final authority, results of any value can only be achieved with the goodwill of the local authority, that a full appreciation of local circumstances and conditions and frank discussion is the best way to secure that goodwill, and that uniformity, however it may simplify general routine, is apt to be as great a danger as it is an advantage.

(b) Urban Native Administration.

(i) Before 1923.

In the four colonies in South Africa, the local municipal authorities were, with two exceptions, given practically a free hand in the management of the Native communities which might be resident within their  
/boundaries.....

boundaries. The two exceptions were Cape Town and Port Elizabeth, where the Ndabeni and New Brighton locations, respectively, were controlled by the Cape Government under Act No. 40 of 1902. Elsewhere in the Cape, the special municipal statutes of several of the Cape towns contained provisions for the making of regulations for the control and management of Native locations, some of them providing also for compulsory residence in such locations. For the rest, local authorities derived their power from a provision of the Public Health Act <sup>(i)</sup> enabling them to make regulations "for regulating the use of Native locations and for maintaining good order, cleanliness and sanitation therein, and for preventing overcrowding and the erection or the use of unhealthy or unsuitable huts and dwellings." Special statutes also gave the Cape local authorities power to regulate the brewing of kaffir beer and the carrying of knobkerries etc. within their areas and to impose a "curfew" prohibiting the presence of Natives in the streets and public places during certain hours of the night.

In Natal, Act No. 2 of 1904 gave Town Councils the power to establish locations within which Natives might be compelled to live and to make regulations for the control of locations so established.

/Curfew.....

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(i) Act No. 23 of 1897.

Curfew provisions were included in the Vagrancy Law<sup>(i)</sup> and Durban and Pietermaritzburg had power to enforce the registration of Native servants within their respective boroughs. The Natal Native Beer Act<sup>(ii)</sup> the precursor of the system of municipal brewing gave local authorities power to undertake the manufacture of kaffir beer and to exercise a monopoly of its sale within their areas. The proceeds of sales were required to be paid into a Native Administration Fund and to be used for defraying expenses, establishing locations and schools, and maintaining hospitals or other objects in the interests of the Natives.

In the Transvaal, the general municipal ordinance contained a provision enabling local authorities to establish locations within which Natives might be compelled to live and to promulgate regulations for their management and control. Similar special powers were granted to Pretoria and Johannesburg in the particular municipal statutes applying to these towns. The Night Passes Ordinance<sup>(iii)</sup> retained however, for the central government the regulation of curfew and provisions for the carrying of passes and the registration of servants were also vested in the same authority under the Urban Areas Passes Act.<sup>(iv)</sup>

/In.....

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- (i) Natal Law No. 15 of 1869.  
(ii) Natal Act No. 23 of 1908.  
(iii) Ordinance No. 43 of 1902.  
(iv) Transvaal Act No. 18 of 1909.

In the Orange Free State, the chief distinguishing feature was that no distinction was made between Native and Coloured in the restricted sense in which the latter word is now employed. All non-Europeans were designated "coloured" and powers were given to local authorities to establish locations within which "coloured" people might be compelled to reside and to make regulations for control and management. In this province the local authorities were also empowered to make regulations for the registration of servants. The Bloemfontein municipal statutes contain similar special provisions for that town.

From this brief review of pre-Union legislation it will be realised that, with the exceptions of the locations at Cape Town and Port Elizabeth in the Cape and, in the matters of curfew and pass regulations, in the Transvaal, the administration of Native affairs within urban areas was left almost entirely in the hands of the local authorities themselves. All regulations were, like other municipal regulations, subject to the approval of the Governors of the respective colonies. The report of the Department of Native Affairs for the years 1913 to 1918 in which the first specific reference to Natives in Urban Areas occurs, states that<sup>(i)</sup>

"there were two ways in which the law regarding such (urban) Natives might differ from  
/colony.....

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(i) U.G. 7 - 1919.

colony to colony. In the first place, the powers granted by statute to the local authorities varied to a very great extent, and, in the second place, the policy of one central government, as demonstrated by its oversight of regulations, was to restrict the actions of local authorities while that of another was to allow every latitude in the control of the Native population."

The South Africa Act, 1909, introduced an immediate complication. Section 85 of that Act vested the control of municipal legislation and administration in the provincial governments, while section 147 reserved to the Governor-General-in-Council the control and administration of Native Affairs throughout the Union. To quote again the report previously mentioned:<sup>(i)</sup>

"the question arose immediately after Union whether in the exercise of their powers in regard to Natives local authorities were to be subject to the Provincial or the Union Government; in other words, whether regulations differentially affecting Natives framed by the local authorities required merely the approval of the Executive Committee of the provincial council or whether they required in addition the approval of the Governor-General-in-Council. Further, soon after Union the several Provincial Administrations introduced measures consolidating the laws governing urban local authorities.....

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(i) ibid.



thorities in each Province and the question arose whether provisions affecting Natives could be included in such Ordinances".

The Native Affairs Department pressed the view that the ultimate controlling authority must be the government of the Union, firstly, because of the obvious necessity of a uniform policy, particularly in regard to Natives, throughout the Union and, secondly, because it had reason to believe as will appear later, that the conditions in most of the municipal locations under the existing system were far from satisfactory and felt that the exercise of supervising authority on its part as the guardian of Native interests was urgent and necessary. In the end this view prevailed, and the Department of Native Affairs faced the double task of bringing its influence to bear on the administration of Native affairs by local authorities and of preparing the necessary legislation to amend and consolidate the law as it existed in the four provinces.

Until then native conditions in urban areas were described as most unsatisfactory as testified by various Commissions. The South African Native Commission (1903-1905) had reported as follows:

"The Commission has visited and inspected several municipal locations and records its opinion that in some respects their condition leaves much to be desired. The Natives who

/reside .....

reside in or frequent these locations are in the main working people. As such there is every reason why they should be encouraged to stay as useful members of the community. The tendency of inadequate accommodation is to make them dissatisfied and restless: the standard of comfort is low, and they are liable to be over-crowded and overcharged".

Being so soon after the South African War 1899 - 1902, this phrase was to have a familiar ring after the two subsequent world wars. In 1913 the Commission appointed to enquire into "Assaults of Women" stated in its report that<sup>(i)</sup>

"to improve the moral tone and build up the character of the Natives it is very desirable that, in places where they are collected together in large numbers, the white man in his own interests should take care that they are enabled to live under clean, healthy and decent conditions of family and social life; that their surroundings be of a more elevating and a less depressing character than as a rule they are at present; that, for instance, they be lodged in fairly decent houses instead of in miserable hovels and shanties, in which they are now frequently compelled to live; that decent roads be constructed instead of tracks which in some instances are positively dangerous at night; that trees be planted and gardens be allowed; and that water be laid on and light supplied."

/But.....

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(i) U.G. 39 - 1913.

But it was perhaps the Report of the Tuberculosis Commission which more than anything else directed public attention to the unsatisfactory conditions prevailing in urban areas.<sup>(1)</sup> The Commission stated:

"The majority of such (urban) locations are a menace to the health of their inhabitants, and indirectly to the health of those in the towns. We have, indeed, no hesitation in saying that we know of no municipal location which is entirely satisfactory ..... Some of course, are much less objectionable than others, but all those which we have seen are bad in some feature or other".

The Commission went on to enumerate the principal defects of urban locations among which were ill-chosen sites, absence of any systematic lay-out, inadequacy or absence of sanitary services, lack of any proper water supply, uncontrolled keeping of animals. The majority of the dwellings were mere shanties, often nothing more than hovels, constructed out of bits of old packing-case lining, flattened kerosene tins, sacking and other scraps and odds and ends. The dwellings were low, dark and dirty, generally encumbered with unclean and useless rubbish, mud floors were the rule, often below the ground level and consequently sometimes apt to be flooded in wet weather.

/Altogether.....

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(1) U.G. 34 - 1914.

Altogether there were hardly more suitable conditions imaginable for the spread of tuberculosis. The Commission also reported:

"There is one feature in connection with the municipal management of locations to which we desire to direct attention. We find in many instances in which we have made enquiry into the matter, that the local authority has been making a considerable profit out of the running of its locations, which profit has been placed to General Municipal Revenue, while at the same time the location has been badly in need of improvement in some of the directions we have above described".

The Commission drew up a comprehensive series of recommendations, and these formed the basis of a model set of regulations which the Native Affairs Department circulated and endeavoured to induce local authorities to accept. In this endeavour the Department of Native Affairs was assisted by a decision of the Courts that all regulations affecting Natives required for validity the approval of the Central Government.

The powers given by the existing provincial laws were not however sufficient either to enable the local authorities to exercise effective control or to provide the central Government with authority to insist on its recommendations being carried out. A Bill was accordingly prepared which would give the necessary additional powers and would at the same time  
/express.....

express in respect of urban areas the governmental policy of segregation. It was designed in this sense to be the complement of the Native Land Act of 1913, which had taken the first step towards the territorial separation of the landed interests of the two races, European and Native, in rural areas. The first world war supervened and legislation was postponed, partly, because of the pressure of other business and partly, because it was felt that an Urban Areas Bill should be preceded by the acceptance of the Native Affairs Administration Bill, a measure then before the country reflecting the general Native policy of the Government.

The Influenza Epidemic of October 1918 afforded to the general public a startling revelation of the distressing conditions under which the Natives lived in the urban centres and to what a great extent these conditions were a standing menace to the health of the whole population, European and Native alike.<sup>(i)</sup> Public opinion was strongly roused, and, when the Native Affairs Commission was established by the Native Affairs Act, 1920, the matter of Natives in urban areas was designated as the first and most important subject for its consideration.

In 1922, the Transvaal Local Government

Commission.....

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(i) Report of the Native Affairs Department, 1919 - 1921. U.G. 34 - 1922.

Commission reported and dealt extensively with the question.<sup>(i)</sup> It then held a conference between its members and those of the Native Affairs Commission. Their conclusions formed the basis of co-operation between local authorities and the central government, and were to a large extent reflected in the legislation of the following year. Having found that the administration and control of Natives in municipal areas had been extremely unsatisfactory, it was submitted that a statutory duty be placed on municipal bodies to provide adequate housing accommodation in a separate location for all Natives within their area, and that suitable powers be given to these bodies to control the ingress of Natives to their area. Redundant natives being the source of the gravest peril must be avoided by a system of registration.<sup>(ii)</sup> For the administration of the natives it was recommended that a separate municipal native affairs department be formed and that native advisory boards be established.

(ii) Natives (Urban Areas) Act, 1923.

In 1923 the Native Urban Areas Bill was  
/finally.....

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(i) Transvaal Province No. 1 - 1922. Appendix No. VII.

(ii) By redundant Native is meant the Native male or female who is not required to minister to the wants of the white population, but does not include a Native who ministers to the legitimate needs of his fellows within the municipal area.

finally introduced into Parliament and passed into law as the Natives (Urban Areas) Act.<sup>(i)</sup> This Act is still the basis of the law on the subject, though it has since been extensively amended by various Acts and then subsequently consolidated in 1945 and again radically amended up to 1957.

Some of the provisions of the Act deal with the establishment of locations and other accommodation for Natives residing in an urban area. The local authority is empowered to establish three different forms of accommodation, namely, locations, Native villages and Native hostels.<sup>(ii)</sup> These three types were conceived as catering for three different classes of Natives. Locations were to accommodate the normal floating and less stable section of the population, which could not afford more than the ordinary necessities of life. The buildings were to remain the property of the local authority to be let on a monthly tenure. The Native village on the other hand, was conceived as an area for the residence of the more stable and affluent section whose employment was fixed and whose residence might be regarded as more or less permanent. The "lease" of the residential site on which the native was to erect his own dwelling was  
/intended.....

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<sup>(i)</sup> Natives (Urban Areas) Act No. 21 of 1923.

<sup>(ii)</sup> *ibid.* Sections 1(i)(a), (b) and (c)

intended to connote a period which would ensure some security of tenure. In the original Bill introduced into Parliament, provision was made in regard to Native villages for not only the lease but also the ownership of lots by Natives. The House of Assembly, however, deleted the words relating to ownership, and in conformity with the policy implied by that action the Department of Native Affairs has (although until 1937 there was no specific prohibition of the acquisition of lots by Natives) discouraged and, where possible, prevented any extension of Native ownership. Present governmental policy is positively against ownership of ground since Native townships within municipal areas are considered as situated within a European area. An occupant can only acquire the "right to occupy".<sup>(i)</sup> Native hostels were for the accommodation of migratory Natives not living under conditions of family life.

In order to ensure that the provision made by the local authority in any of these three ways is adequate and suitable, action by these bodies is made subject to the approval of the Minister of Native Affairs, and the Minister is given authority to withhold his approval until he is satisfied in regard to the suitability of the site or building, the propriety of the general plan and lay-out and the adequacy of the water, lighting, sanitary and other services.

/Other.....

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(i) Natives (Urban Areas) Act No. 25 of 1945, section 16(1)(c) as substituted by section 7 of Act No. 16 of 1955.



Other sections impose upon local authorities the obligations which are the basis of the policy of the Act, for under these, the Minister of Native Affairs as representative of the government may, if he is satisfied after enquiry that the provision made for Natives ordinarily employed in an urban area is inadequate or unsuitable, call upon the local authority to remedy the defect, and, if the local authority proves recalcitrant, may himself carry out the necessary measures and assume control. Any excess of expenditure over revenue in the exercise of these functions by the Minister is recoverable in one or other or all of certain specified ways from the local authority.

The "segregation" clauses of the Act correspond to the section in the Native Land Act, 1913, which had provided for the territorial separation of the races in rural areas. The underlying idea was that within the urban areas, as generally throughout the rural areas, separate areas should be set aside for White and Black. The "black" areas in towns were the locations and Native villages, and section four of the Act protects them against the intrusion of Europeans, except in special cases, for trading, church, school or other similar purposes. The Act of 1923 did not however establish the converse position; it did not contain any prohibition of the acquisition by Natives of land or landed interest in the "white" area, that is, within the urban area elsewhere than in the location or Native village. Section five made merely  
/the.....

the residence of Natives (and then only after proclamation by the Governor-General of the particular urban area) elsewhere than in a location, Native village or Native hostel illegal. It was felt by the framers of the original Act that, while residential areas should be strictly demarcated the Native should not be debarred from holding property within the "white" area for the purpose of carrying on business or other activities.

During the intervening years, however, policy has, owing no doubt to the increasing influx of Natives into the cities and towns, hardened, and the view has come to prevail that the urban area is to be regarded as an enclave where the European interest is paramount and within which the Native may only be permitted temporarily. As a result of this trend of opinion, many new stringent provisions with a view to controlling the entry of Natives into urban areas and their activities therein were introduced by the later amending Acts even before the Second World War. In particular, the acquisition by a Native of any interest in land, with certain definite exceptions, generally was made illegal.

The remaining provisions of importance may be briefly stipulated as referring to the licensing of accommodation for the residence of Natives, where the local authority is not able immediately to make provision for all of those persons who should be

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removed to native proclaimed areas; stringent provisions intended to control and restrict the entry of Natives into the urban area; the prohibition of the congregation or residence of Natives within five (which could be increased to ten) miles of the boundaries of a municipality; the opening and keeping of a Native Revenue Account, into which shall be paid generally all revenue derived by the local authority in connection with the administration of Native affairs within its area, and against the account are chargeable only services rendered by the local authority to or in respect of land which it has set aside for Native occupation, the account being further safeguarded by the provision that all expenditure is contingent on the approval of the Minister of Native Affairs. Measures are further provided for the brewing of domestic beer, municipal monopoly for manufacture and sale of beer, the removal of idle and disorderly people, confinement of trading in the native area to natives, and the promulgation of regulations to give practical effect to the provisions of the enabling legislation.

It had been a recommendation of all the Commissions which had dealt with conditions in urban locations that the Natives should be given some share in the management in the form of an Advisory Board, and, accordingly the Act laid down that such a board should be established for every location or Native village under the control of an urban local

/authority .....

authority.<sup>(1)</sup> The board is to consist of not less than three Natives resident within the urban area in addition to a chairman who may be a European. The functions of the board are purely advisory and are defined by regulations in respect of each area, but the Act makes specific provision that no regulation affecting the Native area shall be made or withdrawn until after consultation with the Native advisory board.

Further control by the central government of the administration of Native affairs in urban areas was ensured by the provision that officers appointed for the general management of Native affairs, and for the management of any particular location or village should be licensed by the Minister. The desiderata in respect of applicants for such licences used to be suitable character and education, previous experience in dealing with Natives and, if possible, a knowledge of the Native languages spoken in the location. In recent years the minimum standard of qualifications laid down for these posts has been increased considerably.

The Minister is also given power to appoint special officers who shall have the right to inspect all accommodation provided for Natives, to confer with the local authority and to enquire into grievances. They have also the right to inspect the books and  
/accounts.....

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(1) Act 21 of 1923, section 10.

accounts of the local authority. These rights were, at first, usually exercised through the local magistrate or native commissioner, but the task has so grown in complexity that a special sub-department has been created within the Union Native Affairs department to deal with all aspects of urban native administration.

All aspects of urban native administration are carefully scrutinised by the Department of Native Affairs in order to ensure that they are legally competent and conform to the general policy of the government. With the latter object in mind a new section<sup>(i)</sup> was inserted in 1937 which gave the Minister power, in the case of the failure or neglect of a local authority to exercise any power or fulfil any obligation, to insist on compliance with his requirements upon pain of intervention by the central government. After extensive amendments, the Natives (Urban Areas) Act was consolidated into a new act in 1945<sup>(ii)</sup> and since then numerous amendments have been effected particularly during 1957 with a view to smoothing out the various difficulties encountered in the light of past experience. Basically however, the Natives (Urban Areas) Act of 1923 still remains the corner stone on which urban native administration has and is still being built.

/(c) Advisory .....

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(i) Native Laws Amendment Act No. 46 of 1937 - section 29.

(ii) Act No. 25 of 1945.

(c) Advisory Boards.

(i) Constitution.

Natives are excluded from the municipal franchise in the Transvaal, Natal and the Orange Free State. In the Cape a Native is legally entitled to the municipal vote if he possesses the prescribed qualifications.<sup>(i)</sup> namely, if he is of full age and the owner of immovable property having a rateable value of at least £100, or the occupier of property rated at not less than £200. In Cape Town, and probably elsewhere in the Cape Province, a small number of Natives are enrolled as municipal voters, but the great majority are excluded, both because of the statutory restriction of their right to buy or lease land, and because the value of dwellings in native townships is usually estimated to be less than the amount fixed as a franchise qualification.

The Transvaal Local Government Commission<sup>(ii)</sup> of 1921 held that:

"if the Native is to be regarded as a permanent element in municipal areas, and if he is to have an equal opportunity of establishing himself there permanently there can be no justification for basing his exclusion from the

/franchise.....

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(i) Ordinance No. 10 of 1912, as amended.

(ii) Report of Local Government Commission paragraph 42.

franchise .... If, as we consider, it is to the public advantage that all sections of the permanent community should be represented in Government, on what ground is the franchise withheld from the Native?"

The Commission got over the difficulty by laying down the principle that the Native should not be allowed to become a "permanent element" in the towns. Nevertheless, it recognised the need of some form of representation, and recommended the institution of advisory committees in locations which would enable the superintendent as ex-officio chairman "to keep in close touch with the Natives under his charge - their needs and aspirations - thus ensuring prudent administration and general contentment".<sup>(i)</sup> This recommendation, which was accepted in principle by the Native Affairs Commission in 1921, was in keeping with the system of local Native Councils adopted for rural areas by the Native Affairs Act of 1920. In Bloemfontein, Pretoria and a few other towns, advisory bodies had indeed been established before the passing of the Natives (Urban Areas) Act of 1923, which made them an essential part of urban Native Administration.

Accordingly the duty of establishing an advisory board for every location or Native village was made peremptory in the original and subsequent  
/legislation .....

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(i) ibid paragraph 295.

legislation.<sup>(i)</sup> The Natives (Urban Areas) Act enables the Minister, after consultation with the local authority, to set up a board for any portion of an urban area in which Natives reside. Although the intention may have been to provide for those living in the urban area outside a location, and who are usually without any form of representation, it was never the administration's intention to establish boards merely for domestic servants in the towns. In practice boards are found almost everywhere only in locations and Native villages, and their membership and the right to elect are usually confined to registered occupiers. Natives who live outside, and who in most of the larger areas still form a considerable portion of the urban Native population, do not, therefore, take part in any kind of local government. Their exclusion is not material since it is now governmental policy that unattached natives should reside in hostels situated within proclaimed native townships and thus qualify for representation.

The Act lays down that a board shall consist of not less than three Natives, resident in the urban area, and a chairman who may be a European.<sup>(ii)</sup> Coloured persons living in the location are eligible for membership until such time as accommodation is available for them elsewhere. The method of  
/election.....

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<sup>(i)</sup> Act 25 of 1945, section 21(1).

<sup>(ii)</sup>  
Act No. 25 of 1945, as amended, section 21(1).



election or selection of board members, their period of office, the procedure, duties and functions of the boards, are left to be defined by municipal regulation. Here again, the model regulations of the Native Affairs Department have been followed fairly closely by the majority of local authorities. Prior to 1950 these regulations usually provided for a board of six members, three of whom were to be elected by registered occupiers of the location and three appointed by the local authority, together with the superintendent as chairman ex-officio. Elections were to take place annually in December. Occupiers who at the date of nomination have not paid their rents and other charges due to the council, and persons sentenced to imprisonment without the option of a fine within twelve months preceding the nomination date, were ineligible for election. Nominations must be in writing and be supported by the signatures or marks of at least ten occupiers who are not in default with payments of rents. Voting is restricted to occupiers who have paid their rents to date. In most centres members hold office for one year in terms of the regulations, and are liable to forfeit their seats upon being sentenced to imprisonment without the option of a fine, or on conviction for a breach of location regulations, or if they should leave the location without leave of absence for more than six weeks, or on failure to attend three consecutive board meetings. To what extent members are unseated is unknown. Board members are not immune from the problems and

/temptations.....

temptations that beset other residents. They do at times become involved in difficulties over rent, beer restrictions, and other matters enforced by penal sanctions, and may even be convicted of some offence under regulations, but the power to unseat them is probably not used where their offence is not serious and frequent.

The regulations prescribe monthly meetings. The keeping of minutes is entrusted to a secretary appointed by the chairman. The secretary's function also includes the submission of matters reserved and of notices of motion. Copies of the minutes are to be sent after each meeting to the local authority. Rules relating to quorums, special and adjourned meetings, and procedure are included; they prohibit a member from voting on any matter in which he has a pecuniary interest but otherwise make it obligatory for members to vote on a division unless excused by the chairman.

A more recent innovation is for a native township to be planned and developed on an ethnic group basis and for it to be divided into wards and for the establishment of an advisory board consisting of one representative for each ward and a limited number of appointed members. Each ward must consist of residents of the same ethnological origin. This flexible system permits the enlargement of the board as and when a township expands simply by the

/redelimitation.....

redelimitation of the various wards. It further ensures that the various tribal interests are duly represented. Instead of the Superintendent presiding at the meetings, the more recent regulations now provide that the Chairman of the local authority's committee responsible for its Native administration shall preside but that he shall not have a vote. In his absence the native members present shall elect one of their number to take the chair. In some centres by administrative arrangement a ward committee is formed in each ward with the advisory board representative as chairman. The ward committee mainly deals with domestic disputes emanating from its area.

Whilst the actual number of members on each board varies in the various local authority areas the tendency, especially in the larger centres, is for three members to be nominated and not less than six elected members. The reason for making some provision for nominated members is to ensure a certain amount of continuity and to enable certain persons of standing and education to serve on the board. Examples of this system are found at Boksburg, Brakpan, Benoni, Germiston and Springs. In Bloemfontein six members are nominated and twelve elected. Pretoria has no nominated members, each township electing ten members. On the West Rand the boards consist of an equal number of nominated and elected members, usually three each, with the notable exception of Westonaria where all seven members of the board are elected.

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In Natal the general pattern is for four elected members and two nominated.

A very important position on the advisory board is the appointment of its secretary. In the whole of the Union only the following local authorities have provided for the employment of full-time salaried secretaries, viz. Boksburg, Krugersdorp, Springs, Vanderbijlpark and Benoni. The success and smooth running of a board is more often than not dependent upon the capability of its secretary.

Monthly allowances paid to board members vary from centre to centre and province to province. As in East and Central Africa, in Cape Town, Port Elizabeth and East London in the Cape Province no allowances are paid. In Natal, Durban members receive £3 per month and Pietermaritzburg local authority pays its members £1.10.0. per month. In the Orange Free State the larger local authorities allow the members an average of £2.10.0. per month. In the Transvaal the monthly allowance varies between £3 and £5 per month depending upon the financial position of the native revenue account concerned.

A further sign of lack of uniformity is the difference in period in respect of which members of the boards are elected. At most centres the members are elected for one year only. In Pretoria and Pietermaritzburg the duration of office is two years whilst  
/at.....

at East London, Krugersdorp, Brakpan, Springs, Welkom and Benoni the members are elected for a period of three years of whom one-third retire each year. There can be little doubt about the advantages of a longer period of office and the other centres will no doubt follow the latter course when the necessity arises for the revision of their regulations.

The interest displayed at election time again differs from place to place. From replies received the percentage poll at Cape Town is five, while East London registered 21%. Stellenbosch has had no elections during the past five years. In Natal, Pietermaritzburg had a poll as low as 1½% whilst the nearby Estcourt and Durban polled as high as 50% and 58% respectively. On the Reef, Germiston poll has the record of 70% whilst its neighbour at Boksburg is only 10%. Similarly Krugersdorp's poll is 30% compared with 4% at the adjoining Randfontein. The same position pertains at Vereeniging with a 10% poll whilst adjacent to it Vanderbijlpark polled 30%.

(ii) Rights and Powers.

An advisory board is, in law, a "juristic person" with a name of its own, but existing only in contemplation of law, which confers upon it, as distinct from its members, a legal personality i.e. the capacity to acquire rights and incur obligations which are binding on it alone and not on its members.

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In South Africa between the years 1939 and 1951, there could be no association of persons having legal personality, as distinct from its members, unless it was either registered under the Companies Act, or was formed in pursuance of some other law. This restriction was, however, relaxed in 1951 by the Companies Amendment Act<sup>(i)</sup> to enable the formation of such bodies at common law, provided they are not engaged in any undertaking, the object of which is the acquisition of gain, either for themselves or for their members.

Since advisory boards are formed in pursuance of Act No. 25 of 1945, as amended, they are statutory bodies. "Creatures of Statute" is the expression the lawyers like to use, and as such, the powers they can exercise are circumscribed or limited to those as are expressly, or by necessary implication, conferred upon them by the statute which creates them, or by some other competent legislative authority or enactment. Ordinarily, the term "power" means the ability to act or to do or to perform something. When used in relation to a statutory body, it means the legal right to do or to perform some act. The term does not include the duties or functions of a board, but would include rather the right which flows from a duty or function which has been imposed on a board.  
/Although.....

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(i)

Companies Amendment Act No. 67 of 1951.

Although the Act does prescribe certain duties and functions for boards from which they acquire powers, it also empowers the local authority to prescribe duties and functions, so that a local authority may also confer powers on a board by regulation. Such a power would fall under the heading of powers conferred by some other competent legislative enactment.

It is however to Act 25 of 1945 that one must look in the first instance, since, it is Section 21 of that Act which creates these bodies. Let one then examine this section and see what powers it confers on a Board. Sub-section 2(a)(i) provides that "a board shall consider and report upon any regulation which a local authority proposes to make ....." This imposes a duty on a board, but does not give it any power to act of its own accord. It is only when a proposed regulation has been referred to it by a local authority that it acquires a right to do something, viz. to comment on such proposal, and of course once a board has exercised its right to comment, there is a corresponding duty placed on the local authority to apply its mind to the comments which have been made, and in terms of sub-section (4) of the aforementioned section to pass a copy of the Board's report to the Secretary for Native Affairs when the regulations are submitted for approval.

Furthermore, since a board has a duty to consider and report on any regulation which the local  
/authority.....

authority proposes to make, there is a corresponding duty on the local authority to refer proposed regulations to its board. This therefore, gives a board the power to compel the local authority to refer proposed regulations to it, in such a way or form that the board can give due consideration to them. The local authority must therefore inform a board of its proposals and give such additional details as are reasonably necessary to enable the board to consider them. If the local authority should fail to do this, the board could apply to the Courts for a mandamus. Sub-section 2(a)(ii) provides that "the board shall consider and report upon any matter referred to it by the local authority or ..... by the Minister of Native Affairs". Here again, this provision gives a board no power. Its right to act, is contingent upon the local authority or the Minister referring some matter to it. Sub-section 2(a)(iii) provides that "a board shall consider and report upon any matter especially affecting the interests of Natives in the urban area upon which the board ..... considers it useful or desirable to report". This apparently is a provision which gives a board a right to do or initiate something of its own accord. It is a power which unfortunately is not used much and which could be used with more advantage. The fact that boards so infrequently use their powers in this respect, is a clear indication of a general lack of knowledge of the extent of their powers. Likewise, sub-section 2(b) gives a board the power to recommend to a local authority the making of  
/or.....



or adoption of any regulation which it considers necessary or desirable in the interests of the Natives in the urban area. These latter two are most important since they provide an opportunity for boards to make constructive suggestions in the interests of their people and an opportunity to bring to the notice of the local authority matters of which it might otherwise have been unaware, in fact an opportunity generally to make a real contribution towards the better administration of the people they represent. The four powers mentioned are accordingly the only express powers accorded advisory boards by the section of the Act which creates them.

There is another section of the Act which confers a power on a Board, namely section 19, subsection 5, which provides that before a local authority passes its estimates of expenditure from the Native Revenue Account for transmission to the Minister for approval, the estimates shall be referred to its advisory board for consideration and report and such report shall be duly considered by the local authority. Here again, the right to comment or report is contingent on the local authority referring the estimates to a board for consideration, but nevertheless the local authority is in duty bound and could be compelled to refer its estimates of expenditure to its board, in fact even supplementary or revised estimates must be referred to a board for consideration and comment.

/Another.....

Another section of the Act which refers to advisory boards is section 38(3)(d) which gives a local authority the power to make regulations prescribing inter alia "the definition of the duties and functions of members of ..... boards." Now Section 21 to which reference has been made as the creating section, also provides that the duties and functions of "members" of boards shall be defined by regulations made by the local authority. Both these provisions seem to limit the local authority to prescribing duties and functions of "members" of boards, but as a board is a statutory body, distinct from its members, the legislature must have intended that it was the duties and functions of boards as statutory bodies which should be defined and not those of the individual members of the boards.

While later on the question of what functions and duties have been prescribed by local authorities in their regulations will be dealt with, it may be useful at this stage to consider the extent to which a local authority could confer powers on a board by regulations made under this authority.

The executive administration of Native affairs in the urban areas has been delegated to local authorities by Parliament and the principle that an agent may not delegate his duties but must perform his mandate in person (delegatus non potest delegare) applies. A local authority if it wished to widen the  
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scope and activities of its advisory board could do so by regulations framed under the authority of section 38(3)(d) of the Natives (Urban Areas) Act, but would be limited to prescribing powers, duties and functions of an advisory nature only. In other words, it could not by regulation delegate to an advisory board, any of the executive powers which the Act has conferred upon it. On the other hand, a local authority could by regulation give a board fairly effective powers under the guise of a right of consultation. Thus, for instance, a local authority could provide in its regulations that the officer licensed in terms of section 22 of the Natives (Urban Areas) Act, must act in accordance with advice from the boards regarding certain defined matters, such as the provision and organisation of sports in the Native townships, unless the council itself or a committee of the council, by resolution, rejects the advice of the board. The difficulty of reporting to the council and getting a rejecting resolution, would give the board a fairly effective "power" to control sports and whatever else is left to it in this way.

It now remains to consider whether, by implication, any further powers are available to advisory boards. Under this heading one could place the right which a board has as a juristic person, to enforce its rights, i.e. in its own name to approach the courts for an enforcement of its rights. It has been explained that the board has a right to

/comment.....

comment on any matter referred to it by the Minister of Native Affairs through the local authority. It would certainly have the right as a statutory body to require the local authority to pass on in full, its comments to the Minister. If, for example, a local authority failed to do so or passed on a curtailed version of a board's report, it would have the power to approach the courts to compel the local authority to pass on its full report.<sup>(1)</sup> Likewise, a board has the right to require a local authority to consider and apply its mind to any comments which a board makes on the estimates of expenditure from the Native Revenue Account. If a board felt that a local authority was merely paying lip service to such comments and was not seriously applying its mind to them, it would have the power to approach the courts for an order compelling the local authority to give proper consideration to its views. Difficult in practice, it is agreed but, nevertheless, it is a power which a board has.

To sum up, the powers and rights of advisory boards are limited to the following:-

- (1) To comment on any regulation referred to it by the local authority;
- (2) To report on any matter referred to it by the local authority or the Minister;

/ (3) To.....

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(1) Koller, T.W.A. : Powers of Advisory Boards Paper read at conference of Institute of Administrator's of Non-European Affairs (S.A.) Muizenberg, South Africa. September, 1958.

- (3) To report to the local authority on any matter which it considers to be in the interests of the Natives in the urban areas under the control of the local authority;
- (4) To recommend for adoption by the local authority any regulation which it considers would be in the interests of the Natives in the area of the local authority;
- (5) To comment on the local authority's estimates of expenditure from the Native Revenue Account before the estimates are passed to the Minister for approval;
- (6) To be consulted in respect of domestic brewing<sup>(1)</sup> of kaffir beer in certain circumstances and of the exclusive supply of kaffer beer; (ii)
- (7) To enforce its rights in the Courts.

Considering whether these powers are adequate, the matter may be approached from three points of view. Firstly, whether they are adequate from the advisory board's point of view; secondly, whether they are adequate having regard to the intention which the legislature had in mind when the Act was passed and finally whether they are adequate having regard to present day circumstances and the changes which have taken place during the last 35 years i.e. since 1923 when the advisory board system was first enshrined in legislation and re-enacted in the Consolidation Act of 1945.

In regard to the first consideration,  
/legally.....

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(i) Act No. 25 of 1945, as amended, section 33(1).  
(ii) ibid section 34(1).

legally and from the board's point of view, the powers are of little value, since with the exception of the powers which the board has to approach the courts to enforce its rights, they are purely of an advisory nature and a local authority need take no heed of any recommendation or suggestion which may be made and the board is virtually without remedy. In regard to the second aspect it was clearly the intention that a board should function in an advisory capacity to the local authority in the administration of its Native affairs, that there should be consultation with the Native people through the medium of the boards and that a local authority should give serious consideration to any views expressed or recommendations made by a board. Mr. Justice Greenberg correctly interpreted the position when he said:-

"It seems to me from such consideration of this Act that I have been able to give, that it was the intention of the Act to promote harmonious co-operation between the Natives and the Local Authority, and it was intended that weight should be given to the views of the Natives."<sup>(i)</sup>

Other competent legislative enactments conferring express powers or rights on advisory boards include the Representation of Natives Act<sup>(ii)</sup> whereby it constitutes advisory boards as voting units for the purpose of the election of Senators in each  
/electoral.....

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(i) Rex vs. Duba, 1928, T.P.D., page 253.

(ii) Act No. 12 of 1936, section 4.

electoral area excluding the Transkeian Territories. This act also permits each advisory board<sup>(1)</sup> by a majority vote to nominate one candidate for election as a senator for the electoral area of which it is a voting unit. In terms of the regulations promulgated under the Bantu Education Act, the Native Commissioner is required to consult the advisory board with regard to the nomination of two or more members by him to the respective school committees and school boards.<sup>(ii)</sup>

(iii) Functions and Duties.

The enabling act provides that a local authority may prescribe regulations defining the duties and functions of the members of the board. An attempt has been made in the more recent "model" set of regulations accepted by the Minister of Native Affairs to set out in some detail the duties ascribed to advisory board members.<sup>(iii)</sup> Among the duties are that every member shall strive at all times to become the real representative of his people and the faithful voice of the aspirations and wishes of the community within his ward; keep the voters in his ward acquainted with the work of the board; use his influence to settle domestic differences between the families in his ward, provided, however, that such member shall  
/submit.....

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- (i) ibid, section 32(a)  
(ii) Bantu Education Act 47 of 1953 Section 12(1) and regulations 2(1)(b)(i) and 17(1)(c)(i)  
(iii) Transvaal Administrator's Notice No. 343, dated 30th April, 1952.

submit in writing to the superintendent the substance of the complaint and the terms of settlement thereof within twenty-four hours of such settlement; on request by the superintendent interview any registered occupier in a location or native hostel who is in default with the payment of any rent or charges for a service with a view to securing the payment thereof; when required by the superintendent, assist such official in hearing or dealing with complaints or disputes between natives; report to the superintendent any untoward happening, the presence in the location of any unauthorised person, any breach of the regulations and any defect in the municipal services which come to his knowledge; assist the superintendent in the preservation of law and order in his ward; act in an advisory capacity to the inhabitants of the location; receive and consider complaints, representations and suggestions from the inhabitants and if thought necessary to make representations thereon to the council through the head of the Native administration department, and perform in an expeditious manner the functions assigned to him in terms of the Natives (Urban Areas) Act.

The advisory board may also by resolution recommend to the Native administration department the removal from a location, native village or native hostel of any person on the ground that his conduct is inimical to the preservation of law and order therein, his presence or conduct is a source of

/annoyance.....



annoyance or nuisance to the residents thereof and likely to provoke or cause a breach of the peace, or that his payments of rent and charges for services are consistently in arrear. The board may also recommend the transfer of any tenant and his family or household from the dwelling of which he is the registered occupier to another dwelling in the same or another location, native village or native hostel on any one of the aforementioned grounds set out.

Provision is further made in the regulations for members of the board to be present at the hearing of applications for trading sites in a native township and may ask questions provided the member concerned has no direct or indirect pecuniary interest in the application.<sup>(i)</sup> In practice therefore the board members advise the administration of the most suitable applicant for the particular business site or premises. Experience has shown that the members of the board invariably are possessed of local knowledge which may influence with advantage the granting of permission to the most suitable applicant.

An interesting innovation has been for some local authorities to introduce administrative arrangements whereby boards are organised in such a way as to be of effective assistance in the general native township organisation. Boards are divided into standing /committees.....

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(i) ibid, Chapter VII, regulation 10(4).

committees, each committee being allocated certain specified functions and duties as may be determined by standing orders. Thus Bloemfontein has three committees each called Finance, Trading and Educational. Boksburg has a similar set-up except that instead of a Trading committee it has a Services and Transport committee. Pretoria again has three committees each styled Consultative, Housing and Bursary. Stellenbosch has two committees the one being responsible for sport and health and the other for education, administration and finance.

Benoni has probably the most detailed and effective system of standing committees where the Advisory Board is divided into four standing committees, namely an Administration Committee, a Social Services Committee, a Transport and Licences Committee and a Development Committee. Each advisory board member is elected to at least two standing committees and each committee elects its own chairman. The committees meet regularly under their elected chairmen and the resolutions adopted are submitted to the monthly session of the advisory board. The Administration Committee is the senior and policy making committee and deals with matters relating to finance, regulations, labour conditions and the administration of the Bantu people in general. As the name implies the Social Services Committee handles all matters of a social nature including health, education, recreation and church matters, whilst the Transport and Licences  
/Committee.....

Committee gives its attention to questions relating to licences, business and public transport such as buses and taxi requirements. The Development Committee advises on all aspects of a "works" nature including housing, road construction, water and electricity reticulation, sanitation, parks and tree planting. Following the pattern of a municipal council set-up the Native townships are divided into wards to coincide with the ethnic group areas, each ward being represented by one advisory board member for a period of three years. There is in each ward a "Ward Committee" of not less than six members or more than ten members whose duties are to keep the advisory board member informed of the needs of the residents of his ward. At the monthly session of the full Advisory Board, presided over by the Chairman of the Council's Non-European Affairs committee, the reports of the various standing committees are formally disposed of. The board meets in an attractive chamber and has at its disposal a full-time Bantu secretary. This arrangement has provided successfully avenues for consultation in practically every aspect of Native administration. A grievance among the Bantu has been that they are not consulted on matters affecting their interests, and, it is submitted that constant consultation with all its imperfections could in this way be maintained. It is important that the elected advisory board member should have the prerogative in the appointment of the ward members in order to ensure their loyal co-operation on the same basis as a Prime Minister appoints the members

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of his cabinet. Where the ward members are elected, one for each block, there is very often a tendency for a block representative to aspire to the higher status of ward representative on the board resulting in undermining of the influence of the board member during his tenure of office.

(iv) Basic Reasons for Shortcomings.

The shortcomings or defects of the advisory board system have been adjudged in varying degrees by municipal administrations throughout the country. Considering its purely consultative functions some institutions have no doubt that it is a failure. Others maintain that it has neither been a failure nor a success. The native people themselves, seeing the impotence of the boards which they designate as "talking shops" have no confidence in their power to promote their interests. In many areas the people give greater support to vigilance committees or other pressure groups than to the official boards, finding the more aggressive and forthright demands of the former a more appropriate expression of their protest. The boards are experiencing increasing difficulty in retaining and attracting to the service men of ability with the qualities of leadership. Even if they do serve on the boards for a period, the futility and frustration of such service stifle any initial enthusiasm for board work. The main function which the boards seem to have served is to afford an opportunity  
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for the training of leaders of some kind.

From time to time various suggestions have been made for the improvement of the system such as the election of the majority of the board members on a ward basis and the appointment of a European councillor as the chairman of the board instead of an official usually the location superintendent. Whilst these proposals and various others have since been implemented and in some centres with a measure of great success some authorities are still sceptical that these fundamentally procedural modifications would not touch upon the core of the problem, which is to devise a means of allocating definite functions to the boards and rescuing them from the slough of sheer futility in which they have been floundering. It is generally felt that because the boards have not been vested with a certain amount of financial authority ~~their~~ their functions will never be effective. To this end various forms of betterment funds drawn from the Kaffir Beer or the Native Revenue Account have been suggested. It seems to some authorities difficult to visualise how such a procedure could function satisfactorily. Either certain services (e.g. health and recreation) would become the entire responsibility of the boards, or, if the funds were spent in a variety of ways (e.g. to pay partly for roads, subsidize clinics, inaugurate certain recreational services) it seems reasonable to assume that the local authority would adjust its own expenditure accordingly.

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Another reason advanced for the advisory board's failure is that the board, or through it the people that they represent, has no direct representation on the town council. Natives themselves have been consistently pressing over the past decades and longer for a direct voice on local authorities. The demand for the representation of Natives - as a first step by Europeans - on local governing bodies on the parliamentary model has been made by a number of organisations. After the resolution in favour of direct representation passed by the Natives Representative Council in 1942, the provincial secretaries asked the views of local authorities. The great majority including Johannesburg, rejected it. Judging by the experience of the Synod of the Diocese of Johannesburg which forwarded a resolution for indirect representation, which was rejected by every local authority that replied, this opposition was not only directed against attempts to allow Non-Europeans to serve on Municipal or other councils, but also against any form of representation.<sup>(i)</sup>

Consensus of opinion also has it that the customary institutions of the Native had long since lost their significance in urban society and as a substitute there is the Native Advisory board, but in  
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(i) Report of Transvaal Municipal Association Meeting, 10th October, 1946.

the light of experience the system as constituted is not effective and does not command the popular respect of either the Bantu or European public. The advisory board system does not provide the people with an opportunity of playing an effective role in their own government. Members of the board are without opportunity to display qualities of real leadership. Lacking executive powers, members lose a sense of responsibility and talk and argument become an end in themselves. The system encourages the election of members who hold unbalanced opinions, the expression of which tends to alienate sympathy of many Europeans and even natives. The areas, as well as the number of people represented by individual members, are unwieldy. Members are strangers to the majority of their electors, and authority is too remote from the individual. The general lack of schooling, and especially the average Native's ignorance of European institutions, militates against a well informed critical body of opinion.<sup>(1)</sup> In the absence of executive powers even on a progressive scale, it is not possible to provide an intimate relationship between the voters and their elected representatives, so that executive power could be exercised in conformity with the will of the people. The electorate merely tolerate the advisory boards whilst they represent the idea of "ask for what you want, take what you get,  
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(1) Venables, L.I. (Manager of Non-European Affairs, Johannesburg.) Advisory Boards S.A. Institute of Race Relations, Vol. XIII, No. 2. 1946.

and use what you get, until you get what you want".<sup>(1)</sup>

Viewing objectively the basic shortcomings of advisory boards, all the blame should not be laid at their doors only. There are so many other contributory factors that should be taken into account. The Union of South Africa is but a young country, scarcely half-a-century old. In England with its homogeneous population, and after many centuries of civilisation, yet took a hundred years of strife before the present system of local government was evolved. With its heterogeneous population consisting of Afrikaans and English speaking Europeans, Coloureds, Indians sharply divided between the Muslim and Hindu faiths, and Bantu people themselves of many different ethnological origins of whom a considerable percentage are still pagans, South Africa had not long before the realisation of its Union, been going through a period when white people were fighting against an indigenous and savage people in order to preserve Christian civilisation. At the turn of the century two of the country's constituent parts were engaged in battle against the other half. After three years of devastation the war ended. Within the miraculous time of eight years was to follow the Union of South Africa on 31st May, 1910. Just over four years later the first world war started and in which the country was /tragically.....

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(i) Van As, B.S.: Possible Alternatives to advisory boards Paper delivered to Institute of Administrators of Non-European Affairs (S.A.) Muizenberg September, 1958.



tragically involved. After the war in 1918 followed epidemics, strikes and recessions. It was during these lightning events that time was still found to devote attention to legislation which was to take the form of the Natives (Urban Areas) Act of 1923. As has been indicated earlier in this chapter little positive attention had during these phases been given to urban native affairs. The reasons are in the light of the events quoted quite understandable.

And so in the year 1923 shone the first light in providing the apparatus for tackling the urban native problem. But to set the machinery in motion to implement legislative provisions takes time, and sometimes a very long time. Usual formalities in the preparation of regulations and the promulgation thereof had to be observed. The successful acquisition of land for native township purposes, the layout thereof, the application and obtaining of loans for housing and other purposes can take several years before a scheme can actually commence. Meanwhile, the complicated urban problem continued to deteriorate. Advisory boards have been formed to advise the local authority in terms of the Act. Because of financial implications and administrative difficulties many schemes did not come to fruition, and the advisory boards became disappointed and impatient. Then followed the world depression after 1930 and most development schemes came to a standstill but not so the urban native problem. The clamour of the boards for  
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alleviation fell if not on deaf then on desperate ears. Nothing can be done if the finances simply are not there. Then came the economic recovery during the years 1934 to 1939. Some local authorities which had previously reached an advanced stage in the preparation of certain schemes soon succeeded in obtaining some relief for their native residents. These were exceptions rather than the rule. However, other advisory boards throughout the country held up to their respective local authorities these as examples which they were asked to emulate. It should be remembered that a central government can only afford a specific amount of money for certain purposes during its fiscal year. It can therefore only assist with finances in accordance with prevailing conditions and on a long term basis.

During the year 1936 laws were passed which had the effect of bringing native affairs throughout the country very much in the limelight. One of the results of the 1936 native laws was that urban native advisory boards received a certain measure of direct parliamentary franchise, for in 1937 they constituted voting units in the first election of three out of the four Senators to the house of parliament. Unwittingly may be, but nevertheless the blame must be placed on the policy making and central government of the time, the advisory board (a purely local governmental institution) became an instrument for political purposes. When advisory boards are therefore accused  
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of having become political bodies sight should not be lost of the fact that it was the central government who in its wisdom (or folly) extended this type of franchise not only to those provinces outside the Cape where natives were not enjoying the vote, but also to institutions whose activities it was never intended in 1923 should enter both the local and national political plane.

Scarcely had the question of smoothing out various measures designed for the solution of the urban native problem been settled when the second world war broke out in 1939. ' Accompanied by the tremendous industrial expansion during the war years was the virtually uncontrolled and unprecedented influx of native men and women to the already grossly overcrowded native locations of the towns and cities. In a sense of frustration, the seeds of which had been sown continually since the beginning of the century, the homeless natives took the law into their own hands and formed themselves into squatters camps on any vacant piece of land they chose to settle, ground which local authorities ever since the passage of the Natives (Urban Areas) Act in 1923 had struggled to acquire and the development of which was prevented by one or other of the series of events outlined. In the interests of law, order and health, emergency regulations in terms of a war measure had to be invoked. After the war followed the usual rehabilitation measures complicated by shortage of materials and cash. Local authorities / heavily.....

heavily committed financially in the European section of the town, generally lacked the financial resources as well as the skilled personnel with which to put their houses in order in so far as the urban native population was concerned.

Such then was the general native urban position in 1950. A feeling of sheer desperation was detected not only among advisory boards in particular but among the various authorities as a whole.

Since 1951, however, with the determination that where there is a will there is a way the urban native problem has been tackled in all its aspects as has never been done at any stage in the history of, and anywhere in, Africa. When enabling legislation, no matter how contentious, was necessary to give effect to certain required measures the responsible Minister concerned did not hesitate to pilot it through parliament. Among such legislation may be mentioned those which enabled the training of native builders, imposition of levies which contribute towards the costs of taking water, electricity, sanitation and roads to and within native townships, the building of schools and providing education for the urban Bantu, levies to subsidise transport costs and the establishment of labour bureaux to assist in correlating and canalising native labour. The nett effect of these legislative measures has been that the native towns are not only becoming financially sound with all the essential

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services, including health and welfare, but that the interests of urban residents are protected and avenues are placed at their disposal through which they can serve their own people in their own areas without fearing the more efficient and experienced competition from Non-Natives.

It is not surprising, therefore, that the general attitude of advisory boards particularly where conditions have improved to a great extent, is changing for the better.

The successful functioning or failure of advisory boards can also be largely dependent upon the attitude and behaviour towards them of officials in a municipal native administration department, which until a decade ago attracted few suitably qualified men with the necessary academic background and training. Luckily, the universities of South Africa are giving increasing attention to the vital necessity of providing facilities for the academic training of future native affairs administrators. In their dealings with advisory boards, administrative officials can never expect fruitful deliberations in the absence of wise and sympathetic and patient guidance. No matter how unreasonable or difficult the boards may appear at times, it should forever be remembered that the best lubricant remains Christian kindness and forbearance. It has been substantiated that the willingness with which advisory boards have played an effective and  
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constructive part in urban local government and administration has been achieved largely through the dignified and sensible lead afforded by the municipal native affairs administrator.

(d) Recent Trends.

Latterly public opinion has become impressed by the importance of ensuring harmonious relations between urban local authorities and the Native people within their areas. It believed that this cannot be attained unless people are able to voice their needs and to have their views placed effectively before the local authority when decisions are taken concerning them. The Native people have an age-old tradition of participation in public affairs, and it was considered most desirable that the Bantu should be helped to apply this traditional experience for their own welfare under the new and confusing conditions in urban areas. Every effort should be made to make the advisory boards effective for this purpose.

Following on the promulgation of the Bantu Authorities Act<sup>(i)</sup> the Government published a Bill<sup>(ii)</sup> to provide for the establishment in urban areas of urban Bantu authorities to be introduced by the Minister of Native Affairs. The proposal also included the  
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(i) Bantu Authorities Act No. 68 of 1951.

(ii) Government Gazette Extraordinary No. 4791 - 22nd February, 1952.

creation of urban Bantu courts. The Minister of Native Affairs then had in mind not only the unsatisfactory system of bodies with only advisory powers, but also the traditional administrative and judicial systems still in vogue among the Bantu of South Africa and which he felt might to a degree be applied to the native urban centres in European areas. This traditional Bantu government is a blend of patriarchal and autocratic administration by a Chief, modified by dictates of tradition and custom and influenced by day to day public opinion. This opinion is, however, not expressed - as in normal Western democracies - through the press, through speeches by members of the public, by referendums or by party-political votes, but is interpreted by the Chief's councillors whose duty it is to endeavour to keep their Chief on the path of wisdom and rectitude or at least on a course which is accepted as being in keeping with tradition and the interests of the tribe. These councillors are generally senior members of the Chief's own family and relatives and are appointed and - when deemed necessary - dismissed by him. There is thus no opposition in this Parliament-cum-Judiciary for in Native concept the two are indivisible, as are criminal acts and torts or other causes of civil action. The checks on nepotism and corruption in such a set-up are, firstly, the tradition and custom already referred to and the fact that all actions and decisions are public knowledge, while in the second place, trial of cases takes place openly, where anyone (of the male sex)

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may attend and, at the risk of incurring public odium if he is not considered of sufficient standing or maturity, make comment or ask questions. This, in broad outline, is a system well tried and understood and one which generally suits the temperament and present state of development of the average Bantu in the reserves. It follows, therefore, that a change to a democratic system where each man (and possibly woman) has an equal vote, where each person - depending on his drive and ability - may rise to the highest position in the community, is a revolutionary step. It is one which among a conservative people may only be taken gradually, care being exercised that the great majority of those concerned understand, are fit for and, if possible, approve of the change.

What has in actual fact happened? Believing firmly that South Africa's own form of democratic government is the best and in the country's eagerness to pass on this product of its civilisation, it has, sometimes without a full realisation of the implications of its actions but at other times deliberately, set about to break down the power, authority and even the prestige of the Chiefs. This was done by succeeding governments of the Union and of the Provinces before the Union. That the action taken showed variations from Province to Province and sometimes within areas of the same Province does not disprove the general correctness of this assertion. That there were good reasons at the time, apart from  
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ideological considerations, for displacing Chiefs or reducing their status cannot be denied.

Chiefs were the natural leaders of their tribes in their wars against the Europeans. Steeped in intrigue and feeling resentful at having to carry on an unequal struggle with inferior weapons, Chiefs often instigated insurrections or other efforts to thwart the Government. Chiefs were the custodians of the traditions and customs of their peoples, of what little was left of their nationalism, of all that belonged to "the good old days". They naturally regarded the christianising and education of their followers as efforts of proselytisation and emancipation and further inroads on such of their powers, authority and influence as were still vouchsafed to them.

It must have seemed to the authorities at the time that the replacement of the chieftainship and tribal system by one more co-operative, more progressive and more in keeping with the country's own ideas of efficient and honest government was imperative and urgent. Possibly the breaking down of the powers of the Chiefs and with that the curtailment of their sources of income, reducing them in many cases to virtual penury, was inevitable. Be that as it may, times have changed. Chiefs no longer lead their people in open revolt against the government. Though they, in many cases, do not - possibly dare not - co-operate actively even in efforts aimed

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solely at improving the lot of their followers, they are on the whole not less co-operative than the rank and file and those who, apart from Chiefs, purport to speak on their behalf. In the opinion of the Minister of Native Affairs and his Department it is uppermost that justice to the Chiefs and the interests of good administration therefore cry out for some return to the traditional form of administration albeit with modifications to suit modern circumstances. If such a step, which by some may be regarded as retrogressive, does nothing more than slow up the process of disintegration and deterioration of tribal control until such time as other edifying forces can take hold and, if through institutions better understood by them and closer to their hearts, it can instil in them a greater sense of responsibility and a greater spirit of service for their own people, the change will have been well worth while.

And such is the aim of the Bantu Authorities Act - to place the Chief again in his traditional position of influence and authority, to enable tribes to keep their Chiefs in a manner befitting their station, to revive the pride and fortify the cohesion of the tribe and, above all, to give tribal authority purpose and sense of responsibility through the allocation of specific duties. There is, however, this important departure from old custom that appointment of councillors is prescribed by regulation. In this way provision has been made to ensure that enlightened  
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and progressive Natives are represented in tribal councils and given full opportunity to play their due part in the building up of tribal authority and in the administration of tribal affairs.

The aforementioned are the thoughts which mainly prompted the authorities to consider a Bill on Urban Bantu Authorities. There are, of course, essential differences between the conditions in the Bantu reserves and in the urban native towns. The latter are in European areas, controlled by local authorities, apart from some surveillance by both Provincial Administration and the Central Government. For many of the Natives the locations are places of temporary sojourn. Natives residing there, whether temporarily or permanently, belong to different tribes, speak different languages and conform to different customs. In many cases the Natives themselves are of mixed tribal origin. They have no locally recognized Chiefs. And yet these urban dwellers have certain interests in common with their rural brethren. They have similar traditions, the same outlook, collectively the same languages and, above all, they have (in the case of the urban dweller in an intensified form) the same sense of frustration at having a minimum of political and administrative scope. They have, in fact, been placed in the position of an opposition in parliament where they have no function but to sit back and criticize, with the important difference that there is never any hope of their getting into power, no possibility  
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of their being called upon to shoulder the financial burden of the requests they make or face the repercussions of the implementation of any policy they may enunciate.

It was therefore considered not only reasonable to give also to the urban Bantu a greater share in the administration of areas specially set aside for their use, but also logical to make the part to be played by them in form as closely akin as possible to the part to be played by their rural brethren, a form which is understood and appreciated by them. By settling the urban population within their own ethnic groups it was hoped to create a further link between the urban and rural Bantu authorities.

Generally, the Urban Bantu Authorities Bill aimed at applying to the towns the form of indirect rule and a measure of self-government - adapted of course to the peculiar urban conditions - which to some extent is already in force in the country and is being extended by the Bantu Authorities Act; a system furthermore advocated in principle by the famous Lord Lugard and carried out with success. To those who may be fearful that the proposed step will be forced upon an unwilling local authority or an immature and inept Bantu proletariat, thus merely causing friction and disappointments, a particular section of the Bill places the onus of establishing an Urban Bantu

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Authority on the local authority concerned.<sup>(1)</sup> For only if there is goodwill and a genuine desire to make such Bantu Authority a success, is there any hope of this step in the evolution of the Bantu achieving the results visualised. On the question of the functions of the Urban Bantu Authority, which will naturally replace the Native Advisory Board, a gradual handing over of duties commensurate with the ability and sense of responsibility displayed was envisaged. In this connection it may be as well to quote in extenso the first sub-section of Section four-

"4. (1) An Urban Bantu Authority may, under the supervision of the urban local authority concerned and subject to such conditions as the urban local authority may prescribe -

(a) undertake the collection, on behalf of the urban local authority, of such fees or charges that may from time to time become due to the urban local authority by the Native inhabitants of the area within the jurisdiction of the Urban Bantu Authority as the urban local authority may prescribe by notice in the Gazette;

(b) exercise and perform within its area of jurisdiction such of the powers, duties or functions of the urban local authority (other than legislative powers) in connection with any one or more of the following matters, as the urban local authority may prescribe by notice in the Gazette:

- (i) The administration of any law relating to the overcrowding of Natives;
- (ii) the general welfare of the native inhabitants, the maintenance of order and the protection of the native inhabitants and their property;

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(i) Urban Bantu Authorities Bill - Section two.

- (iii) the construction and maintenance of roads, bridges and furrows, drainage and sewerage systems, the supply of water and light; and the provision of transport, health and other facilities;
- (iv) the allocation of accommodation, houses, plots and business premises and the issue of certificates for trading and other business licences;
- (v) the prevention of the unauthorised occupation of houses and the removal of unauthorised occupants;
- (vi) the removal or destruction of unauthorised or abandoned buildings or structures;
- (vii) generally such other matters within the control of the urban local authority as the Minister may approve."

In addition to these functions, the Governor-General may establish in any area within the jurisdiction of an urban Bantu authority courts for the hearing of civil claims and disputes between native and native. These courts shall consist of a presiding officer and two other members, all of whom shall be Natives appointed by the Minister of Native Affairs and at least one of whom shall be a member of the Bantu authority for the area. Provision is also made for the conferring of criminal jurisdiction on these courts, giving them the power to impose a fine not exceeding five pounds or, alternatively, imprisonment for a period up to fourteen days. It may here be noted that, for the first time in South African history, a Native court was to be empowered itself directly to commit a Native to imprisonment.

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In regard to the finances of these proposed urban Bantu authorities, the Bill provides for the creation of a special treasury for each such authority from which all expenditure on matters within the purview of the authority shall be met. Among the sources of revenue are court fines paid to the Bantu authority and levies which the authority may impose on adult males, not exceeding £1 per annum.<sup>(1)</sup>

In presenting the Bill to various organisations the Union Department of Native Affairs emphasized that there was no wish to take locations out of the control of urban local authorities. Such authorities will and must, for the foreseeable future, remain in at least supervisory charge. Nor was there any suggestion that there should be any sudden and complete metamorphosis, for such a change would only wreck the scheme at its very inception. In fact it was visualised that an urban local authority would in the first instance hand over to an urban Bantu authority some specific function (such as road-making) or even part of such function, together with a sum of money to cover the expenditure normally incurred. But what the proposals did imply, was that municipal officials as with those of the Department of Native Affairs particularly in the rural areas - must in increasing measure display qualities of leadership  
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Urban Bantu Authorities Bill, section four.

rather than executive ability. To do this they must exercise patience, tolerance and an understanding of the hopes and ambitions of their charges. This requires sympathy as well as knowledge, knowledge of the languages of the Bantu, their laws and customs, their psychology, the enactments affecting them, the openings which are available to them. It requires, furthermore, a knowledge of what is being discussed and tried in the country as a whole in respect of forms of government and administration, education, housing, health measures, home industries, recreation and entertainments.

In other words, the functions of municipal Native affairs administrators should, for some time at least become more important, wider, possibly more difficult but certainly more edifying and interesting. There should, for this reason, be more scope for the more highly qualified Native administrator and particularly for one with a spirit of service to the Natives and the country. On the other hand there should be a diminution of routine work, for duties at present largely carried out by European officials should be handed over to natives employed by the urban Bantu authority. With that transfer should at once disappear much of the friction, the sense of frustration and suppression which the Native experiences when it is invariably a European who prosecutes him, judges him, incarcerates him, receives his taxes and other fees and, generally, makes every decision by which without  
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question he must abide.<sup>(i)</sup>

The contents of this Bill were at that time (1952) received by local authorities with rather mixed feelings. It will be recalled that less than a decade ago urban conditions among the natives then seemed almost insolvable. Methods of influx control and labour supply have since been attended to. The satisfactory settling of the vast majority of the urban Bantu in decent homes has been or is being rapidly achieved. A variety of legislative enactments have been passed in order to deal not only with the undesirable element present amongst the urban Bantu but also to assist those Bantu who can be of direct service to their own people. To mention only two measures of far-reaching consequences viz. Bantu Education and Native Building Workers Acts. The Natives (Urban Areas) Act has also been amended extensively to assist in making the Native Revenue Account economically sound and to which a substantial amount is contributed by Non-Natives. Of paramount importance has been the remodelling of the municipal native administration departments in which the educated and qualified native is himself now accepted in the important role of serving his own people. Native clerks are employed in most centres and at some places senior

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(i) Rodseth, F. (Under-Secretary for Native Affairs): Urban Bantu Authorities Bill Paper read at conference Institute of Administrators of Non-European Affairs (S.A.) Johannesburg. April, 1952.

administrative posts are filled by Native incumbents who are well qualified. Even the once most unsatisfactory advisory boards have at various centres been reorganised and adapted to the fast changing new conditions.

One of the objections raised against certain provisions of the original Urban Bantu Authorities Bill, was that a Native was to be the Chairman of the urban Bantu authority. Even the Native Advisory Boards wanted it optional for a European local authority councillor to be the chairman. The reason for this attitude was that at that time most local authorities had just acceded to the advisory boards' request to replace the location superintendent with a member of the town council as the board's chairman and so afford a direct link with the local authority. Since then it has become quite a common practice for the (European) Chairman not to attend an advisory board meeting in order to enable the Native members to elect a chairman from amongst themselves and thus gain further experience. Perhaps if the Bill were to be reconsidered today this objection will fall away. Whilst the general principles of the Bill were accepted by local authorities, grave misgivings were expressed as to the practicability of translating the various provisions into positive action. Since the various clauses are permissive and discretionary and virtually amount to delegating functions and responsibilities, the local authority still remains in a supervisory capacity.

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Owing to the general lack of enthusiasm with which the Bill was received, the Minister of Native Affairs decided not to proceed with it for the time being. Whether there is now any intention at all to introduce the original provisions seems quite uncertain. The approach on this aspect of urban native administration would appear to have undergone a drastic change particularly on the part of technical experts and intellectuals on the Bantu question.

It is believed that the central Government is considering appointing representatives of chiefs in the particular ethnic group area of an urban native township. These representatives will be looked upon as ambassadors. Whether it would be the definite intention to replace the advisory boards with Chiefs' representatives is not yet known. In addressing various gatherings of chiefs the Minister of Native Affairs has given a clear indication that he was concerned about those natives who are drifting away from the tribe. "After all, they are part of the tribe and must not be allowed to become lost."<sup>(i)</sup> The Minister pointed out that one way of preventing this possible detribalisation was his decision to divide urban native towns into ethnic groups so that when the rural native goes to the cities he lives amongst /his.....

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(i) Verwoerd, Dr. H.F.: Minister of Native Affairs, Bantu January, 1955. page 49.

his own community and thus retains his identity. His children are then enabled to attend those schools where his own language is read and taught. The tribal chiefs and headmen also know where their adherents are and can be found. The Minister also has a second plan in mind. He wants to see a special house built for chiefs in every city so that the urban residents will know where to make contact with their chiefs. Also, in each urban native area the chiefs must have representatives who must be in constant touch with their followers.<sup>(i)</sup> The natives in the urban area must always be reminded of the fact that in the long run their homes are in the Bantu areas where their fathers and chiefs are. They should therefore remain connected with their homelands by strong bonds and when they grow old, they may return to the towns which are being established in the Bantu reserves and if they are too old to provide for themselves the Bantu Authorities will take care of them.<sup>(ii)</sup> Urban natives must periodically return to or visit the Bantu areas so that they can always remain in touch with their own people. If their children desire University education, they must return to the Bantu areas where special educational institutions will be provided. In this way the educated native will again make closer /contact.....

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(i) op. cit. page 50.

(ii) Verwoerd, Dr. H.F.: (Minister of Native Affairs): Separate Development. Address at opening of session of Transkeian Territorial Authority, Umtata, 7th May, 1957.

contact with their own tribe and countrymen. The Minister accepts that there is a "great deal of planning involved, not merely how to rule here, (Bantu areas) but also how to retain your influence over the children faraway (native towns in European areas). The leaders in the Bantu Areas should always remain connected with their own people so that they are not lost to their tribe through wrong influences".<sup>(i)</sup>

This proposed system of "ambassadors" or representatives of chiefs is receiving the active attention of the central government but it is not yet known what part they will be expected to play in municipal government and whether it is the intention that they should replace the present advisory boards, or form the urban Bantu authority as envisaged in the Urban Bantu Authorities Bill. It can be deduced from the various public pronouncements made during October, 1958, by the Prime Minister, that in future great stress will be laid on developing the Bantu areas into autonomous States with a direct link with the central government. The latter may be represented in the Bantu states by some one like a Lieutenant-Governor (who may one day be a Native although the writer cannot substantiate this supposition). When this stage is reached there will no longer be a necessity for Native representation in Parliament since the required  
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contact between the Government and the Bantu States will then exist on virtually a higher level almost analogous to an ambassadorial plane. If the aforementioned interpretation is correct, then there seems little likelihood that the central government will give native bodies in the European areas much say in local government matters other than via the Bantu authorities in the native areas. If tribal representatives are appointed in urban native townships it would be most essential that they should be constituted into native courts which is one of the surest ways of maintaining tribal connection.

(e) Summary.

Before the Union of the four colonies, the Cape followed in theory a policy of no discrimination with regard to political rights, which was diametrically opposed to the policy practised in the Transvaal and Orange Free State, with Natal occupying an intermediary position. In practice they all had a common policy of maintaining the political supremacy of the European. On the formation of the Union in 1910, the status quo was maintained. In 1936 Native voters in the Cape were placed on a separate voters' roll and given direct representation by three European members in Parliament. Four senators are elected by various native voting units throughout the Union. In addition nine Senators are appointed by reason of their knowledge of the needs and aspirations of the Non-Europeans  
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in the Union and South West Africa. The policy of the central government is one of territorial segregation residentially, politically, economically, socially and biologically. Bantu authorities are established in the native areas and which provide a great measure of self-rule for the natives. Colleges have also been established for the comprehensive training of chiefs and their heirs-apparent. All Native affairs matters are vested in the central government and local authorities, as its agents, are required to give effect to central policy. There is consequently very close contact between the central and local governments on Native affairs issues. Most of the decisions of a local authority are subject to approval by the central government.

Before Union local authorities were practically given a free hand in the management of their native communities. The enabling legislation was the Public Health Act by which regulations could be issued for the setting aside of Native locations in which good order and cleanliness must be maintained. Other statutes provided for regulating brewing of beer, carrying of dangerous weapons and curfew. A great difference accordingly existed not only from colony to colony but also between the various towns. After Union all matters on Native affairs throughout the country became the responsibility of the central government which was then faced with the task of preparing legislation which would ensure a uniform

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policy for all the local authorities.

During the years 1903 to 1919 various commissions appointed to inquire into various matters described conditions in urban native locations as most deplorable. The powers of existing provincial laws were not sufficient to exercise effective control and the central government drew up the necessary Bill which would also ensure that the Government's policy of segregation would be given effect to. In 1923 the Native (Urban Areas) Act was passed and amongst others provides for the establishment within municipalities of separate native areas, licensing of native occupied premises outside a location, control of the entry of natives into urban areas, brewing of beer, trading and the general management of the native town. It also provides for the establishment of an advisory board consisting of not less than three natives for every location. No regulation may be issued or withdrawn without the local authority consulting the advisory board. Officers appointed for the management of municipal native affairs require the Minister's approval in terms of the Act. A special sub-department has been created within Government Native Affairs Department to be responsible for urban native affairs matters in order to ensure that the policy of the central government is implemented. The various provisions of this Act have up to 1957 been amended extensively.

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Except in the Cape natives are excluded from the municipal franchise. And even in the Cape the native is virtually excluded because of statutory restrictions on the purchase of land. Instead of representation on town councils, and in keeping with the system of Native councils established in the rural areas a peremptory provision was made for the formation of native advisory boards in urban areas. The minimum number of a board must be three natives. The method of election, number of members, period of office, duties and functions etc. are prescribed by regulation. Until 1950 a board usually consisted of three elected and three nominated members, with the location superintendent ex-officio chairman. Election took place annually. Minutes of monthly meetings are submitted to the local authority.

Latest developments are for native towns to be planned on an ethnic group basis and for a representative to be elected on a ward basis from each ethnic group. The advisory board member is the chairman of his ward committee. The local authority's chairman of Non-European Affairs committee presides over the board and in his absence, the chairman is elected from amongst the members present. As a native town is divided into wards the number of members may vary. Usually boards now consist of not less than six elected and not more than three appointed members. The period of office varies from one to three years. A number of towns employ full-time salaried native secretaries who play an  
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important part in the success or otherwise of boards.

In terms of the Native (Urban Areas) Act advisory boards acquire certain rights and powers. These include the power to comment on regulations referred to them, to report on any matter referred to them by the local authority or the Minister, to report to the local authority on any matter the boards consider to be in the interests of the native residents, to recommend for the adoption by the local authority of any regulation, to comment on the annual estimates of expenditure from the Native revenue account, and to be consulted on domestic brewing or exclusive supply of kaffir beer. A local authority by implication is required to give due consideration to the views expressed by advisory boards in terms of the act. Advisory boards also constitute voting units for the purpose of election of Senators (excluding the Transkei). The functions and duties are usually prescribed by regulation. The latest model set of regulations include inter alia that every member must strive to become the real representative of his people, keep the voters acquainted with the board's work, settlement of domestic differences between families in his ward, assist in collecting arrear rentals, preservation of law and order, and to recommend the removal of undesirable native residents. The board also advises on the allocation of trading sites. An interesting innovation is the election of standing committees by administrative arrangement and the allocation of specific duties and functions to these committees.

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Some people have considered the system of advisory boards to have been a failure. Others say it has neither been a failure nor a success. It is generally felt that unless the boards are vested with financial authority, their functions cannot be effective. It has also been suggested that the system must remain a failure while the native residents have no direct representation on the local authority. In arriving at the reasons for the shortcomings in the system the various trends of events in the history of this young country should not be lost sight of as they played a large if not decisive part in the eventual shaping of conditions. When advisory boards have been accused of becoming political institutions it should be remembered that in 1936 they were constituted voting units for the election of some Senators.

Traditional Bantu government is a blend of patriarchal and autocratic administration by a chief in terms of custom and in which he is assisted by his councillors. The government and judiciary are considered indivisible. Until a decade ago successive governments set about to break down the power of the chief's authority but in the opinion of the Government the time has arrived for some return to the traditional form of administration albeit with modifications to suit modern circumstances. In the rural native areas Bantu authorities have been established with the aforementioned purpose in mind. It was also considered that this system should in modified form be extended to urban natives,

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hence the decision to divide native townships into ethnic groups. The Urban Bantu Authorities Bill was accordingly published in 1952. It aimed at giving the natives in the towns a form of indirect rule and a measure of self-government. In addition urban Bantu courts were to be established for the hearing of civil and certain criminal cases where only natives are involved. Generally the Bill aimed at the transfer of many duties performed by European officials to natives as far as Native township administration was concerned. Owing to opposition to the Bill the Minister of Native Affairs decided for the time being not to proceed with its introduction.

Instead of urban Bantu authorities the central government seems to be thinking in the direction of chiefs' representatives or ambassadors for the urban areas. In this way it is hoped to make and retain contact between the urban and rural natives. Eventually the urban native is expected to return to his home in the Bantu area. From various pronouncements it can be concluded that in future the emphasis will be on developing the Bantu areas into autonomous States and as far as the native towns in European areas are concerned natives should not acquire governmental rights.

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CHAPTER VI.

CONCLUSION.

(a) Analytical Comparison.

In the various territories of Southern Africa a common feature is the heterogeneity of the urban population. In the British East African territories the presence of a large Asian community further complicates the issue whilst in Tanganyika the problem is of a less marked nature since the smaller white population appreciate that their role is one of temporary trusteeship. Although a substantial number of Asians are to be found in the Portuguese African territories, these are mostly from Goa enjoying the full status of citizens of Portugal. The larger the white population the more complex native policy becomes. Apart from the Union, Northern and Southern Rhodesia have the largest number of residents of European origin. Of all the territories the Union of South Africa is the least homogeneous. The diverse elements of its population are composed of European, Bantu, Coloured and Asiatic, the latter being the only section which has not yet reached the million mark. The European population of about three million is again sharply divided between the two official language groups. Furthermore, the Union of South Africa is at present the only sovereign State in the southern part of the African continent and the

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government of the country is in the entire hands of the European section of its population. In all the other territories the Native people may (at least in theory) qualify for participation in government.

Throughout the rural areas of the Southern African territories, the basis of the whole pattern of social relationship of the Native society is the family and the political structure has developed out of this unit. In the family the elders discuss family affairs and together with them the head approves of decisions which must then be obeyed by all members. Similarly, the heads of families within a ward obey the decisions of their headman or chief. Right through this system the lines of communication are held between family and the "State." There is a great variety in kinds of chieftainship and councils of elders. Some are hereditary and others by popular appointment. Thus in the rural areas local government is in reality "tribal government" in respect of a coherent community with a traditional social unity. The most important social diversion of the Natives is the concentration of great numbers of different tribes in the urban centres, where they find themselves without common socio-religious supervision, traditional cohesion, or collective responsibility.

Native policy adopted in the various territories by the governmental powers can be classified broadly into the following categories, viz. integration

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or extension of the colonial power, self-government or partnership, and parallel development or segregation. A degree of overlapping of different policies is discernible in some territories. France and Portugal have this common feature that their African territories are regarded as overseas provinces and that the Native inhabitants can qualify as citizens of the mother country in which event they become entitled to the rights of Europeans. Where these two countries differ from each other is that France permits the territory a certain amount of autonomy on a territorial and local level. Circumstances could even lead to a territory becoming self-governed against the wishes of and outside the French Empire. Portugal on the other hand concentrates on a strict form of unitary government centralised at Lisbon. All power is vested in the Portuguese executive and there is absolutely no question of the African territories ever exercising autonomous rights other than as integral parts of Portugal.

Belgian policy resembles that of the British in so far that in the rural areas it is prepared gradually to adapt Native law and custom to Western conceptions and practice. For the Belgian Congo as a whole the British pattern of trusteeship is the latest approach. It differs however from the British system in that the eventual aim is equal partnership with the colonial power, that is Belgium. The British whilst accepting partnership among the constituent races of the territory concerned, has as its declared objective the eventual

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achievement of self-government, preferably within the Commonwealth of Nations. A further difference between the British and Belgian policy is one of procedure and where Belgium follows more closely certain aspects adopted in the Union of South Africa, namely, that it starts with "the base upon which will later be erected a pyramid of the local, district and territorial councils, culminating in the Councils of the Provinces and of the Government". In the Union of South Africa the Bantu Authorities are being developed up to territorial level in conformity with its policy of territorial segregation or parallel development. At present the Natives have representation in Parliament but as soon as a suitably direct link can be established between the central government and the territorial Bantu authorities, the aforementioned representation will fall away and probably be replaced by a system of Ambassadors. The Union therefore differs radically from the Belgian system in that the Bantu authority can become autonomous on a territorial level only and at which the pyramid stops.

The practice followed in Northern and Southern Rhodesia resembles the Union of South Africa in so far as their Bantu areas are concerned. The rural Bantu areas are reserved for Natives only to the exclusion of all other races, and in these areas Native authorities which closely resemble the Union's Bantu authorities, are developed. Thus a policy of segregation is in existence. Even Kenya and Tanganyika have a similar

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pattern. However, where these territories differ from the Union is that all the races outside the Native reserves enjoy the franchise ostensibly on an equal basis. One common feature in all the urban towns of every territory in Southern Africa is that of residential segregation whether voluntarily or compulsorily.

On the subject of local government certain features of a common nature become apparent in some territories while in others a marked difference can be detected. On the whole the systems followed by the three European continental countries resemble each other in certain respects more closely and whilst Northern Rhodesia is closer connected with the practice in vogue in Kenya, urban native administration in Southern Rhodesia again almost coincides with that of the Union of South Africa. Although the aforementioned can thus be grouped into three main categories as far as certain underlying principles are concerned, there are nonetheless distinctive forms the details of which vary substantially in the successive territories.

In French Equatorial Africa full municipal status is only granted if a town can balance its budget which is a trend also perceptible in the Belgian Congo. The question of finances does not really affect the issue in Angola and Mozambique since the town council system is virtually a central government institution and responsibility. Over these local government bodies civil servants preside, their respective designations

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being that of mayor, burgomaster and president. Since the chairmen have the right of veto, local government is really a government by officials. The nett effect is that town councillors can discuss how the town is to be administered, the final decision being in the hands of the executive officials. In French Equatorial Africa towns are divided into wards in such a geographical way that a measure of proportional representation is ensured whilst in the Belgian Congo and Portuguese territories certain organisations are also represented. In the latter all matters of urban native Affairs are controlled by the central government. Except in Southern Rhodesia and the Union of South Africa, the central government is directly represented on town councils, in Northern Rhodesia by the District Commissioner only, and in the other territories by a number of government servants ex-officio. It is, however, only in the French, Portuguese and Belgian territories that government officials enjoy the prerogative to negative a decision of the local authority.

Of the standing committees responsible for various activities within a municipal area, the general practice in Kenya, Northern and Southern Rhodesia and the Union of South Africa, is for a special committee to be charged with all matters affecting urban natives. In Tanganyika each race is equally represented on the town council and no African Affairs Department was considered necessary. A similar position pertains in respect of the remaining territories. Where a separate

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Native Affairs Department has been established, a corresponding standing committee is accordingly constituted.

In the Union of South Africa and Southern Rhodesia native advisory boards are in existence and the link between the town council and the advisory boards is the European councillor who is appointed chairman of the authority's standing committee on native affairs and who is also automatically the chairman of the native advisory board. Where Kenya differs from the former two countries is that a number of African councillors are elected to the town council by the urban African advisory council. The chairman of the latter body is also a native. It normally happens that the Native town councillors are elected to the African affairs standing committee and recently one of the Natives serving on this committee in Nairobi was actually appointed as its chairman. All the Native town councillors are ex-officio members of the urban African advisory council. There is thus a greater amount of liaison between the local authority and the urban African advisory council in Kenya than in Southern Rhodesia and the Union of South Africa.

Northern Rhodesia follows a system more or less resembling that of Kenya. Its urban African housing area board consists of a number of elected and nominated Natives plus the District Commissioner who is ex-officio a town councillor and one other European councillor. The town council then appoints one of the members of the

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housing area board as its chairman whereas in Kenya the chairman is elected and not appointed. The town council's African affairs committee is constituted of four European councillors (one of whom must be the District Commissioner) and four Natives from the African housing area board. These Native members of the council's standing committee on Native affairs are not members of the town council which is the striking difference between the Northern Rhodesian and Kenyan systems. A further difference between the system in these two countries is the process in Northern Rhodesia whereby the town council can delegate its powers to the African affairs committee which in turn can delegate to the urban African housing area board any of its delegated powers. Northern Rhodesia has therefore taken the lead in Southern Africa in attempting to shoulder urban native institutions with executive responsibility. Whilst the link with the parent body is not as direct as in Kenya, Northern Rhodesia seems to follow the pattern of its neighbour in the Belgian Congo, where the town council presided over by the chief burgomaster can delegate powers to any of its communes over which a burgomaster (himself a member of the town council) presides. The conspicuous difference between Northern Rhodesia and the Belgian Congo is of course the decisive factor of the power of veto with which a burgomaster is clothed.

A common feature of the several systems of Native advisory institutions in urban areas in Southern Africa is the statutory provision that they shall be

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consulted on certain urban native affairs matters. As their powers are advisory only and since it is not peremptory on the local authority to act in accordance with their advice the system throughout the continent of Southern Africa has not altogether proved a success particularly as the demands from these institutions became a financial embarrassment to local authorities. This position is further disconcerting to and complicated in Northern Rhodesia and the Union of South Africa from the political angle on a national plane. In the latter urban native advisory boards constitute voting units for certain representatives of one of the houses of parliament and in Northern Rhodesia a separate urban African advisory council is established by the central government entirely separate from the urban African housing area board to advise the government on any urban Native problem as well as the indirect election of members to the legislative council. The result has been their alignment with certain political thoughts to the embarrassment of local authorities.

Side by side with the municipal native institutions also exist other parallel native local authorities adjacent to urban towns as in the Belgian Congo, Northern Rhodesia and Southern Rhodesia. In the first of these territories are the extra-customary towns in which only natives may reside and where the system of the rural native authority is adapted to local conditions. Such a native authority has its own budget and is subject to the control of the central government but

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the residents work in the municipal area. Northern Rhodesia has a similar system with this exception that the African township is not connected with the rural native authorities as in the Belgian Congo. In Southern Rhodesia some native towns on the periphery of municipalities are directly administered by the territorial government and in which Native Councils are established with autonomous powers as may be fixed by charter.

Finally, it may be pointed out that in all but one of the territories in Southern Africa the question of Native Affairs in all its aspects is the responsibility of the central government. The exception is the Federation of Rhodesia and Nyasaland where Native Affairs remain the responsibility of each of its constituent parts.

The Bantu of the Union of South Africa, perhaps by reason if for no other of their longer association with the White man, are more sophisticated, more worldly-wise and further along the road to civilization than the great majority of their fellow men in the southern part of the African continent. To substantiate this assertion the following annual figures spent per capita on the health and education of native inhabitants in some of the territories covered in this thesis may be illuminating: (1)

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(1) Parkes, B.: Searchlight on Africa - The Star 14th March, 1958. India during the same period spent less than 2½d. a year on health and education combined on each of its inhabitants.

	<u>HEALTH.</u>			<u>EDUCATION.</u>		
	£.	s.	d.	£.	s.	d.
Union of South Africa	1.	16.	11.		15.	9.
Belgian Congo		5.	8.		3.	8.
Kenya		5.	1.		4.	0.
Tanganyika		1.	10.		1.	2.
Nyasaland		1.	7.		1.	6.

No other country in the whole of Africa spends as much money as the Union does on providing decent housing and other conditions for its urban natives. During the fiscal year 1957/58 the Union Government spent over £42,000,000 on its native people which is more than the total budget of most of the other territories in Southern Africa. Wages earned by natives in the Union exceed by far those earned in the other territories. Comparatively the Union natives are far more advanced in every respect than those living across its borders. Second in civilization come the natives of Southern Rhodesia. Those of Northern Rhodesia and the Belgian Congo are about on a par. Then next comes Kenya. Those least advanced are from Tanganyika, French Equatorial Africa and the Portuguese territories. These factors are mentioned not in a critical sense but merely as an analytical background to the evaluation of the policies practised in municipal areas.

Another fact worth bearing in mind is the degree of permanency of the European section of a territory's population. The Union of South Africa and to a lesser extent Southern Rhodesia and Northern Rhodesia

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occupy the unique position that their racial proportion of European to native is not only higher than elsewhere but that the European element is just as much part of the country as the native tribes. They cannot return to another country for there is no other fatherland that they know and no other land that is theirs. Because of the factor of the proportion of the main races, and the partition of the countries as a whole into definitely demarcated areas in which each main section can acquire full rights, and the fact that in the Union's case she is a sovereign and fully independent state while the Rhodesias are heading for early dominion status, these countries do not have to make hurried and ill-conceived concessions to the Natives merely for the sake of ensuring that their Europeans will have a few more years in the country as is the case in French Equatorial Africa and Kenya in particular. In the various territories of Southern Africa where concessions have been made to the growing political appetite of the Native people, such concessions have not made much difference to the everyday lives of the natives. They have not filled their stomachs or improved their health and education. In essence they look nice and democratic in the statute books and prove a usually effective smokescreen when inquisitive overseas visitors pry too deeply into local affairs.

(b) Evaluation.

The French, believing in the supremacy of  
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their civilization, arrived at the colonial thought and idea of assimilation. The practice therefore became one of turning the African indigenous people into Frenchmen. And as for governing the Natives the French assumed that if their system was found good for Europe at the beginning of the last century then there is no reason why the African territories under French rule should not benefit by it. Typical of the Frenchmen they set out in a realistic way to ensure that the people in their French African territories will want the French system. France did not consider it practicable or even possible that all the Natives in French Equatorial Africa as an example could become Frenchmen, so the authorities selected the few, the bright ones, the potential élite, and educated them and trained them until they evolved into good Frenchmen, hence the term évolués, and through this selected band the territory is governed. Typical of the French is also that they are precise, and whatever is visualized is clearly written into the constitution of the governmental authority concerned. With assimilation the élite become Frenchmen and are eligible for appointment in all spheres of government even in France itself. A Native of French Equatorial Africa could become the mayor of its capital, Brazzaville, and nothing is to prevent the same person from qualifying to become the mayor of say Paris.

However, the policy of assimilating the élite of an African territory cannot stem for all time

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a tide of nationalism. While the numbers of the élite are small, the policy works comparatively smoothly. The ambitions of the chosen few are canalised into responsibilities of high office, such as the mayor of the local authority, but as the years go by, there is an ever-increasing number of élite, and with the implementation of the Municipal Reorganisations Law, as well as other recent legislation designed to afford Natives in general more political scope, the role the natives are to play in local and territorial government will serve as a stimulant for aspiring to higher office in the French territories of Africa. Either they must replace European Frenchmen in all fields of work and service in French Equatorial Africa, or they will in subordinate positions resent the presence of Frenchmen.

There are strong influences stirring in Africa the strongest of which is African nationalism especially in the urban areas. At present this is evidently stronger in British than in French territories, yet there are indications of its rapid growth in French Equatorial Africa. Recent policy of the newly constituted Fifth Republic of France is that if a territory wishes to become independent on its own it must not expect any economic aid from France. (1) A similar approach has been followed with regard to municipal government. France seeks to hold on to her

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(1) Roberts, H.V.: Institute of International Affairs: "A Frenchman's heart may be on the left, but his purse is on the right."

spheres of influence for as long as possible for mainly economic reasons, an admission that the assimilation policy, applied so long and with such success, is failing. And its failure whether on a municipal or territorial level must be obvious to the French government. And have the Natives in French Equatorial Africa not the glittering prizes of self-government in the emerging African States?

Strange as it may seem the delicate situation which has arisen in the French sphere of influence has as yet not been met with in the Portuguese territories where a similar policy of assimilation is followed. The main reason is that the Portuguese approach to the Native question is so different from the French. To the Portuguese any system of Native policy can be regarded as legitimate only when it assures to the full the realisation of the civilizing process which justifies colonial action. Such a system must have regard to the nature of the Natives as spiritual beings with transcendent aims to attain, and it must assure, in the fullest possible degree, both the moral and the material well-being of those natives, taking into account the factual circumstances which condition colonial action.

Thus the system which Portugal regards as best calculated to achieve its aim is that of assimilation through which the native is drawn by association and education into a position of integration within the Portuguese society. In Portugal this type of assimilation is referred to as tendential in order to distinguish  
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it from other types of assimilation.<sup>(1)</sup> It may have the same ultimate purpose but it recognises that the indigenous native living in his village as his forefathers lived before him for centuries, cannot be turned into a civilised Portuguese by the stroke of a pen. The complete integration of the natives in the social group of the colonising people is regarded as a process of very slow evolution. It will be the consequence of a day-to-day contact of the two elements, aided by educative measures of one kind or another and encouraged by the readiness of the white colonisers to accept their black fellow citizens on equal terms. Such is the theory, and it is completely in keeping with the Portuguese character and tradition. Perhaps the principal reason for the peacefulness and tranquillity among the Portuguese Natives is the fact that the system of government closely resembles one of despotism, no matter how benevolent it may appear to be.

Characteristic not only of the constitution of the corporate State of Portugal but of the municipal corporation is the assignment of authority to the executive and not to the legislative institutions. Policy is thus not determined to the same extent as everywhere else in Southern Africa by the views expressed publicly by different political parties or organisations based on diametrically opposed principles. By acquiring the  
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(1) Cunha, J. da Silva : O Sistema Portugues de Politica Indigena, Coimbra, 1953.

status of a Portuguese citizen a native does not necessarily become endowed with political freedom or aspiration. In the present circumstances there is little opportunity for the exhibition in the Portuguese African territories of the spirit of African nationalism for there is a severe measure of restriction of the expression of public opinion. And as the natives are divided by a culture-bar into two classes, the civilized and uncivilized, it is significant how the former more privileged section attracts to itself the more progressive and politically minded elements who might otherwise have constituted the leaders of the uncivilized or under-privileged and therefore the champions of their cause.

To the observer travelling through Angola and Mozambique conditions may in many respects appear bad, but one does not find the same element of antagonism, whether conscious or subconscious, between whites and blacks which elsewhere gives rise, on the one hand to fear, and on the other to a profound sense of grievance and injustice. It is often forgotten - sometimes deliberately overlooked - that the causes of conflict between a native population and those who exercise authority over it, are predominantly psychological rather than economic or political. The so-called "clash of cultures" always causes a certain amount of tension, but the Portuguese have never increased that tension by trying to force the natives into an alien mould at breakneck speed. It does not occur to the Portuguese

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that their function in Africa is to spread a veneer of Western civilization over the Natives and then, when the clamour for self-government becomes sufficiently loud, to yield to such a demand. A native civilization in Portuguese Africa sui generis is inconceivable in any foreseeable time, and European civilization cannot be imposed. It must take root, deep root, and this it can do only slowly and by degrees, through the living together of civilized and uncivilized in mutual understanding, through the genuine recognition of a common humanity, through a process of education based not on books but on example. This is what the Portuguese mean when they use the word "assimilation". They have not a deliberately worked-out native policy in the sense that other countries have.

Of the three European continental countries it is really only Belgium which has endeavoured to devise some form of local government in municipal areas in the Belgian Congo in order to afford natives some participation in their own administration. One of the reasons is that the Belgian Congo is becoming more industrialised and this development has resulted in the migration of natives from the rural centres to commercial, administrative or industrial European centres resulting in the formation of large artificial native conglomerations in the neighbourhood of such centres. The economic and psychological causes of this exodus as well as the sudden displacement of a large number of people especially after the last two world wars, have presented the Belgian

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authorities with some of their major headaches. They have had to organise the native conglomerations in the vicinity of European centres, by giving them a special status and endowing them with a specially active social service increasingly needed by people who had completely severed their connection with traditional society. Ways and means had to be found for integrating these uprooted people into social units and adapting them to conditions of living for which they were completely unprepared. Vast human problems were raised by the rapid formation of the great native cities and their proletariat. During five years the native population of Leopoldville grew from 110,000 to nearly 280,000, Elizabethville from 40,000 to 110,000 and that of Bukavu from 7,000 to 22,000. At Luluabourg the Congolese population multiplied by five in a period of ten years. (i)

Whilst the native city, due to become self governing, is provisionally the concern of the European administration in the Belgian Congo, the centre extra-coutumier is virtually autonomous. Although the members of the advisory council are appointed, they are only appointed in accordance with the wishes expressed by the inhabitants; in fact, therefore, they are practically elected. These councils have a genuine political character and the part they play is similar to that of the councils of the chefferies or sectors in rural centres.

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(i) "Social Action in the Belgian Congo". Published by the Belgian Government Information Centre, May, 1955.

The authorities have quite rightly thought it advisable to give them a maximum of flexibility in order to satisfy all the needs of these communities, which are of a type quite new to the Congolese. The councils are consulted about local regulations, taxation, the uses to be made of the centre's income and the budget. Their income is used solely for their own profit rather similar to the native revenue accounts established in Southern Rhodesia and the Union of South Africa. The Councils of the centres extra-coutumiers are even better schools for initiation into public life than those of the chefferies and sectors, because their members are in daily contact with the European authorities with whom they collaborate. Thus they learn the administrative organisation of large groups of human beings and become conscious of the heavy tasks that await those who must watch over the welfare of the masses. It may be added that this civic formation is not exclusively confined to or bestowed on the members of the councils; it is also attained by the native judges of some 230 territorial or centre law-courts, which dispense law based on customs and sometimes also written law. Natives also take an active part in the Provincial Councils, in the Government Council (the highest advisory body of the colony) as well as in the Permanent Deputation which is a subdivision of the latter. It has been the experience in practice, like in many other territories south of the equator, that a rather limited number of educated natives are available for serving on councils or boards, hence the initial safeguard to the nomination of suitable

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candidates. Thus in the Belgian Congo most of the councillors consist of retired judges or clerks.

Until recently the underlying policy of the Belgian Government colonial administration was its belief that economic progress was a necessary condition of social and political progress. In encouraging economic development the state therefore plays a very large part. The Belgian Government maintains that before the inhabitants can govern themselves democratically as free and civilised people, they must first be protected from poverty, hunger, disease and ignorance. Their increasing demands for learning denote their desire to improve their material conditions of life. On bringing its attention to bear - as it has done - on the economic and social aspects of the colonial problem, the Belgian Government has certainly responded to the most pressing needs and immediate wishes of the indigenous population under its protection. But this economic development has led to an ever increasing flow of young natives towards the urban agglomerations and industrial centres. Here they receive salaries and acquire tastes never hoped for nor dreamt of before leaving their home villages. When these uprooted people come into contact with the life of the Europeans, they begin to desire for themselves the form of civilization which these Europeans represent. The quality of this desire is debatable. With most of the more educated natives it is at present only a desire for material improvement. This is understandable enough. With a very few it is a desire for spiritual advance. The

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number of natives who are intellectually and morally capable of being assimilated with the European, and desire it, is yet still smaller.

When one attempts to look into the future, sight should not be lost of the fact that in the Belgian Congo as a whole only a minority of the elements distinguishing the various ethnic groups is made up of detribalized individuals. The vast majority, at least four-fifths of the total, still live in the rural areas and are governed by their own traditional law. In the latter the exodus to the towns and the rumours of prosperity which have spread abroad have made life increasingly difficult for the young men. They become more conscious and more impatient of the obstacles which tradition puts in the path of their ambitions. Even unsophisticated people living deep in the bush realize that it also means unexpected opportunities for ambitious individuals, and it is generally experienced that tribal censure fails to keep the younger people within their native surroundings and the drift to town is going on at an increasing speed. (i)

To the urbanised or detribalised group belong most of the advanced or civilised natives who are making themselves heard and claim, if not the right of /self-administration .....

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(i) Comhaire, Prof. J.L.L.: Aspects of Urban Administration in Tropical Africa: "Simple Simon in the bush hears of the European pieman and, wanting to taste the ware, proceeds to the happy home where he will be sure of earning his penny."

self-administration, at least the right to be consulted, and especially the right to be treated with more consideration. The more intelligent of them realise and do not hesitate to point out that the presence of the white man is still necessary for the public peace and for the economic and social progress of their country. But how many of this élite think of more than improving their own personal status? How many of them care to think of the fate of their fellow countrymen in the bush? How many are qualified to be the spokesmen of the masses? Certainly very few! The Belgian Government does not of course mean that the present political and administrative structure must remain quite unchanged. It agrees that it is only wise and just that the Belgian Congo Natives who are capable of holding certain positions, which have until now been reserved for Europeans, should be admitted more easily to public services, and the Native élite should be invited to play an increasingly large part in the administration of the urban centres. This participation has been put into effect but mostly, in theory.

On the whole the role of the urban Native is still too much consultative and involves too little responsibility. A step forward should be taken to give the councillors a deliberate voice. The position is in fact, even in the urban areas, that the mass of the people in the Belgian Congo have not acquired, and are still far from acquiring, the political maturity which would permit and justify the immediate introduction of a system of complete autonomous local government. The Native  
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élite is as yet neither large enough nor sufficiently prepared for the responsibilities of political power to be able to provide the deliberative personnel of a municipal council having authority over a whole and large city. But a start must be made even at the beginning, initiating them progressively into the management of elementary administrative entities. This progress must be made possible by the organisation of educational establishments, and a programme of education and training. The aim must be to promote equally the education of the masses and the education of the élite.

The system of local government in British East Africa has proved most successful where the council or board has included a strong proportion of members with experience of commercial or business life who have hitherto been mainly European and Indian. Where this element is absent or relatively small the municipal institutions have a chequered career. It is in particular noticeable that where there has been an electoral system, little interest has as a rule been shown by the native public in the elections. It is sometimes suggested that service on these municipal bodies has not attracted Natives of standing, because the range of their activities has been unduly limited. It is certainly true that the scope of their functions has in many cases been restricted, largely because of the inadequacy of the funds provided by local urban taxation; but on the other hand, the Native members have very seldom shown themselves willing to face the responsibilities for increasing taxation in order to finance  
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an extension of these functions. There have been some who while demanding an increase of the Government grants, have strongly resisted the suggestion that the Government should retain any supervision over the manner in which they are expended. It must be assumed that there will be on constitutional grounds a continual movement to increase the number of municipal institutions and the higher representation thereon of the indigenous inhabitants of the town areas. But previous experience suggests that this measure must be accompanied by provisions which will assist in maintaining their efficiency. The East African town inhabitant is no doubt more politically-minded than the countryman; but he is also apt to be more exacting in his demands on his town administration and discontent with the management of urban affairs is likely to react directly on the Government of the country. It is therefore advisable to retain as long as possible a sufficient element of the official and nominated membership which has hitherto been the chief guarantee of efficiency. In the second place, it is advisable to secure either by administrative arrangement, or if necessary by legislation, an adequate provision for the maintenance of a qualified executive and professional staff, vested with the necessary powers for the discharge of their duties. The success of municipal bodies does not depend merely on the character or activity of their councils; it depends largely on the quality of their executive staff and the extent of the individual authority allowed to them. Thirdly, the law should always provide for the

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temporary resumption of official control where circumstances show this to be necessary.

In the development of local government lies the key to political, social and economic advancement in British East Africa. It is in this field that the indigenous people can best learn to participate in self-government and it is from the local government bodies that the leaders of the future should largely be drawn. It is at this level that the mass of the people can most effectively improve and develop their social services and in conjunction with community development improve their economic position. Unfortunately and perhaps through circumstances beyond the control or power of the authorities concerned, the East African Natives were first to be given more political freedom in the higher legislative bodies.

The problem of methods of election is also difficult in British East Africa. It seems to be generally agreed that, whatever the composition of a municipal local authority, it should be elected, but election may not necessarily mean the ballot box. Many Natives themselves prefer other methods - at present representatives are sometimes chosen by consultation among the people, or selected at meetings by popular acclaim. When it comes to the election of representatives to some larger, more remote body, many favour the method of indirect election, through grades of councils which serve as electoral colleges.

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In many native towns especially in Tanganyika, it is not possible to go straight ahead with completely elected councils. Most of the residents still adhere to tribal institutions, and it will be necessary to use the older methods of representation as long as the chiefs and customary councillors still retain public confidence. The people may prefer to choose their representatives on a tribal, or even an occupational basis, rather than by direct election - though it may be necessary to make special provisions for people who stand outside any coherent group. The councils should have an elected majority - whatever the technique of "election" decided upon - and again the greatest possible degree of public participation should be achieved. A proposal for indirect elections in towns, is to divide the town into a large number of "blocks" forming a community of people who know each other well, and each block could choose a representative to attend a "Town Meeting" where council members would be chosen either at large or for groups of electoral blocks. A further step would be possible in the grant of power to the Town Meeting to recall members or to be consulted on certain matters. But there are very obvious dangers in this proposal. An active political party would, by unscrupulous methods, very easily "capture" the blocks. A much higher degree of political consciousness than exists in British East Africa would be needed to prevent blatant abuses of power so acquired. It is feared that however keen the administering authorities are to educate the urban natives in the art of local government,

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any unqualified success can only be expected in the next century and then only if the general urban masses receive school educational facilities. And the snag is that the finances are lacking. The European is uncertain of his future in British East Africa and is accordingly not financially interested in embarking upon a long term policy which may prove unbeneficial to the promoting power.

There is always the problem of communal electorates arising somewhere as already exists in such towns as Nairobi in Kenya and Dar es Salaam in Tanganyika. This is an issue which will be decided in the field of national, not local government. But in the meantime the question looms seriously in many British East African towns, at present controlled by non-African Councils, and unwilling to admit more Native representatives. The least that can be suggested is that representative African urban advisory councils on the lines already being developed should be used more extensively to advise on Native interests in municipal affairs. They are useful bodies even after membership on the municipal councils had been achieved. They are, where an elective system is not feasible, useful in choosing representatives to the municipal council from among themselves.

It has sometimes been argued that in traditional tribal systems and in most under-developed countries, allegiance is personal - the people set

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little store by policies and principles and tend to follow a man of personality. What use, then, is it to expect to work a system of councils, committees, elections and so on? There seems to be a considerable amount of force in this argument, and to meet it a suggestion has found favour in some quarters for the establishment of a system analogous to the American "Council-Manager" or "City-Manager" scheme - a system which exists in many European cities as well. The essential elements in this are that the public elect only a small council for the area concerned, and a professional manager is appointed who directs the whole administration, subject only to a varying (but usually mild) degree of control of general policy by the council. If this were applied to British East Africa, it might mean the employment of officials as managers until any suitable local Native professional class emerges. It would of course tend to diminish local interest and initiative and the sense of responsibility which runs counter to the whole purpose underlying the establishment of popular local government. It would also encourage the perpetuation of central control. However, in the urban centres where large numbers of primitive people congregate and where the provision of essential services is imperative in the interests of health, such a suggestion might be the only temporary solution if the natives themselves choose to govern without the aid of the other more experienced and civilized sections of the urban population.

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Northern Rhodesia has only very recently introduced a system whereby the local authority may delegate powers to its African affairs committee on which the urban African housing area board is represented by natives. The African affairs committee may in turn delegate some of its powers to the urban African housing area board on which the local authority is represented by two European councillors. Since the new system has been in operation for only a number of months it is not yet possible to evaluate its success or otherwise. With a view to determining the reasons for arriving at this new "interlaced" system some of the preceding events need cursory examination.

Recognising that the previous purely native advisory institutions were not a success as far as the urban native was concerned, Europeans were nevertheless opposed to granting them direct representation on the local authority merely for the purpose of falling into step with central government policy of partnership. It was considered that the object of giving the Native an opportunity to play a greater part in local government would not be achieved at the present time by direct representation alone. It was admitted that there is need for measures which would give the urban natives financial as well as executive responsibility, and thus bring home to them the relationship between the contribution of the inhabitants and the provision of services. Mere direct representation alone would not achieve this object. Direct representation would merely be transferring their present grievances to a higher plane.

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Initially there would be a majority of European members determining the proportion of the local authority revenue to be spent on Native services and which the native councillors would exploit as racial discrimination. It was felt that as a first stage measures were needed to establish a system of administration for people who have yet to comprehend the complexities of urban problems. This, it was considered, could only be achieved by giving the Native the power to control, to some extent at least, the raising of funds and the spending thereof, through which method they can gain experience and so prove themselves capable in positions of executive responsibility. In this direction it was visualised that by providing ways and means for wide powers to be delegated by the local authority, the elected native leaders would be imbued with executive responsibilities in the management of the affairs directly concerning their own people and so avoid a feeling among them of a sense of frustration as well as preventing irresponsible criticism by them of the conducting of affairs affecting their interests as opposed to other races. The intention was to recognise in a tangible way the desire of urban natives to achieve an increased degree of control and participation in their own administration.

The underlying principle in Northern Rhodesia with regard to the urban native was to lay a firm foundation on which to build strong local loyalties and civic pride on a long term policy. As a first step avenues were to be explored by which Natives resident in municipal and township areas may be enabled to  
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take an appropriate part in the administration of their own areas. Although Natives may qualify for the franchise, the position hitherto had been that the control of African affairs in municipalities and townships is vested in the local authorities of the areas concerned, and since Native housing areas within local authority areas are non-rateable, consequently Natives residing therein are not ratepayers, and therefore not entitled to vote in local authority elections or to stand as candidates for election. It will be realised therefore, that the urban Native had little, if any, voice in local government affairs; but neither on the other hand does he contribute much directly to the revenue of local authorities except perhaps through his consumption of beer. He has no opportunity to influence directly the standard of the amenities provided by local authorities. The complexity of the previous advisory system made it difficult for the Native to understand and appreciate the position. It was felt that many of the complaints and the feeling of frustration mainly arose through his failure, through lack of knowledge, to appreciate the reasons for many of the decisions of local authorities. On the other hand the Natives laid great stress on the policy of partnership and stated that, as far as local authorities were concerned, implementation of that policy meant direct representation. Parallels were repeatedly drawn with representation of "Africans by Africans" in the Federal Parliament and in the Legislative Council. Further investigation revealed that the majority of urban natives really desired to have

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more control over their own affairs in their own areas as well as "some" voice on the local authority.

With regard to separate Native local authorities with autonomous powers comparable with the African townships outside municipal areas the general trend of thought was opposed to the idea of separate local authorities even although such a system would give the Native an opportunity of learning the art of local government and at the same time to play a greater part therein. It was considered that such a scheme would tend to create a division between the Native and the European, and that in a multi-racial community this was neither necessary nor desirable and was contrary to the basis on which the Federation is founded. This European held view was the very basis on which the Natives clamoured for direct representation.

Before arriving at a compromise in what the author chooses to style as an "interlaced" system, the attention of local authorities was directed very forcibly to the fact that they were a section of Central Government and it followed that if their house was not in good order the repercussions would eventually flow into the Central Government stream. The task of ensuring peace and good order, good administration and government was not a function reserved to Central Government alone. The purpose was to see that local authorities were given the opportunity of being in loco parentis to all the inhabitants which they administered.

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Given the authority of local government it was their job to see that the areas under their control were administered with fairness and understanding so as to reduce friction and misunderstanding among all the inhabitants to the barest possible minimum. It is believed that the new system, in principle, provides at least one avenue whereby the people who did all the shouting could have some of the responsibility laid on their shoulders. If they failed they would only have themselves to blame and not local authorities.

As indicated earlier, it is still too soon to express an opinion as to whether the new system will operate with certain success in Northern Rhodesia. Two important issues must however be borne in mind. The first is that the fundamental basis of native policy is multi-racial partnership. The second problem is that the vast majority of the Bantu are still so backward, primitive and uneducated compared with the other extremity of a highly civilized and educated white race. A genuine way out, albeit of an experimental nature, has been found. On the top level, (i.e. the European town council), the interests of all races are securely guarded. Between the top and lower layers, (i.e. the African affairs committee), the native is brought in to learn the "inner workings" of local government. In this way he can obtain first hand information of the financial intricacies of local administration. This experience he can take back with him to the bottom layer and so impart his knowledge and experience. And

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to make assurance doubly sure, two more European councillors serve as members of the lowest rung of this interlaced local authority. If this system does not prove a success, it certainly cannot be a failure per se. And if it does not prove a success, the reason will not be found in the system itself, but will have to be laid at the door of the basis upon which such an institution was founded.

In Southern Rhodesia and the Union of South Africa a virtually identical system of native advisory boards has been in operation, in the case of Southern Rhodesia for just over a decade and in the case of the Union of South Africa for over a generation. Paradoxically, it is in the Union that the trend of thought is towards abolishing the system, in some instances because the boards have been adjudged, not as a failure, but also not as a success, and in other instances because the view is held that in the European areas natives should have no part in their administration. In Southern Rhodesia the trend is that advisory boards should either be substituted by autonomous native councils since European local authorities will not accept direct native representation, or better and fuller use should be made of the advisory board system in the administration of urban natives. Many of the arguments advanced in defence or against the system in Southern Rhodesia may well apply in the Union of South Africa. The extent of the success or otherwise of advisory boards differs from centre to centre depending upon

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the character of the local communities, economic conditions and the general approach of the administering authorities on urban native affairs.

Of the members elected to boards it can be stated that they are mainly from the more prosperous and educated section of the urban native community. Many are businessmen owning their own shops or building enterprises, others are artisans, parsons, clerks or drivers. In the case of the Union, where a certain number can be nominated as well, a few teachers or school principals are usually appointed which adds to the dignity and status of the boards. Very few from the lower income groups such as the labourers are elected to boards. Most of the members, as well as being comparatively fairly prosperous, have a fair education, a good command of the official languages and have been in the urban area for many years. Members are but human, and as with many other public bodies, share the determination of the Irish Judge "to be swayed neither by partiality on the one side nor impartiality on the other". Although not entirely devoid of self-interest, members on many occasions show a commendable detachment and objectivity in considering the interest of the whole community. They have functioned well and are a valuable, integral part of the Native administration. The subjects they discuss cover almost the whole range of topics that affect urban Natives - housing, roads, light, water, rents, trade, welfare, recreation, administration, medical treatment, liquor, transport, /marriage .....



marriage, birth and death. One other great value of the native advisory boards lies in bringing into the open the many difficulties with which Natives are faced, their grievances, complaints, rumours and desires. In some cases, merely to ventilate the matter is beneficial; in others, explanation and knowledge of the facts bring satisfaction; in others again, immediate action can be taken to solve the problem, remedy a complaint or prevent its recurrence. The most difficult, such as matters of principle or major importance, are always specially reported to the local authority, by whom they have been received with considerable understanding and appreciation, and wherever possible, approved.

In the nature of things, the local authority has not always agreed with the native advisory board, or been able to approve all its recommendations - for the position to be otherwise would mean that either the board or the local authority would be failing in its duty for there are always bound to be cases where differences of view arise. (Indeed, no standing committee of a town council itself ever has all its recommendations accepted.) Wherever the local authority does not agree with the view of the advisory board, an effort should be made to give the members a full explanation, for it is essential that they should realise both that they are participating in the management of their affairs, and that their views are respected by the local authority. In many centres an effort is also

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made to consult the advisory boards on any matters or proposed measures which affect their townships. Their views and comments are usually most helpful and enable mistakes to be avoided and action to be taken more smoothly and effectively. Their co-operation is sought both to explain and publicise matters to the people and to support administrative and disciplinary measures. In this, a deliberate policy has been or could be followed of trying to give them more than merely advisory duties through the realisation that acceptance of their recommendations involves their responsibility for action taken. They are also given disputes to solve and problems to unravel. They also provide a valuable liaison with outside bodies. For example, meetings of the advisory boards have been arranged with representatives of other organisations at which lengthy and frank discussions were mutually beneficial, helping to clear up misunderstandings, to let each see the other's problems and difficulties and to build up confidence.

Advisory boards admittedly have failed in some places for reasons which can be substantiated. Boards cannot operate in vacuo, but only in the current social and political framework, and their members will reflect and be affected by current political and social attitudes. If these are not propitious, they cannot hope to function satisfactorily. The advisory board can be made a very effective instrument of the government by organising it in a manner which imbues its members with the knowledge that their deliberations

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receive the full consideration of the authorities concerned. In other words, the appropriate town council must adopt a positive policy, and have the deliberate intention of giving due weight to the board's views and recommendations, and of boosting its stature and morale. It must, by its own reaction to the board's operations, build up its self-confidence and confidence in the local authority. Where councillors or officials constantly ignore its views or scoff at its members, deriding them as "a bunch of agitators" or worse, it has no hope of succeeding, and it will only be a matter of time before it sinks into apathy or simmers with frustration.

Some people have a queerly ambivalent attitude towards Natives and regard them as either paragons of virtue or quite hopeless. They expect either too much or nothing at all, with equally negative results. If they hold the first view, they react badly when their expectations are not fulfilled and if the latter, they do not give them a chance. Quite obviously, they are the same as other human beings, with good and bad in varying proportions, and one should neither expect too much nor accept too little. It has been averred that they often do not measure up to the standard of similar bodies, such as municipal councils. This is quite true, for they are heavily handicapped by lack of experience and knowledge of public affairs, administration and procedure. The answer is not to criticise, but to help and guide. They are also accused of being

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irresponsible and unreliable. This, again, may be true in some cases, but again, it confuses the system with symptoms of some deeper malaise. One must ask why are they irresponsible or unreliable? Who makes them so? A partial answer to the former is the ordinary human difficulty of engendering and developing a sense of responsibility when one's advice is not often taken. The answer to the second, again only partial, is that they are subjected to all sorts of pressure which take tremendous moral courage to withstand, and they are caught up in the stresses of nationalism and racialism, which encourage emotion rather than reason. In the board room they may accept certain facts, recommend a certain course of action, or arrive at a particular agreement, but once they leave it they are confronted with interests and forces, even to physical violence, which they cannot withstand, and which compel them to alter their position. Just as many European public men have to preface a sensible recommendation by saying "I am not a negrophilist, but....."; so too, many Native leaders have to beware of being labelled "traitors" or "sell-outs", and in the absence of settled democratic tradition among Natives, they are exposed to dangers of personal reprisals. It is fashionable to decry the advisory board system. Some critics may be genuinely sceptical about its value, but others feel that it is or may be a bar to wider powers and higher status. Thus, though they know it can work satisfactorily, they will belittle it with a view to urging a further step in political advancement, whether

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they are ready for it or not. Provided the will is there on the part of councils and officials to make them work, the boards will continue to operate satisfactorily. It is the consensus of opinion that in unsophisticated areas where people are simple and number few educated and articulate members such as in Southern Rhodesia, the present type of advisory board is the most suitable means of public participation in local affairs, and will continue to be so for years to come. But in more developed areas such as in the Union and the larger cities in Southern Rhodesia several improvements could be made depending entirely on the people's capacity to operate and benefit from them.

As an initial step to give advisory boards more authority, and resultantly more responsibility, is to be achieved by providing certain spheres in which the board's views would prevail or would be overruled only in exceptional circumstances and preferably with some right of appeal. For instance provision or extension of services for which the residents are prepared to pay unless the native revenue account is otherwise sound; control of sports fields and other recreation activities; expenditure of an agreed proportion of beer profits; policy regarding allocation of houses and trading facilities. In addition draft estimates could also be prepared by them, i.e. prepared by the officials in consultation with them; the local authority would naturally have the right to override any proposals in the light of the general financial

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position, but would not add any item without consultation. Disputes over housing could also be referred to them and their decisions could be accepted by the officials. It is vitally important that permanent urban dwellers should be encouraged to play their part in maintaining law and order for in the last resort it is on their example, precept and co-operation that the authorities must depend to prevent the so-called "agitator elements" becoming too explosive. Such encouragement must be based on an awareness by the authorities, central and local, of their needs, opinions and aspirations and willingness to respond reasonably; an informed Native public opinion; and the granting of responsibility to Natives. Hard practical experience, which the exercise of responsibility will give them will enable them the better to understand and respond sensibly to the information given them, and at the same time to moderate their views and demands.

The argument that the advisory boards do not represent the people, that is, the members are elected by a very small percentage of the electorate, does not necessarily mean that they are not representative, or are thrown up by the mentality of the location mob. It is true that many moderates do not stand for election and that they may be afraid of molestation and mob action stimulated by extremists. Equally important is that they do not consider it much use standing as under the prevailing set-up they may not feel that they will accomplish very much. There is also the fact that

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even the views of extremists find sympathy in the heart of a large body of Natives. It is wrong to assume that since the members have been elected by only a portion of the electorate, their representativeness is as limited as their polled support indicates. The figures give no indication of mass support. An analysis of most advisory board members shows that all are leaders of various cultural, sporting, political and social groups and so do, in fact, represent a wide range of interests and people. A small poll simply suggests that the masses are not interested in the advisory board. A larger poll reflects the relative popularity, or perhaps efficiency of the candidates as political campaigners.

To a small politically active section of the urban population the urban advisory board has become recognised as a useful instrument, and one of considerable prestige value. As a Government sanctioned platform, it is one on which leaders, without undue risk to themselves, can give a spectacular performance as "representatives of their people". It could admittedly become a one-way instrument of communication, a loudspeaker for militant Native leadership aimed at "authority". But even as such, it has its uses, provided the authorities are prepared to see that, in spite of obvious abuses and irresponsibilities, the sentiments voiced by this elected minority are shared in a less articulate but none the less real sense, by a fair proportion of the people at large; in this

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manner they do indeed represent, as well as create and stimulate, mass opinion.

The character of the urban native communities is also partly responsible for indifference to local issues. The residents belong to different tribes, they vary greatly in standards of education and degree of urbanization, some are permanent residents of the towns while others are birds of passage. Men who come from the countryside to earn a definite sum of money do not usually regard themselves as a part of the permanent community. They want the cheapest accommodation possible and are not greatly concerned with its standard or with the nature of social amenities provided. Their period of residence is usually too short for them to form strong ties with the urbanized section, or to develop confidence in the leadership of the men who take an active part in the native township's political life. At the other end of the social scale are the "intellectuals", the teachers, ministers and clerks, who are afraid of being dubbed "agitators" and therefore unwilling to take part in anything that savours of "politics". Unfortunately, some authorities only too often give the impression that they do regard criticisms and demands for improvement as "politics" of a questionable character. The aloofness of the better educated Bantu thrusts the burden of leadership on men who can acquire only slowly and painfully the necessary training and experience for municipal self-government.

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But then, the scope that the leaders have is so limited. The board members can do very little more in most centres than to find out what the people's grievances are and place these before the authorities; secondly, to obstruct as far as they can the adoption of measures that the residents oppose. They have no responsibility for the administration or financing of the native township, and no decisive voice in policy. Yet they are all the time conscious that it is the revenue from rents and other charges that is paying for the running of the native areas. They pay the money but "do not call the tune". The administration is the real wielder of power. The board members themselves are subordinate to it in their private capacity. In official matters they may profess to regard the administration as the servant of the council, but they can never exercise authority over it. It is therefore not surprising that the urban Native is "grievance-conscious" to a marked degree; not that board members have great difficulty in gaining the confidence and respect of residents. The situation is productive of friction between the administration and the board, and between both and the residents. The administration must carry out the council's policy. Very often it conflicts with the interests of the community as interpreted by the board. If, and this is not unusual, the administration sympathizes with the board's point of view, it may yet be unable to support it strongly in the open. It is thus likely to acquire an unmerited reputation for being unsympathetic. Its position is further complicated by the conflicting duties that it  
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is called on to perform. On the one hand the official in charge of a township is both administrator and welfare officer, on the other hand he is required to exercise powers of a policeman. Where he arranges to carry out raids on houses whether in search of illicit kaffir beer or of unauthorized residents, he is bound to arouse a certain amount of hostility and so lessen the possibility of co-operation with the board and the people generally. Natives and board members maintain that a superintendent should not conduct prosecutions; he is the "father" of the location, and should not act the policeman, but be available to intervene in disputes that arise between the people and the officials who carry out "obnoxious" regulations.

Another fault that lies with the urban Native affairs administration is for officials to decide to change a practice followed in certain matters without consulting the board in advance. The board gets to hear of new instructions from people who come to the members with complaints, and must then approach the administration for an explanation. It would certainly be an improvement if all innovations and proposals were discussed with the board before being finally adopted. Indeed, from the viewpoint of effective administration, it might be desirable for the township manager to submit periodical reports to the board in the same way as town clerks report to their local authorities, if not in writing then at least verbally. The opinion that the Native is "not ripe" for developments that will tend to make the boards real organs of local  
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self-government will not stand up to examination in the light of experience in the Bantu Authorities areas or in Bantu territories where "indirect rule" is practised in Southern Rhodesia and the Union of South Africa.

It is true that a great deal of indifference is shown by the native people to the administration, and that while almost all have "grievances", not many are prepared to exert themselves in organizing the residents or in trying out new methods of improving their own conditions. But the apparent lack of leadership must be largely attributed to the fact that the administration departments of some local authorities have not "bothered" sufficiently to organise the boards into effective organisations. The demand for greater scope in local government and for the employment of Natives on the local administrative staffs has been repeatedly voiced by representative institutions. During the past decade local authorities have generally accepted the policy, which is also the policy of the two central governments, that Natives should as far as possible be employed in the administration of the urban native townships provided adequate European supervision is available. This policy is now being actively implemented not only because local authorities discovered that it is the correct one, but also that it is a convenient method of assisting in the balancing of the native revenue account.

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So much for the common position of the advisory boards as experienced in Southern Rhodesia during the past twelve years and the Union of South Africa during the past thirty-five years. As to the future pattern of native urban administration these two countries seem to have arrived at the cross-roads. Southern Rhodesia having followed the Union's example for so long, now seems intent upon taking up the cudgels left by the Union in the form of its original urban Bantu authorities bill as published in 1952 and extending in some modified form to its urban native towns what the Union had intended to apply.<sup>(1)</sup> There is no doubt that Southern Rhodesia will develop their advisory boards in various stages into autonomous local authorities. The present objection in Southern Rhodesia to such a scheme is of a purely technical nature. Opposition to establishing a separate local authority when essential services such as sewerage, water supply and electricity are common to both areas can be overcome easily by arriving at a departmental charge at cost and each area can then decide at what rate the controlling authority wishes to retail the services to its residents. While the native local authority lacks an organisation for the carrying out of certain capital works, it can either invite tenders publicly or it could

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(1) The writer has no official sources at his disposal to the effect that the Union central government has definitely decided not to proceed with the Urban Bantu Authorities Bill. This deduction is only arrived at from the implications contained in various official statements and which seem to point in this direction.

by arrangement with the European local authority enter into a contract whereby the latter can undertake certain capital works or even certain services of a recurring nature. Central policy in Southern Rhodesia having laid down that the urban natives must have a share in local government and administration and also since central policy is apparently not in favour of direct representation on European councils, there is no other alternative but that of developing parallel native local authorities. The decision is quite a logical one since residential segregation has and is still being practised and is in fact a policy written into the statutes of this country. The first move should now be to employ as many natives as possible in those sections of the African administration department located in the native townships. As a first step the appointments to senior posts should be made in consultation with the advisory boards and after a certain period only with the approval of the advisory boards. A similar procedure must be followed with regard to their dismissal. The aim being that the advisory boards should become autonomous, the local authority should prepare two sets of income and expenditure each year. The one set will show a deficit for which the European local authority will remain liable. The alternative set will balance simply by increasing the estimated income by way of levying a tax on the native residents. As soon as the advisory board is prepared for the latter responsibility then it could qualify as an autonomous native local authority.

/As .....

As far as the Union of South Africa is concerned, the least that can be hoped for is that the advisory board system will not be abolished unless some other and better system can be provided in its place. Since the central government is establishing and developing native cities in the reserves, the advisory boards in the urban areas could remain a useful training institution and whenever they ask for autonomous privileges, they could be reminded that these are available in their own areas should they care to return to their areas of origin.

Ten years ago the Fagan commission <sup>(1)</sup> recognised that European and Native communities, scattered throughout the Union of South Africa as they are still today, will permanently continue to exist side by side, economically intertwined, and should therefore be accepted as being permanent and as being parts of the same big machine, but that at the same time there are differences between them to which legislation has to pay due regard and which in administrative affairs make necessary and advisable a measure of separation, with machinery for consultation on matters of joint concern. The commission referred to held the view that measures for any new approach with regard to advisory board should be introduced by way of a gradual  
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(1) Report of the Native Laws Commission (1946 - 1948); U.G. No. 28/1948, paragraph 29 - 34, hereinafter referred to as the "Fagan Commission" report.

change of direction, that respect should be shown for existing institutions, for their historical background and for the mentality which is linked with them and should, where it is found possible, rather build on them than try to overturn them. The Fagan commission admits that its enunciation of the policy which it chose as its guiding principle is very vague and general, but, in its opinion, inevitable.<sup>(i)</sup> A formula with much elasticity leaves ample scope for judging each particular problem in the light of its own circumstances and for trying to find the most appropriate treatment for it. In this approach it does, of course, mean that the forming of specific proposals will remain difficult and may give rise to considerable differences of opinion. Yet it remains the only sound way of approaching the problem. In the absence of total territorial division between the white and black races of the Union of South Africa, the relationships between the urban European and Bantu will always be fluctuating and changing - for life is dynamic and never stands still - and a cut-and-dried solution is therefore something that cannot be.

It is on the theme of the last sentence of the aforementioned paragraph that certain views expounded by an eminent administrator of urban native affairs, an anthropologist and an academician, on the  
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(1) Fagan Commission Report - paragraph 31.

question of "chiefs' representatives or ambassadors" vis a vis native advisory boards in the Union of South Africa will be surveyed.

Kingsley (1) can think of only two possible alternatives in urban native administration within municipal areas (i.e. "European South Africa"). The one is the "integration" of the native in the municipal administration, and the other is the development with responsibility of an "ambassador" system. Considered realistically, Kingsley cannot visualise the European electorate tolerating the former method, and for that simple reason it is dismissed summarily. Taking his lead from indications given by the State, Kingsley feels that the only obvious choice lies in the future development of and in the direction of Bantu authorities connected with the various "regional and territorial (Bantu) authorities", particularly the latter. He avers that the executive authority is just as important as the legislative authority and that the good intentions of the one can be defeated by the unsympathetic and malicious actions of the other. For this reason, in Kingsley's opinion, is the policy of ethnic grouping in municipal native townships the foundation upon which rests the particular structure of liaison,

/i.e. ....

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(1) Kingsley, S.F. (Director of Non-European Affairs, Pretoria): Possible solutions in so far as Native Representation by Native Advisory Boards is concerned. Paper delivered at Annual Conference of Institute of Administrators of Non-European Affairs (S.A.) Muizenberg, October, 1958.



i.e. between the (Bantu) authority at home (native reserves) and the subject (urban native) in the city (European area). Although Kingsley accepts the "ambassador" system as opposed to "integration" as the only alternative, he failed to analyse what he had in mind for these ambassadors. Rather confusingly, he outlined the powers, functions and duties as laid down in the legislation <sup>(1)</sup> of the tribal authorities and which by implication should be delegated to what might be termed their "agents" in the urban areas. Having quoted the relevant sections as well as the regulations promulgated thereunder in extenso it would appear that Kingsley no longer favours the originally proposed system of urban Bantu authorities but instead the extension of the powers not only of but also by the (territorial) Bantu authority to the native towns situated outside the Bantu reserves - integration in reverse! In fairness to Kingsley, he admitted that only after his meditations had taken him deeper into this subject had he realised how hasty he had been in entering into "this thorny problem which is interwoven inseparably with our country's policy and politics". In the words of the Fagan commission, Kingsley started off with a "cut-and-dried solution" of abolishing the advisory boards and substituting them with ambassadors who will enjoy the same powers as territorial Bantu authorities. But when he started to analyse the powers and functions of the latter, he found himself in a compromising

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(1) Bantu Authorities Act No. 68 of 1951 - section four.

position. Having had a good shrewd look at "this hot potato", Kingsley dropped it back into the stew. Perhaps it would be best to "cook up" something which had both an advisory board and a few tribal ambassadors in it.

Like most ethnologists, Coertze is much more forthright and outspoken.<sup>(i)</sup> Throughout his thesis he roundly condemns the advisory board system as useless, a pressure group, as part of the European political structure, and that in the framework of the policy of segregation of the country the system grants to urban natives a "lawful claim to progress in a process of political integration which is diametrically opposed to such policy". Coertze boldly recommends the instant dismissal of all advisory boards and anything connected therewith such as ward committees. With regard to the urban Bantu authorities as envisaged originally he is even more outspoken. Since the municipality is the owner of the native townships, Coertze points out all the practical difficulties which may arise by an urban Bantu authority virtually "poking its nose into the Council's business". He is adamant that in any case the introduction in any form of Bantu authorities into urban areas would be tantamount to an admission of the claim of natives that their integration

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(i) Coertze, R.D., (Lecturer in Anthropology, University of Pretoria): Adviesende Komiteestelsel in die Stedelike Gebied van Pretoria met besondere verwysing na Atteridgeville. M.A. thesis, unpublished.

with the Europeans should be recognised, a point which Kingsley apparently overlooked. Coertze adopts a firm standpoint that anything that has "a relation with anything that smells of integration must be avoided at all costs". Coertze strongly advocates the appointment (by nomination and definitely not by election since democratic institutions are foreign to Bantu culture) of representatives of chiefs from the tribal areas.

Where the practical administrator and, as will be shown later, the academician, have refrained from detailing the duties and functions of these "ambassadors", the ethnologist, acting with alacrity, is quick to devise a "cut-and-dried" scheme within which these people are to operate. And this is what Coertze says. The ambassador must be a remunerated employee of the municipality. He must have limited authority in his ward and be fully answerable to the European municipal authority. He must be assisted by a council "nominated by himself" with the approval of his chief and the municipal administration. Presumably (although he does not say so) the suspension or dismissal of council members will also be subject to the approval of the chief and town administration. Of the duties which could be allocated to the chief's representative, Coertze specifies, inter alia, the collection of revenue (taxes) on behalf of the chief; exercising control over those who misbehave in the tribal area and disappear into the cities; maintaining contact with individuals of a tribe taking up employment in the cities.

/Being .....

Being an administrative "official", he must also be responsible for the maintenance of law and order in his own ward, the settlement of minor disputes, recommendation of applications for home-brewing of kaffir beer as well as being consulted in regard to the allocation of houses in his ward. Should this "ambassador" misbehave, the municipality will have the right to "suspend and even report him to his chief". Now, in such a large city as Pretoria and where evidently Coertze concentrated most of his research, the duties enumerated by Coertze, admirable though they may be, can form a very formidable task. To give effect to Coertze's recommendations will require a trained organisation and personnel of no mean magnitude. At present most of the duties referred to engage the active attention of the staff of two departments of State (namely, the Native Commissioner and the South African Police) as well as the various branches of the municipal native administration department such as the influx control section, the inspectorate and municipal police, as well as the township administration. It would in any case appear that in the implementation of Coertze's suggestions, the whole business will, to use his own words "smell of integration".

Perhaps Coertze was nearer the mark when he referred to these representatives of chiefs as "cultural ambassadors" who could be used merely to maintain contact with the subjects of the tribal chiefs.

/One .....

One might well ask: What is this ambassador system, and on what assumption is it based? The underlying idea seems to provide a direct link between the tribal authorities in the rural areas and their subjects in the urban areas for the dual purpose of keeping up the flow of tribal cultural nourishment to the "tribe's stray children", and of establishing an effective extension of "home authority" outside the tribal domain. But this "home authority" is not intended to overlap with that of the local authority. If certain action is intended against a tribal adherent it is likely to be instituted quite apart and separate from the urban institutions. The Minister of Bantu Administration and Development (i) recently announced his intention of introducing legislation for the appointment, with his consent and after consultation with the local authority, of representatives of chiefs in the urban areas. These watch-dogs ("wagters") will be ambassadors from the different Bantu areas and their task will be to serve as a link (skakel) between the urban Bantu and the respective tribes and their Bantu authorities.

It is at this juncture that the doctrine of van As, the academic, is revealing.<sup>(ii)</sup> He maintains /that .....

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- (i) Nel, M.D.C. de Wet (Minister van Bantoe-administrasie en ontwikkeling): "Stadsbantoe word ook ingeskakel" Die Vaderland, 6 Desember 1958.
- (ii) Van As, B.S. (Senior Lecturer, Native Administration, University of South Africa): Possible alternatives to Native Advisory Boards in the Union. Paper delivered to the annual conference of the Institute of Administrators of Non-European Affairs (S.A.), Muizenberg, September, 1958.

that while the permanence of the urban Bantu in European areas is a physical fact, in terms of a dominant and official political philosophy his presence is only of a temporary nature. Van As argues that, broadly speaking, the country's legislation from 1913 onwards recognized only two types of areas, namely, Native areas and non-Native areas. The present urban native townships fall, in terms of the legislation, outside the concept of "Native area", or in the words of the Minister of Native Affairs, are in "European South Africa". Having created the opportunity for the Bantu to live their own lives and vest their permanent rights in the Native area (where European rights are restricted) the legislation of 1913,<sup>(i)</sup> 1936<sup>(ii)</sup> and 1945<sup>(iii)</sup> restricted the rights of the Bantu in non-Native areas, including the present urban areas. Van As therefore concludes that "since the Bantu's real national home is in the Bantu Areas, the legislator regards him as a temporary visitor in the European urban areas and treats him as such". Against the aforementioned background, van As considers the following five as the most important possibilities as alternatives to advisory boards: the granting of indirect or direct representation on city councils; the institution of bodies on which local political leaders and groups are represented; the introduction of urban Native /authorities; .....

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(i) Native Land Act No. 27 of 1913.

(ii) Native Trust and Land Act No. 18 of 1936.

(iii) Act No. 25 of 1945.

authorities; the recognition of urban Native autonomous communities; and lastly, the appointment or recognition of tribal representatives and tribal councils. Van As rejects direct representation as a starting-point based on a policy of integration which is diametrically opposed to national policy. Whilst the various other possibilities commend themselves in one or other form, van As finally rejects all of them. He points out at the same time that it is beyond the scope of South African Native policy to grant any rights whatsoever to Natives in European urban areas, whether it be by allowing representation on city councils, by the recognition of political groups, by the institution of urban Native authorities, or the appointment of tribal representatives, or by the recognition of urban Native autonomous communities. Personally he feels that the ultimate object of separate development does not allow for self-government in Native locations, even in a limited sense. If it should seem unfair to deny the Native a share in the government of the area where he lives while allowing him to enter an urban area for the benefit of the European, he feels that it is even more unfair to grant him a share in the administration of an area in which he is not permitted to acquire any long-term rights. By so doing the entirely wrong impression is created that his stay in an urban area entails some degree of permanency, and from the European's point of view, "we are merely making the intricate population problem more difficult for ourselves and for posterity".

/Having .....

Having regard to the above, and judging by the aspirations of some urban Natives, van As believes that none of the possible alternatives, mentioned by him offer a permanent solution to the problem. The most that can be done is to introduce one of these schemes as an interim measure, but then "we are still faced with the question of whether concessions to the demands of the urban Native should be made überhaupt and whether such an interim measure or short-term scheme may not perhaps develop into a long-term scheme".

However, van As admits (indeed he believes) that the appointment, recognition or election of tribal representatives or the recognition of urban Native autonomous communities may quite possibly create valuable Bantu ambassadors and establish channels between city and country, "but the concession of wider powers does not accord with the broad national policy".

By his own arguments van As has proved beyond doubt the existence of a new permanent urban community vigorously developing non-traditional institutions and concepts, but when he finds himself face to face with the observable reality, he feels any "cut-and-dried" solution to be incompatible with national policy. But then one may finally conclude with Holleman's questions:<sup>(i)</sup> is it not possible that the  
/conflict .....

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(i) Holleman, Dr. J.F. (Director, Institute for Social Research): The Tightrope Dancers. Occasional Report No. 2 of 1958 - University of Natal.



conflict of permanence versus impermanence is itself a bit unreal, or at least not very relevant? Is it not true that, also in the remote future of Bantustan, there are planned towns and villages nourished by industry and trade, and governed by Bantu local authorities? And should not these, essentially non-rural authorities, have some prior experience of the management of urban affairs? And if the answer is "yes" to all these questions, of what relevance, indeed, is this nagging uncertainty about permanence? Is not the real problem to teach an urbanising Bantu population the elements of civic responsibility and urban administration regardless of whether they contrive to live in the towns and cities of "European South Africa" under white supervision, or in the towns and villages in the Bantu areas under tribal supervision?

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I N D E X.

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ANNEXURE "A".

CONSTITUTION OF AFRICAN GENERAL WARD COUNCIL : KENYA.

The following are the details of how the General Ward Council operates in terms of its constitution:-

Title.

1. The Council shall be called the Nairobi African General Ward Council.

Duties and Functions.

2. It shall be the duty of the Nairobi African General Ward Council to receive and consider complaints, representations and suggestions having a bearing on the general wellbeing of the African population of the City of Nairobi, and, if necessary, to make representations thereon to the African Affairs Committee of the City Council. The Council shall also be advisory to the Kenya Government.

Officials and Members.

3. The Nairobi African General Ward Council shall be composed of the following officials and Members:-

(i) Officials.

President	The Officer-in-Charge, Nairobi Extra-Provincial District.
Vice President	The City African Affairs Officer.
Chairman	An African City Councillor.
Secretary	A member of the City African Affairs Officer's staff.

(ii) Members.

(a) Ex-Officio

The Chairman of the African Affairs Committee  
/of .....

of the City Council;  
All African City Councillors;  
The Assistant City African Affairs Officer.

(b) Elected

The Chairman of each Village Committee.

(c) Nominated

Three members to be nominated by the Officer-in-Charge, Nairobi Extra-Provincial District.

4. All members of the Nairobi City Council shall be entitled to attend meetings of the Nairobi African General Ward Council, and take part in discussions, but may not vote.

Duration of Office.

5. Members shall hold office for a period of three years from the first day of May, 1955, after which period a new Council shall be elected. The duration of all future Councils shall be for a period of three years.

Vacancies.

6. (i) Any member of the Nairobi African General Ward Council may by notice in writing under his hand delivered to the Secretary resign his seat which shall thereupon become vacant.

(ii) The seat of any member shall ipso facto become vacant if such member

(a) is sentenced, in respect of a conviction for any offence, to imprisonment without the option of a fine for a period of more than seven days, or with the option of a fine for a period of more than one month; or

(b) fails, without the leave of the General Ward Council, to attend three consecutive meetings of the Nairobi African General Ward Council; or

(c) by reason of any physical or mental disability become unfit to hold office as a member of the Nairobi African General Ward Council: or

/(d) .....

- (d) if an elected member, ceases to reside in the village the Committee of which he represents; or
- (e) if a nominated member, ceases to reside in the City of Nairobi; or
- (f) dies.

(iii) If for any reason set out in paragraphs (a) to (e) of sub-regulation (ii) a member's seat shall become vacant, the City African Affairs Officer shall cause a written notice to be delivered to such member's last known address, advising him that his seat has become vacant.

(iv) Upon a vacancy occurring in the terms of sub-regulation (i) or (ii), the Secretary shall forthwith

- (a) if the affected member be a nominated member, notify the Officer-in-Charge, Nairobi Extra-Provincial District, with the request that he nominate another person to fill the vacancy; or
- (b) if the affected member be an elected member, notify the Village Committee that elected him, which Committee shall elect another person to fill the vacancy.

(v) Any member appointed or elected under sub-regulation (iv) shall hold office only for the unexpired portion of the term of office of the member in whose place he has been appointed or elected, but such member shall be eligible for re-appointment or re-election.

Chairman.

7. The Chairman shall be elected from the African Members of the City Council who are ex-officio members of the Nairobi African General Ward Council.

Deputy Chairman.

8. The Deputy Chairman shall be elected from the members of the Nairobi African General Ward Council.

9. At every meeting of the Nairobi African

/General .....

General Ward Council the Chairman, if present, and in his absence the Deputy Chairman, shall preside. In the event of the absence from any meeting of both the Chairman and the Deputy Chairman, the members present shall elect a Chairman from amongst themselves to preside at such meeting.

Ordinary Meetings.

10. (i) Unless otherwise ordered by resolution to that effect, the ordinary meetings of the Nairobi African General Ward Council shall be held on:-

The third Tuesday of each month;

The third Wednesday of each month.

(ii) The President, Vice-President and the Chairman of the African Affairs Committee of the City Council will attend the meeting on the third Wednesday.

11. Every meeting of the Nairobi African General Ward Council shall be open to the public and the press; provided that this order shall not apply to any committee of the Nairobi African General Ward Council nor to a committee of the whole Nairobi African General Ward Council.

Hour of Meetings.

12. Every meeting of the African members of the Nairobi African General Ward Council and of the full Nairobi African General Ward Council shall be held at the hour of 5.15 o'clock in the afternoon.

Special Meetings.

13. The Chairman may at any time, upon being satisfied of the necessity of doing so, call a special meeting of either the African Members or the full Council of the Nairobi African General Ward Council, but no business shall be transacted at any such meeting except such as the meeting may have been specially convened to consider.

Each Member To Give an Address for Notices.

14. Every member of the Nairobi African General  
/Ward .....

Ward Council shall give to the Secretary an address to which all notices to such members shall be forwarded until he gives another address in lieu thereof. Notices sent to the address so given shall be deemed valid, and sufficient for all purposes.

15. Want of service of the notice of any such meeting on any member of the Nairobi African General Ward Council shall not affect the validity of a meeting.

16. No business shall be transacted at a meeting other than that specified in the agenda relating thereto except any matter or matters which the Chairman of the meeting considers urgent or which the Nairobi African General Ward Council decide by a clear majority of the members of the whole Nairobi African General Ward Council to deal with as urgent.

17. No member except at the discretion of the Chairman shall be present at the discussion upon any matter in or before the Nairobi African General Ward Council or a Committee thereof in which he has any pecuniary interest, direct or indirect.

#### Adjournment of Meeting.

18. The Nairobi African General Ward Council may adjourn any meeting to a later hour on the same day or to any other day or hour, but no business shall be transacted at an adjourned meeting except as was set out in the agenda for the meeting of which it is an adjournment, other than matters which are brought forward in accordance with regulation No. 6 hereof.

When a meeting is adjourned to another day notice of the adjourned meeting shall be sent to each member of the Nairobi African General Ward Council, specifying the business to be transacted.

#### Quorum.

19. No business shall be transacted at any meeting of the Nairobi African General Ward Council unless at least one-half of the full number of members be present thereat.

/Quorum .....

Quorum at commencement of meetings.

20. If at the expiration of fifteen minutes after the hour at which any meeting of the Nairobi African General Ward Council is appointed to be held, a quorum shall not have assembled, no meeting shall take place, but the members present may by a majority decide to adjourn the meeting to a later hour. If during any sitting of the Nairobi African General Ward Council, it be found that there is not a quorum present, the meeting shall stand adjourned.

Record of Attendance.

21. Every member of the Nairobi African General Ward Council attending a meeting of the Council shall sign his name in an attendance book to be kept for that purpose.

Order of Business.

22. The order of business at every ordinary meeting of the Nairobi African General Ward Council shall be as follows:-

- (i) The minutes of the last previous ordinary meeting of the Nairobi African General Ward Council and of any special meeting of the Nairobi African General Ward Council held since such ordinary meeting.
- (ii) The minutes of the meetings of committees not previously submitted to the Nairobi African General Ward Council.
- (iii) Petitions, memorials and other documents.
- (iv) Notices of motion.
- (v) Questions, of which previous notice in writing shall have been given: Provided that the Chairman may in his discretion allow a question of which previous notice in writing may not have been given.

Minutes.

23. Minutes of the proceedings of every meeting of the Nairobi African General Ward Council shall be drawn up and typewritten and shall, if confirmed, be

/signed .....



signed at the next ensuing ordinary meeting by the Chairman of such meeting.

24. The minutes of the last previous meeting shall be taken as read with a view to confirmation, provided that a copy of the minutes shall have been sent so as to reach each member of the Nairobi African General Ward Council at least twenty-four hours previously.

25. No motion or discussion shall be allowed upon the minutes except as to their accuracy.

Reports of Committees.

26. The reports and recommendations of committees shall be typewritten and a copy sent so as to reach each member of the Nairobi African General Ward Council at least twenty-four hours previous to the meeting of the Nairobi African General Ward Council at which they are to be considered.

Notices of Motion.

27. Every notice of motion shall be in writing, signed by the member of the Nairobi African General Ward Council giving the notice, and shall distinctly state the nature or substance of the resolution intended to be submitted to the Council and shall be delivered to the Secretary not less than three clear days prior to the meeting of the Nairobi African General Ward Council at which it is to be considered. Every such notice shall be numbered as received, and entered in a book to be kept by the Secretary which book shall be open to the inspection of every member of the Council.

Notice Book.

28. The Notice Book shall be closed three clear days before the regular day of meeting of the Nairobi African General Ward Council.

29. If a motion of which notice has been given to members of the Nairobi African General Ward Council be not moved and seconded when it comes in due course  
/before .....

before the Council, it shall be treated as dropped, and shall not be moved without a fresh notice.

Motions without Notice.

30. A motion may be made without notice if it applies to any of the following matters:-

- (i) The appointment of a chairman of the meeting at which the motion is made.
- (ii) The adjournment of the meeting of the debate.
- (iii) The closure.
- (iv) Any matter arising out of a report made to the Nairobi African General Ward Council by a committee.
- (v) The giving of precedence to any particular business.
- (vi) Fixing the date of any special meeting of the Nairobi African General Ward Council.
- (vii) The appointment of any committee or any member or members thereto.
- (viii) Any business specially brought forward by the chairman.
- (ix) For the resolving of the Council into committee.

31. Every motion or amendment shall be moved and seconded, and shall be reduced to writing, if required by the chairman, and handed to him or to the Secretary, and shall be read out to the Nairobi African General Ward Council before it is further discussed or put to the vote.

Order of Debate.

32. A member of the Nairobi African General Ward Council shall stand when speaking and shall address the Chair.

33. A member who speaks shall direct his speech to the motion under discussion, or to an amendment to be proposed by himself, or to a question of order.

34. A motion or amendment once made and seconded shall not be altered or withdrawn without the consent  
/of .....

of the chairman.

35. Every amendment shall be relevant to the motion upon which it is moved.

36. Whenever an amendment upon an original motion has been moved and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been disposed of; but notice of any number of amendments may be given.

37. An amendment shall be either:-

- (i) to leave out words; or
- (ii) to leave out words and insert or add others; or
- (iii) to insert or add words.

38. If an amendment be carried, the motion as amended shall take the place of the original motion, and shall become the question upon which any further amendment may be moved.

39. If an amendment be rejected, other amendments may be moved on the original motion.

40. A member moving "That the Nairobi African General Ward Council do now adjourn", may speak for not more than five minutes, and if the motion be seconded it shall be seconded without a speech, and put by the chairman without debate.

41. A member moving "That the Council do now proceed to the next business", or "That the debate be now adjourned", may speak for not more than five minutes, and if the motion be seconded it shall be seconded without a speech.

42. The Chairman shall then call on the mover of the resolution under discussion to speak to the motion just moved, and, subject thereto, the motion shall forthwith be put to the vote.

43. On resuming an adjourned debate, the member who moved the adjournment shall be entitled to speak first.

44. If two speakers address the chair at the same time, and neither shall give way, the chairman shall call upon the one who is, in his opinion, entitled to precedence.

45. If at any meeting of the Nairobi African General Ward Council, or of any committee of the Council, a member shall use an expression which is offensive or disorderly, the chairman may request the withdrawal of such offensive or disorderly expression. If the offending member, after withdrawal, repeat the offensive or disorderly expression, or use other language which, in the opinion of the chairman, is offensive or disorderly, the chairman shall request the offending member to leave the meeting. If such request be not obeyed, the chairman shall thereupon be authorised to cause the removal from the meeting of such offending member, and whether he retire upon request or be removed, he shall be excluded from the meeting, and the chairman shall take such measures as may be necessary to prevent such member from re-entering the meeting.

The chairman shall have power to close or adjourn a meeting in case of disorder, if in his opinion such course is necessary or expedient.

Closure.

46. On a motion being made and seconded "That the question under discussion be put", such motion shall be put at once, and if three-fourths of the members present vote in favour thereof, the question under consideration shall be put without further discussion.

Voting.

47. Every question at a meeting shall be decided by a majority of votes of the officials and members present.

48. In the case of an equal division of votes, the chairman shall have a casting in addition to a deliberative vote.

/Chairman .....

Chairman to decide question of Order.

49. The ruling of the chairman as to whether a notice of motion given at or before a meeting of the Nairobi African General Ward Council is in order, or as to any point of order raised at a meeting of the Council, or as to the right of any member to address the Council for the purpose of making a personal explanation, shall be final, and shall not be open to discussion.

Committees.

50. The Nairobi General African Ward Council may from time to time appoint such committees either of a general or special nature consisting of such number of members as the Council may decide for any purposes which in the opinion of the Council would be better regulated and managed by means of such committees:

Provided that no member shall save with the approval of the majority of the members of such Committee have the right to take part in the proceedings of any meeting of any committee of which he has not been appointed by the Council as a member.

51. The Chairman and the Deputy Chairman shall be ex-officio members of every committee and of every sub-committee of the Nairobi African General Ward Council.

52. The Nairobi African General Ward Council shall as soon as possible after the election of a new Council proceed to the appointment of the standing committees. The Council may appoint new committees at any time.

Chairman of Committees.

53. Each committee shall appoint its own chairman and in all cases where not otherwise specifically provided three members shall form a quorum of a committee.

Minutes of Committees.

54. Minutes of the proceedings of every  
/committee .....

committee of the Nairobi African General Ward Council shall be drawn up and typewritten and shall, if confirmed, be signed at the next ensuing meeting of the Nairobi African General Ward Council by the Chairman of such meeting.

Committee of the Whole Council.

55. The Nairobi African General Ward Council may resolve into a committee of the whole Council.

Motions to Rescind.

56. No resolution shall be altered or rescinded unless notice of motion be given to that effect at least twenty-eight days before the meeting at which such alteration or rescission is to be proposed, nor unless there be at least two-thirds of the members present at that meeting; provided always that this order shall not extend to any question which by the vote of a clear majority of the members of the Council may be decided to be one of urgency.

57. A motion which has been negatived shall not again be entertained until after the expiration of three calendar months without the consent of a clear majority of the members of the Nairobi African General Ward Council.

Suspension of Constitution.

58. The regulations contained in this constitution or any of them may be suspended with the consent of two-thirds of the members of the Nairobi African General Ward Council present at the meeting.

Standing Committees.

59. The standing committees of the Nairobi African General Ward Council shall consist of the following:-

- (i) Finance Committee;
- (ii) General Purposes Committee;
- (iii) Welfare Committee;
- (iv) Trade Committee;
- (v) Education Committee;

/ (vi) .....

(vi) Housing Committee;

and such other committees as the Council may from time to time appoint.

Number of Members of Standing Committees.

60. No standing committee of the Nairobi African General Ward Council shall consist of more than eight members, including the Chairman and the Deputy Chairman of the Council who are ex-officio members of every standing committee and of every sub-committee of the Council.

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ANNEXURE "B".

STANDING ORDERS AFRICAN ADVISORY COUNCIL : KENYA.

The following standing orders of the Mombasa African Advisory Council give an indication of its functions, duties and procedure:

1. Meetings of the Council: Unless otherwise ordered by Council, or by the Chairman giving not less than 4 days notice, the Council will be held on the 4th. Thursday of every month at 2 p.m. in the African Social Centre.
2. Meetings of the Committees: These will usually be held on Thursdays, on the dates to be decided by Council at its first meeting of the year.
3. Notice of Meetings and Agendas: No item will be included on the Agenda except with the permission of the Chairman unless received in writing by the Executive Officer at least 3 days before the date of the meeting in question.
4. Addresses of Members. Members shall give their proper addresses to the Executive Officer and shall see that any changes thereof are notified to him immediately.
5. Agenda: All items of Agenda shall be sent in writing to the Executive Officer well in advance to ensure that they are included in the Agenda for discussion. No other items shall be discussed at a meeting unless with the consent of the Chairman.
6. Chairman: At every meeting of the Council the Chairman, if present, and in his absence the Deputy Chairman, shall preside. In the event of the absence from the meeting of both the Chairman and the Deputy Chairman, the members present shall elect a Chairman from amongst themselves to preside at such meetings.
7. Order of Business: The order of business at every ordinary meeting of the Council shall be as follows:

/ (a).....



- (a) Confirmation of the minutes of the previous meeting of Council.
- (b) The minutes of the meetings of the Committees not previously submitted to Council.
- (c) Questions, of which previous notice in writing shall have been given - provided that the Chairman may in his discretion allow a question of which previous notice in writing may not have been given.

8. Minutes: Minutes of the proceedings of every meeting of the Council shall be drawn up and cyclostiled or typewritten and shall, if confirmed as a true record, be signed at the next ensuing ordinary meeting by the Chairman of such meeting.

The minutes of the last previous meeting shall be taken as read with a view to their confirmation as a true record, provided that copy of the minutes shall have been sent so as to reach each member of the Council at least twenty-four hours previously.

No motion or discussion shall be allowed upon the minutes except as to their accuracy.

9. Reports of Committees. The reports and recommendations of Committees shall be cyclostiled or typewritten and a copy sent so as to reach each member of Council at least twenty-four hours previous to the meeting of Council at which they are to be considered.

10. Motion: Every motion or amendment shall be moved and seconded.

11. Order of Debates: A member of Council shall stand when speaking and shall address the Chair.

A member who speaks shall direct his speech strictly to the motion or amendment under discussion, or to an amendment to be proposed by himself, or to a question of order.

A member shall not be entitled to read his speech.

A member shall not address the Council more than once on any motion or amendment,

/but.....

but the mover of an original proposition may reply, and in his reply, shall strictly confine himself to answering previous speakers, and shall not introduce any new matter into the debate; provided always that a member may speak to a point of order, or for the purpose of making personal explanation. A motion or amendment once made shall not be altered or withdrawn except with the consent of the meeting. Every amendment shall be relevant to the motion upon which it is moved.

Whenever an amendment upon an original motion has been moved and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been disposed of; but notice of any number of amendments may be given.

An amendment shall be either:-

- a) to leave out words;
- b) to leave out words and insert or add others;
- c) to insert or add words.

If an amendment be carried, the motion as amended shall take the place of the substantive motion, and shall become the motion upon which any further amendment may be moved. If an amendment be rejected, other amendments may be moved on the original motion.

A member moving "That the Council do now adjourn", may speak for not more than five minutes, and if the motion be seconded, it shall be seconded without speech, and put by the Chairman without debate.

A member moving "That the Council do now proceed to the next business", or "That the debate be now adjourned", may speak for not more than five minutes, and if the motion be seconded, it shall be seconded without speech.

/The.....

The Chairman shall then call on the mover of the resolution under discussion to speak to the motion just moved, and, subject thereto, the motion shall forthwith be put to the vote.

On resuming an adjourned debate the member who moved the adjournment shall be entitled to speak first.

12. Closure: On a motion being made and seconded "That the question now under discussion be put", such motion shall be put at once, and if two thirds of the members of the Council present vote in favour thereof, the question under consideration shall be put without further discussion.

13. Voting: Every question at a meeting shall be decided by a majority of votes of the members present and voting.

The names of the members present, as well as those voting on each question on which a division is taken, shall be recorded in such a manner as to show whether each vote cast was given for or against the question. In case of an equal division of votes, the Chairman shall have a casting vote in addition to a deliberative vote.

14. Chairman to decide Questions of Order: The ruling of the Chairman as to whether a notice of motion given at or before a meeting of the Council is in order, or as to any point of order raised at a meeting of the Council for the purpose of making a personal explanation, shall be final, and shall not be open for discussion.

15. Committees: The Council may from time to time appoint such Committees either of a general or special nature consisting of such number of Councillors as the Council may decide for any purpose which in the opinion of the Council would be better regulated and managed by means of such Committee.

A member of the Council may take part in the proceedings of meetings of any Committee to which he has not been appointed by the Council, but will have no vote.

/The.....

The Council shall as soon as possible after the election of the new Council proceed to the appointment of the Standing Committees. The Council may appoint new Committees at any time.

16. Chairmen of Committees, Quorum: Each Committee shall appoint its own Chairman and in all cases, where not specifically provided, one-third of the members of the Committee shall form a quorum of the said Committee.

17. Minutes of the Committees: Minutes of the proceedings of any Committee of the Council shall be drawn up and cyclostiled or typewritten and shall, if confirmed as true record, be signed at the next ensuing meeting of the Committee by the Chairman of such meeting.

18. Ex Officio Members: The President, Chairman, Deputy Chairman, Deputy African Affairs Officer, Executive Officer and the two members of the Board, shall be Ex-Officio members of the Council.

19. Ex Officio Members' Privileges: All ex-officio members shall be entitled to attend all meetings of Committees and sub-Committees of Council and shall be entitled to vote thereat, except the Deputy African Affairs Officer and the Executive Officer.

20. Conduct at Meetings: If at any meeting of Council, or of any Committee of Council, a Councillor shall use an expression which is offensive or disorderly, the Chairman may request the withdrawal of such offensive or disorderly expression, and if not thereupon withdrawn (or if the offending Councillor, after withdrawal, repeats the offensive or disorderly expression, or uses other language which, in the opinion of the Chairman, is offensive or disorderly), the Chairman shall request the offending Councillor to leave the meeting. If such request be not obeyed, the Chairman shall have the authority to cause the removal from the meeting of such offending Councillor, and whether he retires upon request or be removed, he shall be excluded from the meeting, and the Chairman shall take such  
/measures.....

measures as may be necessary to prevent such Councillor from re-entering the meeting. The Chairman shall have power to close or adjourn a meeting in case of disorder, if in his opinion such course is necessary or expedient. The Chairman shall stand when asking the offending Councillor to sit down or leave the meeting.

21. Attendance: Every Councillor shall make a point of attending meetings of the Committees on which he/she is appointed when due. Absence of more than three times concurrently without feasible reasons given in writing to the Executive Officer, shall disqualify such member, except where the reasons given for absence shall be acceptable.

22. Resignation of Members: Every person duly elected to the office of Councillor who may resign his office before the expiration of the term of which he shall have been elected, shall do so in writing, signed by him/her and delivered to the Executive Officer, who will refer the matter to the people of the Councillor's electorate, and on delivery, the resignation shall be complete and shall not afterwards be withdrawn.

23. Standing Committees: The Standing Committees of the Council shall consist of the following:-

General Purposes Committee  
Management Committee (Institutions)  
Welfare Committee  
Trade and Housing Committee  
Finance Committee

and such other Committees as the Council may from time to time appoint.

24. Members on the Standing Committees: No Standing Committee of the Council shall consist of more than fourteen (14) members including the Chairman, Deputy Chairman, Deputy African Affairs Officer and the Executive Officer who are ex-Officio members of every standing Committee and of every sub-Committee of the /Council.....

Council. An exception shall be in the case of the Finance Committee which has four Chairmen of other Committees as its members.

25. Life of Council and Committees: Life of the Council shall be three (3) years. Life of the Standing Committees of Council shall likewise be three (3) years; but Chairmen of such Committees shall be elected yearly.

26. To Declare Interest: Any Member of the Council could declare his interest on any subject discussed at the Council or Committee meetings, vide General Purposes Committee Minute No.18/57.

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ANNEXURE "C".

URBAN AFRICAN HOUSING (AREA BOARDS) : NORTHERN  
RHODESIA.

Published in the Supplement to the Northern Rhodesia  
Government Gazette dated the 9th May, 1958.

NORTHERN RHODESIA.

Government Notice No. 141 of 1958.

THE URBAN AFRICAN HOUSING ORDINANCE.  
(Laws, Volume VII, Cap. 234).

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THE URBAN AFRICAN HOUSING (AREA BOARDS) REGULATIONS,  
1958.

In exercise of the powers conferred upon  
the Governor in Council by section nineteen of the  
Urban African Housing Ordinance the following Regula-  
tions are hereby made:

Title.

1. These Regulations may be cited as the Urban  
African Housing (Area Boards) Regulations, 1958.

Interpretation.

2. In these Regulations unless the context otherwise  
requires -

"African Affairs Committee" means an African  
Affairs Committee appointed by a local autho-  
rity under the provisions of the Municipal  
Corporations Ordinance or the Townships  
Ordinance;

"Area" means an African Housing Area administered  
by a local authority;

/"Board" .....

"Board" means a Board constituted under the provision of section nineteen of the Urban African Housing Ordinance and regulation 3 of these Regulations;

"elected member" means a member of a Board elected in terms of these Regulations;

"resident" means a person who has lawfully resided in an Area for a continuous period of twelve months or more;

"nominated member" means a member of a Board nominated by the local authority;

"returning officer" means a person appointed as returning officer under regulation 6 of these Regulations, and shall include an assistant returning officer;

"voter" means a person qualified under the provisions of regulation 12 of these Regulations.

Constitution of Board.

3. (1) A Board shall consist of -
- (a) two representatives appointed by the local authority, one of whom shall be the District Commissioner or, with the agreement of the local authority, his representative;
  - (b) such number of African members resident in the Area, being a multiple of three, as the local authority may determine, of whom one-third or such greater proportion as may be determined by the local authority shall, subject to the provisions of sub-regulation (2) of this regulation, be elected by secret ballot by the persons entitled to vote under the provisions of regulation 12 of these Regulations, and the remainder shall be nominated by the local authority;

Provided that in any case where the Member shall so order, the African members of a Board shall all be persons nominated by the local authority.

/(2) .....



(2) Should the persons entitled to vote in an Area for any reason whatsoever fail duly to nominate and elect a member or members in respect of any election held in terms of these Regulations, the local authority may appoint as member or members of the Board in place of such other member or members, a person or persons, not being a person or persons disqualified from election by virtue of regulation 5 of these Regulations.

(3) The chairman of the Board shall be appointed by the local authority from among the members. The chairman shall preside at meetings of the Board and, in his absence from any meeting, the members present shall elect one of their number to take the chair and he shall perform all the functions and duties of the chairman in connexion with the meeting over which he presides.

Division of Area into wards.

4. (1) For the purpose of election of members to a Board an Area may be divided into wards at the discretion of the African Affairs Committee.

(2) Where any Area is divided into wards, the African Affairs Committee shall as soon as practicable determine the boundaries of such wards. These boundaries shall be determined in such a manner that the number of voters in each ward shall, as far as possible, be equal.

(3) Notification of every such division into wards shall be conspicuously displayed at the administrative offices of the local authority in the Area concerned.

(4) Upon a petition presented to it by the Board, or upon its own motion, the African Affairs Committee may, subject to the provisions of these Regulations -

(a) increase or decrease the number of wards in an Area; and

/(b) .....

- (b) alter the boundaries of existing wards provided, however that such alterations shall only take effect at the next ensuing election;

and the provision of sub-regulation (3) of this regulation shall mutatis mutandis apply to any such alteration.

Qualification of members.

5. No person shall be eligible for election to the Board who -

- (a) is not a resident in the Area, or, in any case where the Area is divided into wards, is not a resident in the ward he seeks to represent;
- (b) being a resident in the Area has not paid all rent and other charges due by him to the local authority;
- (c) is under the age of twenty-one years;
- (d) has within the previous five years been convicted of any offence in respect of which he was sentenced to a term of imprisonment of six months or more, and who has not received a free pardon;
- (e) has been adjudged to a mentally disordered or defective person and who has not been granted an order of discharge in respect of such adjudication;
- (f) holds an office or place of profit under or in the gift of the local authority.

Appointment of returning officer.

6. The local authority shall appoint a returning officer for the purpose of elections and such returning officer shall have authority to appoint assistant returning officers.

Notice of nomination.

7. The returning officer shall annually not later than the first Saturday in March convene a meeting of

/the .....

the residents for the purpose of giving notice of the requirements for the nomination of candidates for the election of members to the Board for the ensuing three years from the first day of April of that year, of which meeting a public notice shall be given fourteen days prior to the first Saturday in March, by posting the notice thereof at the administrative office of the local authority in the Area.

Nomination of candidates.

8. (1) The nomination of candidates for election as members of the Board shall be submitted in the form prescribed in the Schedule to these Regulations.

(2) Each nomination paper shall state the name of the candidate and shall be supported by the signature or marks, duly attested, of not less than five voters residing in the Area, and where the Area is divided into wards of not less than five voters residing in the ward in respect of which the nomination is made, each of whom shall have paid all moneys due by him to the authority as rent, fees, or charges as at the first Saturday in March.

(3) Every nomination paper shall contain -

- (a) a statement by the candidate that he is of full age and not subject to any legal incapacity and that none of the disqualifications set out in regulation 5 of these Regulations applies to him;
- (b) a statement by the candidate that he consents to be nominated as such;
- (c) an undertaking by the candidate that, if elected, he will accept office as a member and will faithfully perform the duties of the office.

(4) No voter shall at an election sign more than one nomination paper.

(5) Every nomination paper shall be lodged with the returning officer not later than the second Saturday in March of the year in which it is signed.

(6) The returning officer shall not later than the third Saturday in March post on a notice-board at  
/the .....

the administrative office of the local authority within the Area a list of the nominated candidates whose nominations are accepted by him as valid, and should any nomination be declared invalid, he shall specify in a notice appended to such list the names of the candidates so disqualified, together with his reason for such disqualification.

Method of election.

9. (1) If the number of persons remaining validly nominated does not exceed the number of vacancies in the Area, or in any ward, as the case may be, the returning officer shall, not later than the Thursday preceding the election, cause public notice to be posted at the administrative office of the authority in the Area that there will be no poll in the Area or ward, as the case may be, and on the day appointed for declaring the result of the election, those persons validly nominated shall be declared to be elected members.

(2) If the number of persons remaining validly nominated exceeds the number of vacancies in the Area or in a ward, as the case may be, the returning officer shall, not later than the third Saturday in March, cause a public notice to be posted at the administrative office of the authority in the Area, stating that an election shall be held on the fourth Saturday in March for the purpose of electing members for the Area or the ward, as the case may be, and stating where the election shall be held.

Hours of poll.

10. The poll shall commence at seven o'clock in the morning and be kept open until six o'clock in the afternoon of the same day and no longer:

Provided that the returning officer shall have power to adjourn a poll at his discretion for any reasonable cause.

/Recording.....

Recording of votes.

11. The returning officer shall attend during the hours and at the place fixed for the poll and shall conduct a secret ballot in a manner deemed by himself to be understood by the voters.

Qualification of voters.

12. (1) Every resident not being under the age of twenty-one years who has paid as at the second Saturday in March all moneys due to the local authority as rent, fees or charges, shall on production of his permit issued in virtue of regulation 135(1) or 136(1) of the Townships Regulations, or a similar permit authorised under the local authority's by-laws, be entitled to vote:

Provided that the following persons shall be disqualified from voting:

- (a) any person who, within the previous five years, has been convicted of any offence in respect of which he was sentenced to a term of imprisonment of six months or more, and who has not received a free pardon; or
- (b) any person who has been adjudged to be a mentally disordered or defective person and who has not been granted an order of discharge in respect of such adjudication.

(2) Where an Area has been divided into wards under the provisions of these Regulations, every person who is entitled to vote shall be permitted to vote for the candidates of the ward in which he resides only.

Voting.

13. Immediately before a person is permitted to vote, the returning officer shall place a mark in the register kept by the local authority in virtue of regulation 133 of the Townships Regulations or any other suitable record of voters, against the voter's name to denote that that person has been issued with a  
/ballot .....

ballot paper.

Equality of votes.

14. Where an equality of votes is found to exist and the addition of one vote would entitle any of the candidates to be declared elected, the returning officer shall determine by lot which of the candidates whose votes are equal shall be elected.

Result of election.

15. As soon after the closing of the poll as practicable the returning officer shall count the votes given for each candidate and shall declare to be elected the candidates to whom the majority of votes have been given and also the candidates elected without a poll under the provisions of regulation 9 of these Regulations and cause a written statement of such declaration signed by him to be immediately thereafter posted on the notice-board at the administrative office of the local authority in the Area.

Duration of office of members.

16. (1) An elected member shall retire at the third annual election after that at which he was elected provided that -

- (a) at the first two annual elections after the coming into force of this section, one-third of the elected members shall retire at each of the said elections and the members who shall so retire shall be the members who have in each case been the longest time in office without re-election, and if two or more members have been elected at the same time such members shall retire in the order of the number of votes obtained by each at his election commencing with the lowest number and in the case of an equal number of votes having been obtained by such members  
/or .....

or in case such members have been elected without a poll, the members to retire shall be selected by lot;

- (b) a member who has been elected to fill a casual vacancy shall retire at the same time as the member whose place he has taken would otherwise have retired;
- (c) nothing in this regulation shall prohibit the re-election of a retiring member.

(2) A member appointed by the local authority and a nominated member shall hold office during the pleasure of the local authority for a period not exceeding twelve months, but shall be eligible for reappointment or renomination on the completion of his term of office:

Provided that this sub-regulation shall not apply to a member who is a District Commissioner.

Vacancies.

17. (1) Any member of a Board may, by giving notice in writing under his hand, delivered to the secretary of the Board, resign his seat, which shall thereupon become vacant.

(2) The seat of any nominated or elected member shall become vacant if such member -

- (a) is sentenced, in respect of a conviction for any offence, to imprisonment without the option of a fine for a period of six months or more;
- (b) ceases to be a resident in the Area;
- (c) being a resident in the Area, leaves or absents himself from such Area without the concurrence of the Board, or for a continuous period of not less than six weeks, after his election or nomination as the case may be;
- (d) fails, without the leave of the Board, to attend three consecutive meetings of such Board, or withdraws from any meeting of the Board without the consent of the chairman;

/(e) .....

- (e) by reason of any physical or mental disability becomes unfit in the opinion of a medical practitioner approved by the local authority to continue in office as a member of the Board; or
- (f) dies.

(3) Upon a vacancy occurring in respect of an elected member under the provisions of sub-regulation (1) or (2) of this regulation, the returning officer shall forthwith hold a by-election under these Regulations to fill the vacancy:

Provided that if the said vacancy occurs between the first day of December and the thirty-first day of March it shall not be necessary to hold a by-election.

#### Functions of the Board.

18. (1) A Board shall consider, and may make recommendations to the local authority concerning -

- (a) any rules which the local authority proposes to apply to the Area;
- (b) any matter referred to it by the Commissioner through the local authority or by the local authority, or by the African Affairs Committee;
- (c) any matter specially affecting the interests of Africans within the jurisdiction of the local authority;
- (d) any matter brought to the notice of the Board in respect of accommodation in the Area;
- (e) annual estimates of income and expenditure which shall be submitted through the African Affairs Committee for transmission to the local authority for approval.

(2) A Board may recommend to the African Affairs Committee the making or application of any rules which it considers necessary or desirable in the interests of the inhabitants of the Area.

(3) A Board may exercise such powers as shall have been lawfully delegated to it by the local authority.

/Meetings.....



Meetings.

19. The Board shall meet at such times and at such places as the local authority shall appoint and in no case less often than once in every month.

Voting and quorum.

20. (1) All acts whatsoever authorised or required to be done by the Board and all questions that may come before a Board shall be done and decided by a majority of votes of the members present and voting.

(2) The quorum of the Board shall not be less than one-half of the members of the Board.

(3) The chairman of a Board shall have a deliberative and a casting vote.

Minutes.

21. (1) The Board shall cause minutes of each meeting to be kept and such minutes shall be in the English language and shall be read at the next meeting and confirmed or altered as the case may be, and signed as a correct record by the chairman of that meeting.

(2) Copies of the minutes shall be forwarded to the African Affairs Committee which shall make a report to the local authority in respect of any matters contained in such minutes which is a matter in respect of which no powers have been delegated to the African Affairs Committee concerned.

Appointment of Secretary.

22. The local authority shall appoint a secretary to the Board.

Committees.

23. The Board may appoint committees for any purpose which it deems necessary and a record of the proceedings.....

ings of such committees shall be submitted to the Board.

Persons entitled to attend meetings.

24. (1) In addition to the members and the secretary the following persons shall be entitled to attend meetings of a Board -

- (a) any member of the local authority;
- (b) any official of the local authority authorised by the local authority so to do; and
- (c) any other person authorised by the local authority.

(2) Any such person shall be entitled to address the Board upon any subject under discussion but shall not have the right to vote thereat.

25. The Urban African Housing (Area Boards) Regulations are hereby revoked.

26. Any elections to a Board authorised by a local authority during the period between the first day of January, 1958, and the coming into force of these Regulations shall be deemed to be elections duly made under these Regulations.

Made by the Governor in Council at Lusaka  
this sixth day of May, 1958.

B.G. TUCKER  
Clerk of Executive Council

(G/0005/4)

ANNEXURE "D".

LEGISLATION ON ADVISORY BOARD : SOUTHERN RHODESIA.

Section 35 of the Natives (Urban Areas) Accommodation and Registration Act, 1951, lays down as follows:-

"35.(1) For every native residential area and, if the Minister after consultation with the local authority concerned so directs, for any portion of a native residential area there shall be established by that local authority a native advisory board:-

Provided that where two or more native residential areas are in the same vicinity the local authority concerned may establish one native advisory board for both or all such areas.

(2) The board shall consist of not less than three natives resident within the local authority area in addition to a chairman who may be either a European or a native.

(3) The mode of election or selection of such boards, the procedure, the periods and conditions of office and their functions and duties shall be defined by regulations made by the Governor.

(4) A native advisory board shall consider and report upon -

- (i) any bye-laws or regulations which the local authority proposes to make or apply under the provisions of section 38 of the Land Apportionment Act;
- (ii) any matter referred to it by the Minister or by the local authority;
- (iii) any matter specially affecting the interests of natives in the local authority area upon which the board may consider it useful or desirable to report;

/and.....

and shall forthwith transmit its report to the local authority or to the Minister through the local authority as the circumstances may require.

(5) A native advisory board may also recommend to the local authority the making or the application of any bye-laws or regulations which it considers necessary or desirable in the interests of the natives in the native residential area.

(6) Where a local authority is required by or under sub-section (1) of this section to establish one or more native advisory boards, no bye-law or regulation made or applied by that local authority under section 38 of the Land Apportionment Act shall be approved by the Governor unless it has been referred for consideration to such native advisory board or boards, and unless a report made in connection therewith by any such board within a reasonable period after the bye-law or regulation was so referred to it has been duly considered by the local authority.

(7) Copies of any such report shall be transmitted to the Governor when the bye-laws or regulations are submitted to him for approval".

In 1952 the following regulations were promulgated in respect of Advisory Boards :-

"1. These regulations may be cited as the Natives (Urban Areas) Advisory Boards Regulations, 1952.

2. In these regulations, unless inconsistent with the context -

"Act" means the Natives (Urban Areas) Accommodation and Registration Act, 1951;

"area" means the Native residential area in respect of which a local authority has established a Board;

"Board" means a Native Advisory Board established by a local authority in terms of section 35 of the Act;

"local authority" means the local authority within the area of whose jurisdiction the area concerned is situated;

/"nomination .....

"nomination day" means the day appointed by the returning officer in terms of sub-section (2) of section 7 as nomination day;

"occupier" means any Native to whom a certificate of occupation has been issued in terms of section 33 of the Act or his approved wife if her name appears on such certificate;

"returning officer" means the person appointed in terms of section 5 to be a returning officer for the purpose of an election held in terms of these regulations;

"section" means section of these regulations.

3. (1) The Board shall be composed of a chairman appointed by the local authority and such even number of members elected by the voters in the area or areas concerned as the local authority may determine.

(2) The local authority may appoint a vice-chairman to preside over meetings when the chairman is, for any reason, unable to attend.

(3) The chairman and vice-chairman shall hold office during the pleasure of the local authority.

(4) At the conclusion of the first annual election of members held under the provisions of these regulations, all the members of the Board then in office shall go out of office. At the conclusion of the annual election in every year thereafter one-half of the members of the Board shall go out of office by rotation, and the members who shall go out of office be members who have been the longest time in office without re-election. If two or more persons became members at the same time, then such members shall go out of office in the order of the number of votes obtained by each at his election, commencing with lowest number and proceeding upwards. In the case of an equal number of votes having been obtained by any members, or in case such members have been elected without a poll, the members to go out of office shall be determined by lot.

4. (1) Any Native residential area or areas may be divided by the local authority concerned into such /number.....

number of wards as it may determine.

(2) The number of members of the Board who shall represent each ward shall be decided by the local authority.

5. The Native Commissioner, or if there is no Native Commissioner, the Assistant Native Commissioner, of the district in which the local authority is situated shall appoint a person to be the returning officer. Such person shall, whenever possible, be a Government official.

6. No person shall be eligible for election to a Board or to vote at an election of members of a Board who -

- (a) has been convicted within three years of the day fixed in terms of sub-section (1) of section 7 of an offence in respect of which he has been sentenced to imprisonment without the option of a fine or to imprisonment for a period of three months or more with the option of a fine; or
- (b) having been a member of the Board during the preceding two years, has vacated his seat for any of the reasons set out in section 10; or
- (c) has not resided in the area in which the election is being made for a continuous period of twelve months immediately preceding nomination day; or
- (d) has not paid all rents due and payable by him in respect of such area; or
- (e) being a male Native is not in possession of a certificate of registration issued to him in terms of the Native Passes Act (Chapter 77) as amended; or
- (f) is not an occupier.

7. (1) Once in every year the returning officer shall fix a day for the election of members of the Board. Such day shall be during the month of December.

(2) Not less than 30 days before the day fixed  
/in.....

in terms of sub-section (1) of this section the returning officer shall give public notice of such election. Such notice shall specify the day, being not more than 14 days from the date of giving such notice, as nomination day. Such notice shall specify the number of members to be elected and shall require all candidates for the election to be nominated at the office of the Native Commissioner or Assistant Native Commissioner specified in such notice in the manner hereinafter provided.

(3) No person shall be deemed to be a candidate at any election until he has been nominated in the manner provided in these regulations.

(4) Before four o'clock in the afternoon of the day before nomination day every person wishing to become a candidate at the election shall deliver at the place mentioned in sub-section (2) of this section a nomination paper in the form prescribed in the Annexure to these regulations. Such nomination paper shall be signed in the presence of the superintendent appointed in terms of section 67 of the Act by not less than five persons who are qualified to vote in terms of these regulations apart from the person nominated therein :

Provided that if any person signs more nomination papers than there are members to be elected the returning officer shall delete the signature of such person from all such nomination papers which shall, for the purpose of this section, be regarded as never having been signed by such person.

(5) No nomination paper shall be valid unless it has been signed by the person nominated therein, in the presence of the returning officer, accepting such nomination.

(6) The returning officer shall cause the names of all persons who have been nominated as candidates for election to the Board to be posted outside

/the.....

the office of the Native Commissioner or Assistant Native Commissioner of the district in which the area is situated and also at some conspicuous place in the area.

8. (1) If, on nomination day, the number of persons nominated is equal to the number of members to be elected the returning officer shall, at noon or as soon thereafter as possible and at his office publicly declare such candidates to be duly elected, and thereupon they shall be deemed to be duly elected as members of the Board.

(2) If, on nomination day, the number of persons nominated is less than the number of members to be elected, the persons so nominated shall be declared to be duly elected in the manner provided in sub-section (1) of this section. The returning officer shall thereupon inform the Native Commissioner or Assistant Native Commissioner, as the case may be, of the number of members remaining to be elected. The Native Commissioner after consultation with the local authority shall appoint such persons as he may consider fit to make up the number of members of the Board.

(3) (a) If on nomination day, the number of persons nominated exceeds the number of members to be elected, the returning officer shall, at noon on the said day or as soon thereafter as may be possible, publicly announce -

- (i) the names of the candidates;
- (ii) the date and place or places appointed for the taking of the poll;
- (iii) the hours during which voting will be permitted.

(b) The returning officer shall also forthwith cause notices containing the said particulars to be posted at such places as he may deem necessary in the area or areas.

(4) Whenever he deems it necessary the returning officer may appoint a person or persons to assist  
/him.....



him.

9. (1) The election of members of Boards shall be either by ballot or open voting as may be decided by the returning officer and, subject to the provisions of this section, shall be conducted in such manner as he shall decide.

(2) Before allowing any occupier to vote the returning officer or his assistant may require such occupier to produce his certificate of occupation.

(3) Every voter shall be entitled to give as many votes as there are members to be elected, but shall not give more than one vote to any one candidate.

(4) After the counting is completed the returning officer shall forthwith declare those candidates who have received the majority of votes to be duly elected members of the Board.

(5) When an equality of votes is found to exist the returning officer shall thereupon determine by lot which candidate or candidates shall be declared to be duly elected and he shall thereafter declare the candidate or candidates so determined to be duly elected members of the Board.

(6) All candidates at an election shall be entitled to be present when the votes are counted.

10 (1) Any member of a Board may resign his seat or his seat shall ipso facto become vacant if such member -

- (a) is convicted of an offence and sentenced to any period of imprisonment without the option of a fine, or to imprisonment for a period of three months or more with the option of a fine;
- (b) is absent, without the recorded consent of the Board from the area for a continuous period of six weeks or more;
- (c) fails, without the recorded consent of the Board, to attend three consecutive meetings of the Board;
- (d) is declared insolvent by a competent court;
- (e).....

- (e) renders himself, or becomes, mentally or physically unfit to continue as a member of the Board;
- (f) dies.

(2) Whenever a vacancy arises in terms of subsection (1) of this section the chairman of the Board shall notify the Native Commissioner or Assistant Native Commissioner of the district who shall thereupon proceed in the manner provided in section 5.

11. In addition to the duties and functions imposed by section 35 of the Act upon a Board, it shall be the duty of all members of a Board -

- (a) to interest themselves in the welfare of the residents of the area; and
- (b) to acquaint themselves with, and advise the residents of the area upon, the laws applicable to such area.

12. (1) The Board shall hold monthly meetings at a time and place fixed by the chairman.

(2) The chairman may, if he is satisfied of the necessity of so doing, call a special meeting of the Board.

(3) The Board shall, at its first meeting, determine the number of members who shall form a quorum.

(4) Resolutions shall be taken on all matters brought before the Board and the decision of the majority of the members of the Board present at any meeting shall constitute the decision of the Board.

(5) The chairman shall have no deliberate vote but shall have a casting vote.

(6) The chairman shall, with the approval of the local authority, appoint a person to be secretary of the Board, who shall do all such things as are usually done by a secretary.

13. The Board may appoint committees for any purpose which it may deem necessary, and a record of the proceedings of such committees shall be submitted

/to.....

to the Board.

14. The Native (Urban Areas) Accommodation and Registration Advisory Board Regulations, 1951, published under Government Notice No. 416 of 1951 are hereby cancelled.

A N N E X U R E .

Form of Nomination.

NATIVE ADVISORY BOARD OF.....

We, the undersigned, qualified to vote at an election of members of the Native Advisory Board of ..... do hereby nominate ..... of ..... (residential address) as a candidate for the office of member of the said Native Advisory Board.

Signatures

Residential.

1. ....	.....
2. ....	.....
3. ....	.....
4. ....	.....
5. ....	.....

Signed in the presence of

SUPERINTENDENT

..... Native  
Residential Area.

Date .....

I hereby accept the above nomination.

.....Signature.

Signed in the presence of

SUPERINTENDENT.

..... Native  
Residential Area.

Date .....

ANNEXURE "E".

RULES OF PROCEDURE AND RULES OF ORDER OF  
ADVISORY BOARD MEETINGS, SOUTHERN  
RHODESIA.

1. ORDINARY MEETINGS: There shall be monthly meetings of the Board at a time and place fixed by the Chairman and presided over by him.
2. SPECIAL MEETINGS: The Chairman may call a special meeting at any time when satisfied of the necessity of doing so.
3. NOTICES OF MEETINGS: Notices of ordinary meetings of the Board shall be delivered to every member not later than seven days before the meeting, and such notice shall contain an agenda of such meeting. No business shall be transacted at any ordinary meeting except such as is stated in the notice thereof.

Notices of special meetings shall be given at least seventy-two hours before the meeting, and shall state the place and time of meeting, together with the business to be considered thereat; and no business shall be transacted at any special meeting except such as is stated in the notice thereof. Notices of special meetings convened upon the requisition of three members shall contain a copy of such requisition.

4. QUORUM: All powers of the Advisory Board may be exercised at any duly convened meeting thereof at which not less than five of the members thereof (exclusive of the Chairman or in the absence of the Chairman, an additional member) shall be present. Should a quorum not be present within 15 minutes of the time scheduled for any meeting to begin, such meeting may be postponed at the discretion of the Chairman and notice of such postponed meeting shall be sent to all members at least seventy-two hours before such postponed meeting is due to be held.

/5. ....

5. ADJOURNMENT: The members present at any meeting may from time to time adjourn such meeting and at any meeting of the Board a sufficient number of members be not present to exercise the powers vested in the Board, the members present, or the major part of them, or any one member if only one be present, may adjourn such meeting, provided -

- (a) the business, or any part thereof, of any meeting may be suspended and such meeting be adjourned for the consideration thereof until any hour of the same day or the following day without notice;
- (b) if any meeting be adjourned for a period extending beyond the day following that upon which it is held, notice of such adjourned meeting shall be given in writing, and shall be delivered to each member seventy-two hours at least previous to such meeting, and every such notice shall specify the time of meeting.

6. CHAIRMAN: If the Chairman be absent then the vice-chairman of the Health, Housing and Native Administration Committee of the City Council of Salisbury or such other member of that Committee as may be appointed by the Council shall be Chairman.

7. The Chairman shall enforce such of these rules as may be necessary to preserve order at any meeting.

8. MINUTES: No motion for the non-signing of the minutes of any meeting shall be admissible, nor shall any motion or discussion be allowed upon the minutes except as to their accuracy. If such motion be carried, the minutes shall be corrected or altered accordingly and signed.

9. ORDER OF BUSINESS: The business at ordinary meetings of the board shall be proceeded with in the following order:

/ (a) .....

- (a) Signing of minutes of the Board.
- (b) Matters arising out of the previous minutes.
- (c) Business appointed by any statutory enactment or previous resolution of the Board.
- (d) Statements or communications by the Chairman.
- (e) The Director of Native Administration or other officers of the Council to submit reports.
- (f) Matters adjourned by any preceding Board meetings.
- (g) Notice of motion and questions which appear upon the agenda.
- (h) Questions, notices and sundry business.

Provided that any member may, after the signing of the minutes, there being no other question under discussion, move that precedence be given to any matter named on the agenda if it be of great urgency, and the question shall be put to the vote at once without discussion and, if carried, the matter shall be taken in precedence accordingly.

10. RULES OF DEBATE: Members speaking at a meeting of the Board shall rise and address the chair.

11. If two or more members rise at the same time to speak, the Chairman shall determine to whom priority shall be given.

12. The mover of a motion shall be entitled to speak on the subject of the motion for a period not exceeding ten minutes, and other members shall not be entitled to speak longer than five minutes, unless by consent of the board such times are extended.

13. The proposer of any motion shall be entitled to speak thereon prior to such motion being seconded, and if thereafter such motion is seconded such motion may be discussed or debated by the board.

14. The mover of a motion shall have the right to reply, and having replied or declined to exercise such right, the chairman shall thereupon read aloud the  
/motion .....

motion and shall at once put the question to the vote.

15. No motion may be withdrawn except by the joint agreement of the mover and the seconder, and thereafter by the consent of a majority of the board.

16. An amendment may be made to any motion or question before the board.

17. After an amendment has been proposed, any member may speak to the amendment, notwithstanding that he may have previously addressed the chair on the original motion or resolution or subject.

18. The proposer of an amendment shall not have the right of reply nor shall he require a seconder.

19. When any amendment has been moved, it must be disposed of before any further amendment to the same motion can be moved; if an amendment be carried the motion as amended shall become the substantive motion on which a further amendment may be moved.

20. No member may be permitted to speak to an amendment for longer than five minutes without the permission of the chairman.

21. The Chairman shall put the amendment to the vote first, and if carried, the motion as amended shall become the substantive motion.

22. VOTING: All motions, amendments or questions before the Board shall be decided by the majority of the members present and voting.

23. SPEAKING MORE THAN ONCE: No member shall speak more than once on any motion, question, amendment or point of order, except the mover of the original motion, question or point of order in reply to the debate, unless by leave of the chairman, and then only in explanation or in answer to observations of a personal  
/character .....

character.

24. It shall be competent for the Chairman to suspend rule 23 for the purpose of more comprehensively debating any given question before the meeting.

25. SUSPENSION: In the event of any member persistently obstructing the business at a meeting of the Board or refusing to obey the ruling of the Chairman on any point of order, or declining to withdraw any expression which the Chairman may be of the opinion should be withdrawn, such member shall be named by the Chairman, whereupon any two members may move and second the motion "That the member named by the Chairman be suspended until the conclusion of the business of this meeting", or "That the member named by the Chairman be suspended until the conclusion of the business of the next ordinary meeting of the board", and such motion shall be put to the vote without discussion and if adopted by a majority of not less than two-thirds of the members present and voting, such member shall be suspended accordingly, and shall not take part in any further proceedings of the board until the expiration of the period covered by the motion; provided, however, that such motion shall not be put into operation if the defaulting member rises and withdraws the offensive remark or statement and tenders an apology.

26. DEPUTATIONS: No deputation may attend any meeting of the Board without the prior consent of the Board. Any deputation attending with such consent shall be introduced by a member and only one member of the deputation shall be allowed to address the Board, except with the consent of the Chairman.

27. MOTIONS AND QUESTIONS: Any motion or question to be introduced at the ordinary meeting of the board shall be in writing, signed and dated by the member proposing same, and shall reach the Secretary, at least three clear days before the despatch of the notice convening such meeting, and the motion or  
/question .....



question shall be moved or asked by the member giving the notice. In the case of absence, such member may depute or the chairman may allow another member to bring forward the motion or question, but if no member shall have been so deputed or allowed, such motion or question shall lapse, provided that the member in whose name it stands may renew the notice for any subsequent ordinary meeting. If more than one notice of motion or question be given for any meeting, the same shall be placed on the agenda in the order in which the respective notices shall be received by the Secretary.

28. REVOKING OF RESOLUTIONS: No resolution at any meeting of the board shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given to each of the members ten days at least before holding the meeting, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the members present at such subsequent meeting if the number of members present at such subsequent meeting be not greater than the number of members present when such resolution was come to, or by a majority if the number of members present at such subsequent meeting be greater than the number present at such former meeting.

29. RECORDING OF DISSENT: It shall be competent for any member, when he is in a minority on any question which has been decided to forthwith request that his dissent or protest may be entered in the minutes of the meeting of the board in which the decision of the board is recorded, and such dissent or protest shall be entered accordingly; provided, however, that no dissent or protest shall be allowed to be recorded which casts any improper reflection upon or imputes any improper motive to the board or any member. If the majority of the board shall, on the motion of any member, decide that the dissent or protest contains any such imputation or reflection, the same shall not be entered in  
/the .....

the minutes unless the member dissenting or protesting withdraws the expression which shall have been considered improper.

30. SUSPENSION OF RULES OF ORDER: Any one or more of the rules or regulations contained herein may be suspended for a special purpose, upon notice duly given, and shall not otherwise be suspended except by a unanimous vote of the Board.

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ANNEXURE "F".

REGULATIONS ADVISORY BOARDS : UNION OF SOUTH AFRICA .

CHAPTER XX OF ADMINISTRATORS NOTICE NO. 343 DATED 30TH  
APRIL, 1952.

NATIVE ADVISORY BOARD.

1. The regulations in this Chapter shall apply to any location under the control of the Council.

DEFINITIONS.

1. For the purpose of this Chapter, unless the context indicates otherwise the words and expressions as defined in regulation 1 of Chapter 1 shall have the meanings respectively assigned thereto in that Chapter;

"returning officer" shall mean the Native Commissioner of the district or any person or persons nominated by him for the purpose.

CONSTITUTION OF NATIVE ADVISORY BOARD.

2.(1) For each location under the control and jurisdiction of the Council there shall be established a native advisory board which shall consist of one representative for each ward elected in the manner hereinafter prescribed and not more than three members appointed by the Council.

(2) Should the registered occupiers of any ward for any reason whatsoever fail duly to nominate and elect a member in respect of any election held in terms of these regulations, the Council may appoint as member of the Advisory Board for that ward a duly qualified person and such person shall then be deemed to have been duly elected.

(3) The chairman of the committee shall be the chairman of the advisory board. The chairman shall preside at meetings of the advisory board and generally act in an advisory capacity in regard to it, but shall not have a vote. In the absence of the chairman from any meeting, the members present shall elect one of their number to take the chair and he shall per-  
/form.....

form all the functions and duties of the chairman in connection with the meeting over which he presides.

3.(1) For the purpose of the election of representatives to the advisory board the locations shall be divided into wards.

(2) The manager shall as soon as practicable, determine the boundaries of such wards. These boundaries shall be determined in such a manner that the number of voters in each ward shall, as far as possible, be equal.

(3) Notification of every such division shall be conspicuously displayed at the office of the superintendent.

(4) This regulation shall come into operation upon a date to be fixed by the Council.

(5) Upon a petition presented to it by the advisory board or upon its own motion, the Council may, subject to the provisions of the regulation -

(a) increase or decrease the number of wards in the location;

(b) alter the boundaries of existing wards ; provided, however, that such alteration shall only take effect at the next ensuing election.

The provisions of sub-regulations (3) and (4) shall mutatis mutandis apply to any such alteration.

#### QUALIFICATION OF MEMBERS .

4. No person other than the chairman shall be eligible for election or appointment to the advisory board who-

(i) is not a registered occupier in the ward he is to represent;

(ii) being a registered occupier in the location, has not paid all rent and other charges due by him to the Council up to the end of the month preceding his nomination or appointment;

/(iii).....

- (iii) has, within the period of two years immediately preceding the date of his nomination or appointment, been convicted of any offence in respect of which he has been sentenced to imprisonment without the option of a fine for a period of more than seven days, or with the option of a fine for a period of more than one month;
- (iv) has, within the period mentioned in paragraph (iii) hereof, been convicted of any contravention of the location regulations or any amendment thereof; or
- (v) by reason of any physical or mental disability is unfit to hold office as a member of the advisory board;
- (vi) holds an office or place of profit under or in the gift of the Council.

#### NOTICE OF NOMINATION.

5. The superintendent shall annually, not later than the first day of September, convene a meeting of the registered occupiers in the location for the purpose of explaining to them these regulations and of calling for the nomination of candidates for the election of members of the advisory board for the ensuing three years from the 1st October of that year of which meeting public notice shall be given by posting a notice thereof during August on the notice board at the office of the superintendent and in a conspicuous place in each ward for a period of not less than fourteen days.

#### NOMINATIONS TO BE IN WRITING.

6(1) Nominations of candidates for election as members of the advisory board shall be submitted in writing to the superintendent and shall be supported by the signatures or marks duly witnessed of not less than ten registered occupiers resident in the ward in respect of which the nomination is made and each of whom shall have paid all moneys due by him to the Council as rent, fees or charges under these regulations up to the end of the month preceding that in which the nominations are called for. /(2).....

(2) Such nominations shall be lodged with the superintendent not later than the seventh day after the date of the nomination meeting referred to in regulation 5. The superintendent shall after the receipt of the nominations examine them and shall lodge them with his report thereon with the returning officer.

(3) The returning officer shall as soon as practicable after the period for lodging such nominations has expired, affix on the notice board at the office of the superintendent, a list of the candidates nominated and a notice convening a further meeting of the registered occupiers of the location, which meeting shall be held not less than ten and not more than fourteen days after the period for lodging such nominations has expired.

#### ANNOUNCEMENT OF NOMINATIONS.

7. At the meeting held in the last preceding regulation the returning officer shall announce the names of the nominees in respect of each ward, and if not more than one qualified candidate has been nominated in respect of each ward, he shall declare such candidates to be duly elected as members of the advisory board. In the event of more than one qualified candidate having been nominated in respect of any one ward, the returning officer shall appoint a day on which a poll shall be held for the election of one candidate for the ward in respect of which more than one candidate has been nominated, not more than ten days after the holding of the said meeting, and shall announce for what period, being not less than two hours between the hours of 8 a.m. and 9 p.m., the poll shall be open on such day and the place at which the poll shall be held. The returning officer shall fix the hours during which the poll shall be open with due regard to the convenience of the majority of the registered occupiers of the location.

#### POLLING DAY.

8. The returning officer shall cause to be posted on the notice board at the office of the superintendent  
/not.....

not less than seven days before the polling day, a notice intimating the date upon which, the place at which and the hours during which the poll will be held.

RECORDING OF VOTES .

9. The returning officer shall attend during the hours and at the place fixed for the poll and shall record the votes given for each candidate.

POLLING STATION.

10. No person other than the returning officer, his assistants and the person at the time recording his vote shall be admitted to the polling station.

QUALIFICATION OF VOTERS.

11.(1) No person other than a male registered occupier of the location who appears to the returning officer to have attained the age of eighteen years and who, during the polling hours fixed for any election, produces to the returning officer a receipt showing that he is not more than two months in arrear with his rent and any other charges due by him to the Council in terms of the location regulations, shall be permitted to vote at such election.

(2) Every person who is entitled to vote shall be permitted to vote for one of the candidates for his ward only.

MANNER OF VOTING.

12. The returning officer, after satisfying himself that the person desirous of recording his vote is entitled to do so, shall ask him for which of the candidates nominated in respect of the ward where the registered occupier is resident he wishes to vote, and shall record the vote given any such candidate by placing on a list of names of the nominated candidates, a mark opposite the name of the candidate named by the elector. The returning officer shall thereupon mark such person's receipt referred to in regulation 11(1), so as to show that he has recorded his vote.

RESULT OF ELECTION.

/13. As.....

13. As soon after the closing of the poll as practicable, the returning officer shall count the votes given for each candidate for election and shall declare the candidates who have received the greatest number to be duly elected as members of the advisory board for their respective wards.

DETERMINATION IN EVENT OF EQUAL NUMBER OF VOTES.

14. If two or more candidates for election receive an equal number of votes, the successful candidate shall be determined by the casting of lots in the presence of the returning officer and in the manner prescribed by him.

NOTIFICATION OF MEMBERS APPOINTED BY COUNCIL.

15. The names of the members of the advisory board appointed by the Council, in terms of regulation 2(2), shall be notified by posting a notice on the notice board at the office of the superintendent as soon as practicable after the announcement of the names of the elected members in terms of regulation 7 or 13.

DURATION OF OFFICE OF MEMBERS.

16(1) Subject to the provisions of regulation 17 and to sub-regulation (3), the members of the advisory board shall hold office for a period of three years and shall be eligible for re-election or re-appointment at the conclusion of this term of office.

(2) One third of the members of the advisory board shall retire annually at each election.

(3) With regard to the first advisory board elected in terms of these regulations, it shall be necessary that one third of the members should only hold office for one year, and one third for two years. This shall apply to those members who were elected with the smallest majorities and second smallest majorities respectively.

VACANCIES.

17.(1) Any member of the advisory board may by giving notice in writing under his hand delivered to the chairman, resign his seat which shall thereupon  
/become.....



become vacant.

(2) The seat of any member shall ipso facto become vacant if such member-

- (a) is sentenced, in respect of a conviction for any offence to imprisonment without the option of a fine for a period of more than seven days, or with the option of a fine, for a period of more than one month;
- (b) is convicted of any contravention of the location regulations;
- (c) being a registered occupier in the location, leaves or absents himself from such location without the concurrence of the advisory board, for a continuous period of not less than six weeks, after his election or appointment;
- (d) fails, without the leave of the chairman of the advisory board, to attend three consecutive meetings of such board; or withdraws from any meeting of the board without the consent of the chairman;
- (e) by reason of any physical or mental disability becomes unfit to continue in office as a member of the advisory board;
- (f) is inadvertently elected or appointed as a member of the advisory board, in spite of not being eligible for election or appointment thereto in terms of the provisions of regulation 4;
- (g) dies.

(3) If for any of the reasons set out in paragraphs (a) to (f) inclusive of sub-regulation (2) of this regulation a member's seat shall have become vacant, the chairman shall cause a written notice under his hand to be delivered to such member's last known place of residence, advising him that his seat has become vacant.

(4) Upon a vacancy occurring in terms of sub-regulation (1) or (2) of this regulation, the chairman shall, forthwith call upon the returning officer to hold a by-election in terms of these regulations to

/fill.....

fill the vacancy; provided that if the said vacancy occurs between the first day of July and the thirtieth day of September it shall not be necessary to hold an election and the Council may appoint a member to fill the vacancy. A member thus appointed shall be deemed to have been elected.

(5) Any member appointed or elected under sub-regulation (4) of this regulation shall hold office only for the unexpired portion of the term of office of the member in whose place he has been appointed or elected, but shall be eligible for election or appointment for any ensuing three years.

#### ORDINARY MEETINGS.

18.(1) The advisory board shall hold its first meeting after its constitution in terms of these regulations, at such time and place as the chairman may direct, provided that such first meeting shall be held within a period of one month after the constitution of the advisory board.

(2) The ordinary meeting of the advisory board shall be held once a month on a day at a time to be decided by the chairman; provided that, if for any reason such meeting cannot be held on the prescribed day, the chairman may fix another day therefor and in such event he shall, at least three days before such a meeting, inform each member thereof.

#### SPECIAL MEETINGS.

19. The chairman may at any time, upon being satisfied of the necessity of so doing, call a special meeting of the advisory board, but no business shall be transacted at any such meeting except such as the meeting may have been specially convened to consider.

#### JOINT MEETINGS.

20. Where two or more advisory boards are constituted in terms of regulation 2 of this Chapter, meetings of the respective advisory boards may with the approval of the chairman be held jointly; provided that only  
/the.....

the members of the advisory board in respect of whose location a particular matter is under discussion may vote.

ATTENDANCE OF PUBLIC AT MEETINGS.

21. The chairman may, in his discretion, allow members of the public to attend advisory board meetings.

TIME OF MEETINGS.

22. The chair shall be taken at the appointed hour, but if at the expiration of a quarter of an hour after the appointed time there shall not be a sufficient number of members present to form a quorum, the chairman shall declare the meeting adjourned until the date of the following meeting or such earlier date as may appear desirable.

QUORUM.

23. One third, with a minimum of four of the total number of members comprising the board, shall form a quorum.

MINUTE BOOK.

24. The names of members present, and a record of the proceedings of the meeting shall be noted in a minute book to be kept by such persons, who need not be a member of the advisory board, as the Council shall appoint as secretary, and the business of the meeting or adjourned meeting shall be commenced by the reading and confirmation of the minutes of the previous meeting or day's proceedings. Minutes, when so read and confirmed, shall be attested by the chairman's signature in the presence of the members. A copy of the minutes shall, after each meeting, be submitted to the committee.

BUSINESS OF MEETING.

25. It shall be the duty of the secretary to bring to the notice of the chairman all matters which may have been reserved for consideration from a previous meeting and all notices of motion received by him, and the chairman shall place such matters before the advisory.....

visory board for discussion, but the order of business subsequent to the confirmation of the minutes shall be in his discretion.

ADDRESSING MEETING.

26. In discussing any question before the advisory board, the speaker shall address the chair standing.

PRECEDENCE OF SPEAKERS.

27. If two members address the chair at the same time, and neither shall give way, the chairman shall call upon the one who is, in his opinion, entitled to precedence.

MOTIONS TO BE SECONDED.

28. When a motion or amendment is made by a member, it must be seconded by another member, otherwise it shall be dropped and all further debate on the subject shall be discontinued and an entry shall be made in the minutes that such was not seconded.

MOTIONS TO BE READ.

29. A motion or amendment prior to its being put to the vote, shall be read aloud by the chairman of the advisory board.

WITHDRAWAL OF MOTIONS.

30. A motion or amendment made and seconded shall not be withdrawn unless by leave of the advisory board.

DUTIES AND FUNCTIONS ETC. OF ADVISORY BOARD.

31. The duties and functions of the advisory board shall be :-

(1) DUTIES OF MEMBERS: Every member shall -

- (a) strive at all times to become the real representative of his people and the faithful voice of the aspirations and wishes of the community within his ward;
- (b) keep the voters in his ward acquainted with the work of the board;
- (c) use his influence to settle domestic /differences.....

differences between families in his ward; provided, however, that such member shall submit in writing to the superintendent the substance of the complaint and the terms of settlement thereof within twenty-four (24) hours of such settlement;

- (d) on request by the superintendent interview any registered occupier in a location or native hostel who is in default with the payment of any rent or charges for service with a view to securing the payment thereof;
- (e) when required by the manager or superintendent, assist such official in hearing or dealing with complaints or disputes between natives;
- (f) report to the superintendent any untoward happening, the presence in the location of any unauthorised person, any breach of these regulations and any defect in the municipal services which come to his knowledge;
- (g) assist the superintendent in the preservation of law and order in his ward;
- (h) act in an advisory capacity to the inhabitants of the location;
- (i) receive and consider complaints, representations and suggestions from the inhabitants and if thought necessary to make representations thereon to the committee through the manager;
- (j) perform in an expeditious manner the functions assigned to it by the Act.

(2) RECOMMENDATIONS REGARDING RESIDENTS - The advisory board may by resolution recommend to the manager-

- (a) the removal from a location, native village or native hostel of any person on the ground that -

- (i) his conduct is inimical to the

/preservation.....

preservation of law and order therein;

- (ii) his presence or conduct is a source of annoyance or nuisance to the residents thereof and likely to provoke or cause a breach of the peace;
- (iii) his payments of rent and charges for services are consistently in arrear;
- (b) the transfer of any tenant and his family or household from the dwelling of which he is the registered occupier to another dwelling in the same or another location, native village or native hostel on any one of the grounds set out in paragraph (a).

(3) PAYMENT OF MEMBERS. - Members of the Board may be paid such allowances as may be determined by Council from time to time.

(4) NO MEMBER OF ADVISORY BOARD OR SERVANT OF COUNCIL TO BE INTERESTED IN ANY BARGAIN OR CONTRACT  
OF THE COUNCIL.

(a) No members of the advisory board or servant of the Council shall in any wise be concerned or interested in any bargain, contract or arrangement whatsoever made by or with the advisory board or Council.

(b) If any such members or servant is so concerned or interested, or under cover of his office or employment exacts or accepts any promise, fee, bribe or reward whatsoever other than his proper honorarium, salary, wages and allowances fixed in accordance with these regulations, he shall be incapable of afterwards holding or continuing in any office or employment under these regulations, or the Local Government Ordinance, 1939, as amended, or the Act.

PERSONS ENTITLED TO ATTEND MEETINGS .

32.(1) In addition to members and the secretary, the following persons shall be entitled to attend meetings of the board:-

/ (i) Any.....

- (i) Any member of the Council.
- (ii) The manager and his deputy.
- (iii) The magistrate.
- (iv) The Native Commissioner.
- (v) The senior police officer of the district and his deputy.
- (vi) The Superintendent.
- (vii) Any other person whose presence the chairman considers to be desirable or necessary.

(2) Any such persons shall be entitled to address the board upon any subject under discussion, but shall not have the right to vote thereat.

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ANNEXURE "G"

STANDING ORDERS, ADVISORY BOARDS : UNION OF SOUTH  
AFRICA

1. WARD COMMITTEES.

That each ward be divided into not less than six and not more than ten blocks from each of which one male registered tenant shall be appointed, by the Board member of the ward, to represent the residents of that block on a ward committee the chairman of which shall be the board member.

2. STANDING COMMITTEES.

That the Board be divided into the following four standing committees:-

- (i) Social Services Committee
- (ii) Development Committee
- (iii) Transport and Licences Committee
- (iv) Administration Committee.

3. CONSTITUTION AND FUNCTIONS OF STANDING COMMITTEES.

That the constitution and functions of each of the Committees shall be:-

(a) SOCIAL SERVICES COMMITTEE.

To be constituted by five members, one of whom shall be elected Chairman. The duties and functions of the Social Services Committee shall include the consideration of any matter connected with the following:-

- (i) Clinics
- (ii) Social Centre
- (iii) Creche
- (iv) Sports Grounds
- (v) Tennis Courts
- (vi) Churches

/(vii) .....



- (vii) Schools
- (viii) Educational matters generally
- (ix) Health matters generally
- (x) Children's Play Grounds etc.
- (xi) Any matters of a social or welfare nature.

(b) DEVELOPMENT COMMITTEE.

To be constituted by five members, one of whom shall be elected Chairman. The duties and functions of the Development Committee shall include matters dealing with the following:-

- (i) Road Construction
- (ii) Construction of Houses
- (iii) Electricity
- (iv) Sanitation
- (v) Parks
- (vi) Water Reticulation
- (vii) Any matters of a works nature.

(c) TRANSPORT AND LICENCES COMMITTEE.

To be constituted by five members, one of whom shall be elected Chairman. The duties and functions of the Transport and Licences Committee shall include the following matters:-

- (i) Buses
- (ii) Taxis
- (iii) Trading Licences
- (iv) Trading Sites
- (v) Dog Licences
- (vi) Stop Streets and Traffic
- (vii) All matters dealing with trading, licences and transport generally.

(d) ADMINISTRATION COMMITTEE.

To be constituted by all members of the Board one of whom shall be elected Chairman. That this committee be considered as the Policy making Committee and Finance Committee. That the Chairman of the Administration Committee be accepted as Vice-Chairman of the Advisory Board. That the

/Vice-Chairman.....

Vice-Chairman preside at any meeting of the Board, in the absence of the Chairman of the Advisory Board, who is the Chairman of the Non-European Affairs committee of the Town Council,

The functions of the Administration Committee shall include, inter alia, all matters connected with:-

- (i) Regulations and By-Laws
- (ii) Administration generally
- (iii) Police matters
- (iv) Staff matters
- (v) Wages
- (vi) Labour matters
- (vii) Native Revenue Account
- (viii) Disputes referred by Ward Committees.

#### 4. QUORUM OF STANDING COMMITTEES.

That the quorum of each of the following three Standing Committees shall be three members present including the Chairman:-

- (i) Social Services Committee
- (ii) Development Committee
- (iii) Transport and Licences Committee.

That the quorum of the Administration Committee shall be five members present, including the Chairman.

#### 5. COMPOSITION OF STANDING COMMITTEES AND PROCEDURE.

That the following procedure in respect of the Standing Committees be adopted:-

- (i) Each Advisory Board member must be elected to at least two committees;
- (ii) Members of the Board who do not belong to a particular Standing Committee may attend a meeting of that Standing Committee, take part in discussions thereat; but shall have no vote;
- (iii) Resolutions of all Standing Committees must be approved by the Administration Committee prior to their submission to the Advisory Board;

/(iv),.....

- (iv) Resolutions finally passed by the Administration Committee will be forwarded to the monthly advisory board meeting for adoption;
- (v) At the monthly meeting of the Advisory Board, the Chairman of the Standing Committee shall move the resolution seconded by a member of that Committee, provided that if by prior arrangement with the Board another member wishes to speak on that resolution, he will be permitted to do so.

6. ATTENDANCE AT MEETINGS.

- (i) That any member of the Advisory Board who fails to attend a duly convened meeting of a Committee of which he is a member, or, of the Administration Committee, or, of the Joint Advisory Boards, without leave of absence being granted to him, shall forfeit £1 (one-pound) of his monthly allowance per meeting.
- (ii) That any member arriving at a duly convened meeting of a committee of which he is a member, later than fifteen (15) minutes after the appointed time for the commencement of such a meeting, and whose excuse for being late is not acceptable to that committee, shall be considered as having been absent without leave of absence being granted to him, and shall forfeit £1 (one-pound) of his monthly allowance per meeting.

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NOTE:

- (i) Allowance to each member - £5 per month.
  - (ii) Allowance to Vice-Chairman - £10 per month.
  - (iii) Conference: £1 per day subsistence and first class return rail fare.
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ANNEXURE "H".

URBAN BANTU AUTHORITIES BILL.

UNION OF SOUTH AFRICA.

EXTRACT FROM

THE UNION OF SOUTH AFRICA

GOVERNMENT GAZETTE

EXTRAORDINARY

Vol. CLXVII No. 4791  
CAPE TOWN, 22ND FEBRUARY, 1952.

DEPARTMENT OF NATIVE AFFAIRS.

The following Bill is published for general information.

BILL

To provide for the establishment in urban areas of urban Bantu authorities and to define their powers, duties and functions, and to provide for the establishment in such areas of urban Bantu courts and to define their jurisdiction.

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(To be introduced by the MINISTER OF NATIVE AFFAIRS.)

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BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:-

DEFINITIONS.

1. In this Act, unless the context otherwise indicates -

"location" means any area of land defined and set apart under paragraph (a) of sub-section (1) of section two of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);

"Minister" means the Minister of Native Affairs;

/"Native" .....

"Native" means any person who is a member of an aboriginal race or tribe of Africa. Where there is any reasonable doubt as to whether any person falls within this definition the burden of proof shall be upon such person;

"Native village" means any area of land defined and set apart under paragraph (b) of sub-section (1) of section two of the Natives (Urban Areas) Consolidation Act, 1945;

"urban area" means an area under the jurisdiction of an urban local authority;

"urban local authority" means any municipal council, borough council, town council or village council or any town board, village management board, local board, health board or health committee.

Establishment of Urban Bantu Authorities.

2. (1) An urban local authority in whose area of jurisdiction there has been established a location or native village or any area has, in accordance with the provisions of paragraph (h) of sub-section (2) of section nine of the Natives (Urban Areas) Consolidation Act, 1945, been approved for the residence of Natives may, by notice in the Gazette, establish in its area so many urban Bantu authorities as the Minister may approve.

(2) A notice under sub-section (1) shall define the area which the Minister has approved as the area in which each urban Bantu authority established under sub-section (1) shall exercise jurisdiction.

(3) The area of jurisdiction of an urban Bantu authority shall consist of one or more wards as the urban local authority concerned may determine by notice in the Gazette.

(4) In determining the number of wards in terms of sub-section (3) and in defining their areas,

/the .....

the urban authority concerned shall ensure that as far as possible the native inhabitants of each ward shall be members of the same ethnic group or tribe.

(5) There shall be constituted in respect of every ward referred to in sub-section (3) and (4) a ward committee consisting of so many members as the Minister, after consultation with the urban local authority concerned, may in respect of each urban Bantu authority fix by notice in the Gazette.

(6) The members of a ward committee shall be elected in the manner prescribed by regulation by the native male inhabitants of that ward who are in terms of sub-section (8) entitled to vote for the election of members of a ward committee.

(7) An urban Bantu authority shall consist of a chairman who shall be appointed by the Minister after consultation with the urban local authority concerned and so many other members, nominated by the ward committee of each ward within the area of jurisdiction of that urban Bantu authority from the members of that committee, as the Minister, after consultation with the urban local authority concerned, may in respect of each urban Bantu authority fix by notice in the Gazette:

Provided that the urban local authority concerned may appoint as additional members of an urban Bantu authority so many natives as the Minister may in each case approve.

(8) No person other than a male Native who has paid the general tax for the current year in terms of the Native Taxation and Development Act, 1925 (Act No. 41 of 1925) shall be entitled to vote for the election of members of a ward committee or be qualified to be elected as a member of such a committee or to be nominated or appointed as a member of an urban Bantu authority: Provided that no Native shall be qualified to be elected as a member of a ward committee of a ward in which he

/is .....

is not ordinarily resident, and that no Native shall be appointed by an urban local authority in terms of sub-section (7) as an additional member of an urban Bantu authority unless he is ordinarily resident within the area of jurisdiction of that urban Bantu authority.

(9) (a) An urban local authority may at any time, with the consent of the Minister, by notice in the Gazette alter and re-define the area of jurisdiction of any urban Bantu authority established within its area of jurisdiction, or abolish any such urban Bantu authority.

(b) Upon the abolition of an urban Bantu authority, all the moneys in the treasury established in respect of that urban Bantu authority in terms of section seven, shall be paid into the Native revenue account kept in terms of section nineteen of the Natives (Urban Areas) Consolidation Act, 1945, by the urban local authority in whose area of jurisdiction the urban Bantu authority was established, and all the assets, liabilities and obligations of the urban Bantu authority shall vest in and become binding upon that urban local authority, and any native advisory board which has in terms of section three of this Act ceased to exist in consequence of the establishment of the said urban Bantu authority, shall be re-established in terms of section twenty-one of the Natives (Urban Areas) Consolidation Act, 1945.

Urban Bantu Authorities shall upon their establishment replace Native Advisory Boards.

3. (1) Upon the establishment under this Act of an urban Bantu authority in respect of any area, any native advisory board which in terms of section twenty-one of the Natives (Urban Areas) Consolidation Act, 1945, been established for that area or any portion thereof, shall cease to exist.

(2) Any reference in any law to a native advisory board established under the said section shall

/include .....

include a reference to an urban Bantu authority established under this Act.

Powers, Functions and Duties of Urban Bantu Authorities.

4. (1) An urban Bantu authority may, under the supervision of the urban local authority concerned and subject to such conditions as the urban local authority may prescribe -

(a) undertake the collection, on behalf of the urban local authority, of such fees or charges that may from time to time become due to the urban local authority by the native inhabitants of the area within the jurisdiction of the urban Bantu authority as the urban local authority may prescribe by notice in the Gazette;

(b) exercise and perform within its area of jurisdiction such of the powers, duties or functions of the urban local authority (other than legislative powers) in connection with any one or more of the following matters, as the urban local authority may prescribe by notice in the Gazette:

- (i) the administration of any law relating to the overcrowding of Natives;
- (ii) the general welfare of the native inhabitants, the maintenance of order and the protection of the native inhabitants and their property;
- (iii) the construction and maintenance of roads, bridges and furrows, drainage and sewerage systems, the supply of water and light; and the provision of transport, health and other facilities;
- (iv) the allocation of accommodation, houses, plots and business premises and the issue of certificates for trading and other business licences;
- (v) the prevention of the unauthorized  
/occupation .....



occupation of houses and the removal of unauthorized occupants;

(vi) the removal or destruction of unauthorized or abandoned buildings or structures;

(vii) generally such other matters within the control of the urban local authority as the Minister may approve.

(2) A notice issued under sub-section (1) may be amended or withdrawn by the urban local authority concerned by the notice in the Gazette: Provided that no notice which withdraws or curtails a power, function or duty previously conferred, entrusted or imposed upon an urban Bantu authority shall be issued except with the approval of the Minister.

(3) An urban Bantu authority may upon such conditions and at such remuneration as the Minister, after consultation with the urban local authority concerned, may approve, employ such persons as it may consider necessary to assist it in the exercise of its powers and the performance of its functions and duties under this Act.

(4) An urban local authority or a committee thereof shall, not less than once every six months, meet the chairman and such of the members of every urban Bantu authority established within its area of jurisdiction, as the urban local authority may indicate, for the purpose of consultation on matters falling within the purview of the urban Bantu authority.

#### Levy of Rates by Urban Bantu Authorities.

5. An urban Bantu authority may with the approval of the Minister given after consultation with the urban local authority concerned, by notice in the Gazette, levy a rate not exceeding one pound in any one year upon every Native male adult who is ordinarily resident within its area of jurisdiction upon the date when such rate becomes due.

/6. ....

Functions and Duties of Ward Committees.

6. A ward committee constituted in terms of sub-section (5) of section two shall advise and make recommendations to the urban Bantu authority having jurisdiction in the ward concerned in connection with all matters affecting the interests of the native inhabitants of that ward and shall assist that urban Bantu authority in the carrying out of its functions and duties under this Act.

Finances of Urban Bantu Authorities.

7. (1) There shall be established by every Bantu authority, a treasury into which shall be paid such amounts as are hereinafter specified, and from which all expenditure incurred by the Bantu authority concerned shall be met.
- (2) The appropriation of moneys from the treasury of an urban Bantu authority shall unless the Minister otherwise directs in the case of any specified urban Bantu authority, not take place otherwise than in accordance with estimates of revenue and expenditure approved by the Minister after consultation with the urban local authority concerned.

Monies Payable by Urban Local Authorities to Urban Bantu Authorities.

8. (1) An urban authority shall pay out of the native revenue account kept by it in terms of section nineteen of the Natives (Urban Areas) Consolidation Act, 1945, to an urban Bantu authority all costs incurred by the latter and approved by the Minister in the collection, on behalf of that urban local authority, of the fees or charges referred to in paragraph (a) of sub-section (1) of section four.

- (2) An urban local authority may pay such moneys or such portion of the moneys standing to the credit of the native revenue account kept by it in terms of the aforesaid section to any urban

/Bantu .....

Bantu authority established within its area as it may deem fit, and may specify the purposes for which such moneys or any portion thereof shall be utilized by the urban Bantu authority.

Amounts to be paid into Treasury of Urban Bantu Authority.

9. There shall be paid into the treasury of an urban Bantu authority -
- (a) all moneys paid to the urban Bantu authority in terms of section eight;
  - (b) all fees and fines paid to the urban Bantu authority in terms of sub-section (15) of section eleven or sub-section (6) of section twelve;
  - (c) all amounts collected in respect of any rate levied under section five;
  - (d) all amounts derived from any property of the urban Bantu authority;
  - (e) any donation made by any person for the benefit of the urban Bantu authority;
  - (f) all other amounts derived from any source whatsoever for the benefit of the urban Bantu authority.

Legal proceedings by or against Bantu Authority.

10. Any legal proceedings by or against an urban Bantu authority may be instituted by or against the Chairman of that authority in his official capacity.

Establishment of urban Bantu Courts.

11. (1) The Governor-General may, by proclamation in the Gazette, established in respect of any area within the jurisdiction of an urban Bantu authority, one or more urban Bantu courts to hear and determine civil claims and disputes brought before such court by Natives against Natives resident within the area of jurisdiction of such court.
- (2) A proclamation under sub-section (1) shall define the area of jurisdiction of each urban
- /Bantu .....

Bantu court established thereby.

(3) An urban Bantu court shall not have power under sub-section (1) to determine any question of nullity, divorce or separation arising out of a marriage or customary union or any claim the amount of which exceeds twenty-five pounds or any dispute in regard to any matter the value of which exceeds twenty-five pounds.

(4) An urban Bantu court shall consist of a presiding officer and two other members all of whom shall be Natives appointed by the Minister.

(5) At least one of the members of every urban Bantu court shall be a member of the urban Bantu authority in whose area of jurisdiction the court has been established.

(6) A decision of the majority of the members of an urban Bantu court shall be the decision of the court.

(7) The Governor-General may at any time withdraw or amend any proclamation issued under sub-section (1) and the Minister may likewise revoke any appointment made under sub-section (4).

(8) A judgement given by an urban Bantu court shall be executed in accordance with the procedure prescribed by regulation.

(9) Any party to a suit in which an urban Bantu court has given judgement may appeal therefrom to any court of Native Commissioner which would have had jurisdiction had the proceedings in the first instance been instituted in a court of Native Commissioner, and if the appellant notes his appeal in the manner and within the period prescribed by regulation, the execution of the judgement shall be suspended until the appeal is decided (if it is prosecuted within the time and in the manner so prescribed) or until the expiration of the last-mentioned period if the appeal is not prosecuted within that period, or until the appeal is with-

/drawn .....

drawn or lapses: Provided that no assistant Native Commissioner shall hear an appeal under this sub-section unless no Native Commissioner (as distinct from an assistant Native Commissioner) has any judicial jurisdiction in the said area.

(10) The court of Native Commissioner may confirm, alter or set aside the judgement after hearing such evidence, which shall be duly recorded, as may be tendered by the parties to the dispute, or may be deemed desirable by the court.

(11) An urban Bantu court is not required to record any evidence heard by it but shall keep a register in which shall be recorded the number of every case heard by it, the names of the parties and their witnesses, particulars of the claim or dispute and the judgement given and the date thereof.

(12) No advocate or other legal practitioner other than a Native shall appear or act for any party to a suit pending in an urban Bantu court.

(13) The presiding officer of an urban Bantu court may, with the approval of the Minister, appoint such officers or messengers of the court as he may consider necessary for the proper functioning of the court and the execution of its judgements.

(14) The members of an urban Bantu court and any messenger or other officer of such a court appointed under sub-section (13) may be paid such remuneration or allowances out of the treasury of the urban Bantu authority in whose area of jurisdiction the urban Bantu court has been established, as the Minister may approve.

(15) Any court fees that may become due under any regulation made under section thirteen shall be paid into the treasury of the urban Bantu authority within whose area of jurisdiction the defendant resides.

Criminal Jurisdiction of Urban Bantu Courts.

12. (1) The Governor-General may by proclamation in the Gazette confer upon an urban Bantu court criminal jurisdiction to try and to punish any Native who has committed within the area of jurisdiction of that court, an offence specified in that proclamation.
- (2) The Governor-General may at any time withdraw or amend any proclamation issued under sub-section (1).
- (3) In the exercise of jurisdiction conferred upon it under sub-section (1), an urban Bantu court may impose upon a person convicted by it a fine not exceeding five pounds or, in default of payment, imprisonment with or without hard labour for a period not exceeding fourteen days, or may caution and discharge such a person.
- (4) Any person who has been convicted by an urban Bantu court under this section may appeal in the manner and within the period prescribed by regulation against his conviction and against any sentence which may have been imposed upon him, to the magistrate's court in whose area of jurisdiction the alleged offence took place, and in hearing the appeal the magistrate's court shall hear and record such available evidence as may be relevant to any question in issue and it may thereupon confirm or set aside or vary the conviction and sentence or give such judgement as the urban Bantu court ought, in the opinion of the magistrate's court, to have given in the first instance.
- (5) If an appeal under sub-section (4) is noted in the manner and within the period prescribed by regulation, the execution of the sentence shall be suspended until the appeal is decided (if it is prosecuted within the time and in the manner so prescribed) or until the expiration of the last-mentioned period if the appeal is not prosecuted  
/within .....

within that period, or until the appeal is withdrawn or lapses.

(6) An urban Bantu court is not required to record any evidence heard by it but shall keep a register in which shall be recorded the number of every criminal case heard by it, the name of the person charged, the names of the witnesses called, particulars of the charge, the verdict and the sentence imposed and the date thereof.

(7) Any fine paid under this section shall be paid into the treasury of the urban Bantu authority in whose area of jurisdiction the offence was committed.

Regulations.

13. (1) The Minister may make regulations as to -
- (a) the election of members of a ward committee, including the proportional representation of any ethnic or tribal groups in any ward;
  - (b) the nomination and appointment of members of an urban Bantu authority;
  - (c) the period for which members of a ward committee or an urban Bantu authority shall hold office, and the circumstances under which they shall vacate their office;
  - (d) the filling of any vacancy on a ward committee or urban Bantu authority;
  - (e) the procedure to be followed at meetings of a ward committee or an urban Bantu authority, including the quorum for such meetings;
  - (f) the administration, supervision and control of the treasuries of urban Bantu authorities, and the keeping and auditing of the accounts of such treasuries;
  - (g) the appointment and duties of the employees of urban Bantu authorities;
  - (h) the appointment, powers and duties of  
/messengers .....

messengers and other officers of an urban Bantu court;

(i) the registers to be kept by urban Bantu courts;

(j) the procedure to be followed in connection with the hearing of any civil matter by an urban Bantu court or any action taken under section eleven, including the fees payable by any party to a suit pending in an urban Bantu court;

(k) the execution of any civil judgement given by an urban Bantu court, the manner in which and the period within which an appeal against such a judgement shall be noted and prosecuted and the procedure to be followed at the hearing of such an appeal;

(l) the recovery of any fine and the manner of execution of any penalty imposed under section twelve, the manner in which and the period within which an appeal against a conviction or sentence of an urban Bantu court shall be noted and the procedure to be followed at the hearing of such an appeal; and

(m) generally as to all matters which by this Act are required or permitted to be prescribed or which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) Any regulations made under sub-section (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of twenty-five pounds or imprisonment for a period of three months.

Short Title.

14. This Act shall be called the Urban Bantu Authorities Act, 1952.



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