PRICE R1,25

# legislation and race relations

REVISED EDITION 1971

by

Muriel Horrell



South African Institute of Race Relations

# *legislation and race relations*

A summary of the main South African laws which affect race relationships

*by*

**Muriel Horrell**

*Research Officer*
*S.A. Institute of Race Relations*

Johannesburg, 1971
South African Institute of Race Relations

## NOTE

Earlier editions of this booklet were published by the South African Institute of Race Relations in 1963 and 1966. This edition has been re-written to include legislation to the end of 1971. The object is to present a factual summary of the laws that bear on race relations.

Details of the various measures have inevitably had to be omitted; but it is hoped that the summaries will prove useful as a source of reference. A fuller account of the legislation, together with reactions in South Africa, is given in the Institute's annual Surveys of Race Relations.

Pre-1948 legislation has been separated from that passed since then. Measures introduced in the earlier period were of an *ad hoc* nature. After 1948 the legislative programme introduced to implement the policy of separate development (or apartheid) had a more clearly defined pattern.

Dr. Ellen Hellmann and Mr. Leo Marquard very kindly read the manuscript of the first edition, making useful suggestions for improvements, which were much appreciated.



*Printed by*
*THE NATAL WITNESS (PTY) LTD.*
*244 Longmarket Street*
*Pietermaritzburg*
*Natal*

# CONTENTS

**ACTS OF 1909 TO 1948**

Political rights ... ... ... ... ... ... ... ... ... ... ... ... 1
Africans in urban areas ... ... ... ... ... ... ... ... ... ... 2
The African Reserves ... ... ... ... ... ... ... ... ... ... 3
Other African affairs ... ... ... ... ... ... ... ... ... ... 4
Asian affairs ... ... ... ... ... ... ... ... ... ... ... ... 5
Employment ... ... ... ... ... ... ... ... ... ... ... ... 6
Housing ... ... ... ... ... ... ... ... ... ... ... ... ... 8
Immorality ... ... ... ... ... ... ... ... ... ... ... ... ... 8

**ACTS OF 1948 TO 1971**

The apartheid policy ... ... ... ... ... ... ... ... ... ... 9
Population registration, citizenship, and immorality ... ... ... ... 9
Representation on central governing bodies ... ... ... ... ... 13
Separate representative bodies for the Coloured and Indian communities ... ... ... ... ... ... ... ... ... ... ... ... ... 19
Separate representative bodies for Africans ... ... ... ... ... 22
Local government in urban areas ... ... ... ... ... ... ... 26
Territorial and residential separation, and occupation of land or premises ... ... ... ... ... ... ... ... ... ... ... ... ... 28
Urban African affairs, restrictions on the presence of Africans in certain areas, and on their right to seek employment ... ... ... 35
Presence of Africans in rural areas ... ... ... ... ... ... ... 46
The African Reserves ... ... ... ... ... ... ... ... ... ... 48
Immigration, and employment for foreign Africans ... ... ... 54
Employment ... ... ... ... ... ... ... ... ... ... ... ... 57
Education ... ... ... ... ... ... ... ... ... ... ... ... ... 64
Taxation of Africans ... ... ... ... ... ... ... ... ... ... 73
Housing ... ... ... ... ... ... ... ... ... ... ... ... ... 74
Separate amenities, entertainment, and sport ... ... ... ... ... 77
Other matters affecting Coloured, Asian, and African people:
Coloured areas ... ... ... ... ... ... ... ... ... ... ... 83
Coloured Cadets ... ... ... ... ... ... ... ... ... ... ... 85
Indian affairs ... ... ... ... ... ... ... ... ... ... ... ... 85
African affairs ... ... ... ... ... ... ... ... ... ... ... 85
Liquor ... ... ... ... ... ... ... ... ... ... ... ... ... 86
Legal Aid ... ... ... ... ... ... ... ... ... ... ... ... ... 88
Development of Reserves in South West Africa ... ... ... ... 88
Foreign Affairs ... ... ... ... ... ... ... ... ... ... ... ... 88
Defence, and measures for the control of activities deemed undesirable ... ... ... ... ... ... ... ... ... ... ... ... ... 88
Control of publications, films, and entertainments ... ... ... ... 110

**INDEX** ... ... ... ... ... ... ... ... ... ... ... ... ... ... 115

# PRINCIPAL LEGISLATIVE MEASURES AFFECTING RACE RELATIONS (1909 TO 1948)

## POLITICAL RIGHTS

### 1. South Africa Act of 1909

(Passed by the British Parliament but drafted by a National Convention in South Africa.)

At the time of Union the franchise differed in the four territories. All male citizens of the Cape who were literate and earned £50 a year or owned fixed property to the value of £75 qualified for the franchise on the common roll. In theory the same position obtained in Natal, except that the income or property qualification was £96; but in practice there was a difficult and restrictive procedure for the registration of non-white voters. In the Transvaal and Free State the franchise had been extended to white men only.

After much debate the National Convention decided to maintain the existing position, except the right of non-whites to sit in Parliament, which had been implicitly theirs in the Cape, was withdrawn, and it was decided that no further Asians or Africans would be registered as voters in Natal: Coloured men retained the franchise there.

This arrangement in regard to franchise rights could be altered only by a two-thirds majority of both Houses of Parliament in joint session.

### 2. Extension of the White franchise

The influence of the Coloured vote was considerably diminished when white women were enfranchised in 1930, and when, the following year, the income and property qualifications for white men in the Cape and Natal were removed.

### 3. Representation of Natives Act 1936

This Act, passed by the required two-thirds majority, provided that African voters in the Cape should be placed on a separate roll to elect three White members to the House of Assembly and two to the Cape Provincial Council. Africans throughout the country would elect four White Senators. An advisory Natives' Representative Council was created, under the chairmanship of the Secretary for Native Affairs, with five White

official members, four nominated Africans and twelve elected African members.

African leaders became increasingly dissatisfied with purely advisory powers. In 1947 General Smuts proposed that the Natives' Representative Council should consist solely of African elected members and should be granted certain legislative, financial, and administrative powers. These suggestions did not satisfy the aspirations of the Africans, who were pressing for full franchise rights; and they were dropped by the National Party Government in 1948. The Natives' Representative Council was abolished in 1951.

### 4. Establishment of Coloured Advisory Council

In 1943 the Government established an Advisory Council on Coloured Affairs, with twenty appointed Coloured members, to serve as a channel for the expression of the views of Coloured people. Its creation led to a serious political cleavage among the Coloured community. Some accepted the move as a genuine attempt on the Government's part to improve their lot, while others interpreted the plan as evidence that, in spite of assurances to the contrary, the Government contemplated removing the Coloured from the common roll. The Council was abolished by the National Party Government in 1950.

### 5. Asiatic Land Tenure and Indian Representation Act of 1946

The first part of this Act, dealing with land rights, is described below. The second chapter provided that Indian men in the Transvaal and Natal who possessed certain educational and financial qualifications would elect three White representatives to the House of Assembly and two members (who might be White or Asian) to the Natal Provincial Council. There would be two additional White Senators, one appointed and one elected, to represent Indians.

Indian leaders, who, like other non-whites, were demanding full franchise rights, rejected the form of representation offered them. The relevant chapter of the Act was repealed by the incoming National Party Government in 1948.

Indian men in the Cape continued to qualify for the common roll franchise on the same basis as Coloured men. There were no Indians in the Free State.

## AFRICANS IN URBAN AREAS

### 1. Natives (Urban Areas) Act of 1923 as amended in 1930

It was laid down in terms of this Act that each local authority, subject to a certain measure of Government control, was responsible for the Africans in its area. Local authorities were required

to provide segregated areas for African residence, and to set up Native advisory boards and Native revenue accounts. They were empowered to establish machinery for the registration of service contracts, to control the influx of Africans, and to remove "surplus" persons not employed in the area. Greater uniformity between the provinces was brought about in regard to the pre-Union pass laws: in the two northern provinces these were somewhat simplified. Provision was made for curfew regulations, which might be extended by the Governor-General to any urban area.

Except in the Free State and in areas proclaimed under the Gold Law in the Transvaal, Africans could still buy plots within the towns.

### 2. Native Laws Amendment Act of 1937

The acquisition of land in urban areas by Africans from non-Africans was prohibited except with the Governor-General's consent.

Local authorities had been slow to accept the responsibilities placed on them earlier: the new measure empowered the Government to direct them to set aside townships and to provide housing. Influx control was tightened. Local authorities could apply for their towns to be "proclaimed" as areas closed to the entry of Africans other than those in employment, those admitted to seek work, and bona fide visitors.

The 1937 Act provided that no new church, school, or other institution or place of entertainment catering mainly for Africans might in future be established in an urban area outside an African township except with the approval of the Minister of Native Affairs, given with the concurrence of the local authority concerned. Existing such institutions (established before 1938) were not affected.

## THE AFRICAN RESERVES

### 1. Natives Land Act of 1913

In this Act about 10½-million morgen of land (or approximately 9-million hectares) were scheduled as Native Reserves. Whites were prohibited from acquiring land in these areas; and, unless the Governor-General gave permission, Africans might not acquire further land from Whites in rural areas outside the Reserves. The courts ruled, later, that this last provision could not be held to apply in the Cape.

### 2. Native Affairs Act of 1920 as amended

Local councils had been established in African rural areas of the Cape from time to time from 1894 on. Those in the Transkei

came together to form the Transkeian Territories General Council, established in 1903. The Native Affairs Act of 1920 provided for the extension of this system in areas where the Africans so wished. The councils were granted certain powers of local self-government.

### 3. Native Trust and Land Act of 1936

Provision was made for an additional 7¼-million morgen of land—approximately 6,2-million hectares—(the released areas) to be added to the Reserves. Parliament undertook to vote £10 000 000 over a ten-year period for land purchase, and made over to a corporate body, the S.A. Native Trust, all Crown lands in the released areas. Tribes and individual Africans, as well as the Trust, could purchase land in these released areas.

The Trust and Land Act made it clear that the provision of the 1913 Act, described above, did apply in the Cape.

Chapter IV of the Act aimed at controlling the numbers of Africans on White-owned farms. It had to be brought into effect in any area by special proclamation: in the event only one such proclamation was issued and that was soon afterwards withdrawn.

## OTHER AFRICAN AFFAIRS

### 1. Native Administration Act of 1927

The Governor-General was empowered to govern by proclamation in all African areas (he had previously possessed these powers in certain areas only). The Act made provision for special courts for Africans, and for the recognition of customary law in civil cases in these courts.

A section of this measure, later incorporated in the Riotous Assemblies Act of 1930, rendered it an offence to say or do anything likely to promote any feeling of hostility between black and white.

Power was given to the Governor-General to issue orders without prior notice requiring any tribe, section of a tribe, or African to move from one place to another, and not to leave any stated area for a specified period.

The Act dealt, further, with tribal organization, land tenure and marriage and succession. It gave the Government wide power to make regulations dealing, *inter alia,* with the control of meetings and of African villages and settlements. Provision was made for exemptions from the pass laws.

### 2. Natives Taxation and Development Act of 1925

This measure brought about uniformity between the provinces. A general tax of £1 a year was to be paid by every adult male,

and, in addition, a local tax was payable by those in rural areas who did not pay quitrent. The general tax receipt was made producible on demand.

A Native Development Fund was created (later called the S.A. Native Trust), into which was paid a fixed sum of £340 000 a year from the Consolidated Revenue Fund plus a proportion of the general tax paid by Africans. This proportion was gradually increased from one-fifth in 1925 to the whole amount in 1943. African education, as well as measures to promote their general welfare, was financed from this account.

### 3. Native Education Finance Act of 1945

In terms of this Act the financing of African education was placed on a new basis. Expansion would no longer be governed by the amounts derived from the African general tax. Instead, all funds to be made available would be drawn direct from the Consolidated Revenue Fund, the estimates being placed on the votes of the Union Department of Education.

## ASIAN AFFAIRS

*N.B.*—**At the time of Union the entry of Indians to the Free State was prohibited. In the Transvaal, rights of occupation of land by Indians had been limited, and immigrants were required to qualify according to an education test and to register their thumb-prints.**

**Franchise rights had been withdrawn in Natal, and an onerous special tax of £3 imposed on ex-indentured workers and adult members of their families. Restrictions had been imposed on the granting of trading licences.**

### 1. Immigration Act of 1913

The Minister of the Interior was empowered (subject to an appeal to the courts) to debar anyone from entering South Africa on social or economic grounds. This measure was frankly aimed at limiting Indian immigration. Indians were debarred from moving from one province to another without a permit.

### 2. Indian Relief Act of 1914

This measure resulted from the Smuts/Gandhi agreement. It abolished the special £3 tax in Natal, and removed certain restrictions on the entry of wives of Indians resident in South Africa.

### 3. Land Tenure

A Class Areas Bill, restricting Indian residential and trading rights, was introduced in 1924, but the Smuts Government fell before it was passed. It was re-introduced in a more drastic form

soon after the Pact Government came into power but was dropped following vehement protest in South Africa and overseas.

A round-table conference held in 1927 between the governments of South Africa and India led to the Cape Town Agreement, in terms of which the repatriation of Indians was to be encouraged, but the standards of living of those who remained would be improved.

Certain progress was made in the field of education; but new controls were placed on the tenure of land by Indians in the Transvaal. A law passed in 1885, which in practice was not strictly enforced, had prohibited Indians from owning fixed property in the Transvaal except in specially demarcated areas. The Transvaal Asiatic Land Tenure Act of 1932 reapplied the earlier law; authorized the Minister of the Interior to exempt further areas if necessary; and protected existing holders of trading licences outside these areas. The provisions were amplified in an amending Act, passed in 1936. A concession made in this measure provided that land in exempted areas might be alienated to Indians by local authorities if both Houses of Parliament agreed.

In 1943 the Trading and Occupation of Land (Transvaal and Natal) Restriction Act was passed. This became known as the Pegging Act, for it pegged the existing trading and land position for three years pending investigations by a commission.

At the end of this period, in 1946, the Asiatic Land Tenure and Indian Representation Act was introduced. It provided that except in exempted areas, which were defined in a schedule to the Act, no Asian could acquire fixed property from a white person in the Transvaal or Natal except under permit. Similarly, non-Asians required permits if they wished to purchase from Asians within the exempted areas.

The second part of this measure, dealing with the franchise, is described on page 2.

## EMPLOYMENT

### 1. Masters and Servants Acts

A series of Masters and Servants Acts, passed in the four territories between 1856 and 1904, remained in force after Union. *Inter alia,* a breach of an employment contract either by an employer or an employee was rendered a criminal offence. Although these laws theoretically applied, in the main, to all races, they were held by the courts to be applicable only to unskilled work, performed, for the most part, by non-whites.

### 2. Native Labour Regulation Act, No. 15 of 1911

In this measure conditions were laid down for the recruitment of African labour. The Act was designed to prevent abuses; to

protect the employee by providing for minimum standards of accommodation and for compensation for injuries; and to protect the employer against breach of contract by Africans, which was made a criminal offence.

### 3. Mines and Works Act, No. 12 of 1911

The Mines and Works Act controls conditions of work and safety in mines and establishments using machinery. One section empowered the Governor-General to make regulations dealing, *inter alia,* with the issue of certificates of competency in skilled occupations. Largely as a result of pressure by white trade unionists, a regulation was made to the effect that these certificates were not to be granted to "coloured persons" in the Transvaal or Free State, and that any such certificates issued in the Cape or Natal would not be valid in the northern provinces.

### 4. Mines and Works Amendment Act of 1926

The regulations under the 1911 Act, described above, were declared by the courts to be *ultra vires.* A Mines and Works Amendment Act was then passed, limiting the granting of certificates of competency for many skilled occupations to "Europeans, Cape Coloured and Mauritius Creoles, or St. Helena persons".

### 5. Apprenticeship Act of 1922, re-enacted in amended form as Act 37 of 1944

The object of this Act was to provide for the registration, training, and conditions of service of apprentices. It did not make any discrimination on racial grounds, nevertheless in practice it operated to the disadvantage of non-whites since they lacked opportunities to obtain the prescribed educational qualifications and theoretical technical training. Moreover, white employers in many trades have been unwilling to accept non-white apprentices.

### 6. "Civilized labour" policy introduced in the Public Service, 1924

The object of this policy was to employ as many whites as possible, paying them at "civilized" rates even if they did unskilled work.

### 7. Industrial Conciliation Act, 1924, re-enacted in amended form in 1937

This provided for the registration and regulation of trade unions and employers' organizations, the establishment of industrial councils and conciliation boards, and the appointment of arbitrators. Most African men (but not women) were excluded

from the definition of "employee". The effect was that they could not be members of registered trade unions, and African unions could not be officially recognized. Strikes by Africans could be held to be criminal offences under the Masters and Servants Acts or the Native Labour Regulation Act.

### 8. Factories, Machinery and Building Works Act of 1941

This measure, which provided for the registration and control of factories and the regulation of hours and conditions of work, contained a section empowering the Governor-General to make different regulations for different classes of persons on the basis of race or colour in respect of the accommodation, facilities, and conveniences to be provided in factories.

### 9. War Measures 9 and 145 of 1942

War Measure No. 9 of 1942 gave the Minister of Labour power to intervene in industrial disputes that were likely to impede the war effort, by the appointment of arbitrators. Once an arbitrator had been appointed, strikes and lock-outs in that industry were illegal. This measure was withdrawn after the war.

War Measure No. 145 extended the provisions described above to cover all industrial disputes in which African workers were involved. This, too, was originally intended to be a temporary measure, but in fact it remained in force for eleven years.

## HOUSING

### Loan Funds

Sub-economic loan funds were originally made available to local authorities for slum clearance schemes, but a rapidly increasing shortage of housing in urban areas prompted the decision, in 1936, to make such funds available for housing projects, the losses to be shared by the State and the local authorities. Various formulae for the allocation of losses and the determination of rentals were adopted at different times. In 1944 a National Housing and Planning Commission was established.

## IMMORALITY

### Immorality Act of 1927

Extra-marital intercourse between Whites and Africans was prohibited.

# GOVERNMENT POLICY AND LEGISLATION ON MATTERS AFFECTING RACE RELATIONS, 1948 TO 1971

## THE APARTHEID POLICY

### Early definitions

When the National Party Government came into power in 1948 the country was in some doubt as to exactly what its leaders meant by their apartheid policy.

As propounded in 1948 it has undergone considerable change, and it is not the function of this work to analyse the various meanings that have been attached to the words "apartheid" or "separate development". It is sufficient to say that the legislation summarized below is all part of a conscious plan to implement the race policy commonly known by these expressions.

## POPULATION REGISTRATION, CITIZENSHIP AND IMMORALITY

### 1. Population Registration Act, No. 30 of 1950

Basic to the rest of the apartheid legislation was the classification of the population into racial categories.

Definitions of various racial groups were incorporated in numbers of laws passed from 1911. These definitions did not always correspond with one another: they were made for the purpose only of the legislation concerned. The system was not a rigid one. People could "pass" from one group into a more privileged one if their physical features made this possible.

The Population Registration Act of 1950 was designed to put an end to this, aiming at a rigid system of race classification based on appearance and general acceptance and repute, and providing for the compilation of a register of the population and the issuing of identity cards.

Race classification presented no problem in respect of about 99 per cent. of the population; but there were numerous "borderline" cases who did not fit clearly into any category. Much humiliation, anxiety, and resentment has resulted from official investigations into such cases.

The Act defined White, Coloured, and Native (later called "Bantu") people, and empowered the Governor-General (or, from 1961, the State President) to make further sub-divisions. This

was done in terms of a proclamation of 1959, as amended in 1961, when the Coloured community was divided into Cape Coloured, Cape Malay, Griqua, Indian, Chinese, "other Asiatic", and "other Coloured".

(During 1967 a judge of the Supreme Court, Cape Town, ruled that this proclamation was void for vagueness.)

### 2. Population Registration Amendment Act, No. 61 of 1962

Until 1962, acceptability by the community was the main test used by officials engaged in race classification; but the Amendment Act of that year altered the definition of a "white" person, making it obligatory for appearance and acceptance to be considered together.

### 3. General Law Amendment Act, No. 80 of 1964

The revised and more exclusive definition of a "white" person, made in terms of the 1962 Act, was rendered retrospective to 7 July 1950. It was provided that race classifications made before 1962 would be deemed to have been made in terms of the 1962 definition (but such classifications could be altered by the authorities, after investigation, using the revised definition as the criterion).

### 4. Population Registration Amendment Act, No. 64 of 1967

The provisions relating to the criteria to be used in race classification, more especially of the White and Coloured groups, were again tightened. Descent was made the determining factor. A number of tests were detailed, which were to be applied in connection with the definitions of "appearance" and "general acceptance" in cases where a person claimed to be White but could not prove that both his parents had been so classified.

The Amendment Act removed the right of third parties to lodge an objection to a person's race classification to an appeal court or court of law, except that guardians could appeal on behalf of minors. Third parties could, however, still lodge objections with the Secretary for the Interior.

In view of the court decision mentioned earlier, it was made clear that the State President might, by proclamation, prescribe the ethnic or other sub-groups into which Coloured persons and Africans might be classified. The State President was empowered to declare that anything done under the provisions of the relevant proclamations of 1959 and 1961 which could have been done under a new proclamation would be deemed so to have been done.

The provisions of this Amendment Act were made retrospective to 7 July 1950. Another Amendment Act, of 1969, made it clear that this retrospectivity included third party objections.

A new proclamation, No. R123, was gazetted on 26 May 1967 repeating the seven sub-groups into which the Coloured Group had been subdivided in 1959. It laid down that, in the case of mixed non-white marriages, the race of the father would be the determining factor in deciding upon the classification of his children.

### 5. Births, Marriages, and Deaths Registration Amendment Act, No. 18 of 1968

The Registrar-General was empowered to amend the registration of the birth of any person by substituting an entry reflecting the race classification assigned under the Population Registration Act.

Birth certificates in respect of persons born after 1 December 1967 would not be issued until after the registrar had ascertained what classification had been assigned to the person concerned. This classification would be specified on the certificate.

### 6. Population Registration Amendment Act, No. 106 of 1969

The Act previously provided that race classifications should be made by the Secretary for the Interior or any officer designated by him for the purpose. In practice, they had been made also by other officials of the Department. The 1969 Act widened the definition of officials who are entitled to make classifications, and validated all decisions made by such officials since 7 July 1950.

It was laid down that if a person claims that he or his ward is a member of any racial or ethnic group, the onus of proof lies with him.

The Act made it possible for a person to be classified as Bantu if he appears to be an African, even if he has White or Coloured blood, and even if he is generally accepted as being Coloured.

A person whose natural father has been classified into one of the sub-groups of the Coloured population must be classified as a member of this same sub-group. (This provision had been made in the proclamation of 1967, but not previously contained in the Act itself.)

Hearsay evidence of declarations of descent will no longer be admissible in evidence in proceedings before a race classification appeal board.

An appeal shall lie to the Supreme Court against a decision of an appeal board only if such decision results in an alteration of the existing classification of the person concerned. If an appeal board disagrees with the classification made by an authorized official, the latter continues to have the right of appeal to the Supreme Court. But if a person objects to his classification by an

official and the appeal board upholds the official's decision, the aggrieved person has no further right of appeal.

Sittings of a division of the Supreme Court which is hearing an appeal may be held in public or in camera, as elected by the person whose classification is in issue.

### 7. **Bantu Homelands Citizenship Act, No. 26 of 1970**

Every African in the Republic who is not a citizen of a self-governing territory (described later) will become a citizen of one or other territorial authority area. In international relations, however, he will continue to have the status of a citizen of the Republic itself. The certificates of citizenship, which may be issued by the territorial authority concerned or by officials of the Republic on its behalf, will replace identity cards, but Africans will still require reference books. When the cards are issued, a set of the holders' fingerprints will be taken and filed in the Bantu Reference Bureau. (This Act has not come into operation at the time of writing, in mid-1971.)

### 8. **Population Registration Amendment Act, No. 29 of 1970**

Identity cards held by White, Coloured, and Asian people are to be called identity documents, and will consist of booklets replacing birth certificates, drivers' licences, passports, permits for firearms, and other documents. They will contain full personal particulars, including the holder's race classification and record of voting, and, if he so desires, medical information such as his blood group and allergies.

His address and the constituency where he is registered as a voter will be recorded on a card inserted in a pocket of the booklet. When the holder changes his address he must return this card and obtain a replacement. When the photograph contained in the booklet is no longer recognizable, the holder must submit fresh photographs.

A preliminary document will be issued when a birth is registered, to be replaced by the more comprehensive booklet when the child reaches the age of 16 years.

Africans will not be issued with these booklets if they are in possession of certificates of citizenship of a Bantu homeland.

(This Act, too, had not come into operation by mid-1971.)

### 9. **Identity Documents in South West Africa Act, No. 37 of 1970**

Citizens of South West Africa will be issued with documents similar to those described above. But, as the Population Registration Act is not in force in that territory, the holder's population group will be indicated in accordance with information he himself furnishes.

10. **Prohibition of Mixed Marriages Act, No. 55 of 1949**

Marriages between whites and non-whites were made illegal. Pending the completion of race classification the onus of deciding the race of persons wishing to marry was placed on marriage officers. If a mixed marriage, solemnized in good faith by a marriage officer, is subsequently declared invalid, any children born of such marriage before it is annulled will be deemed legitimate.

11. **Immorality Amendment Act, No. 21 of 1950**

This measure extended to non-whites generally the provisions of the principal Act of 1927 which prohibited illicit carnal intercourse between Africans and Whites.

12. **Prohibition of Mixed Marriages Amendment Act, No. 21 of 1968**

If any male person who is a South African citizen or is domiciled in the Republic enters into a marriage outside the Republic which, in terms of the principal Act, cannot be solemnized within the country (because one partner is white and the other non-white), such marriage shall be void and of no effect in the Republic.

(The partners to such a marriage could, thus, be prosecuted under the Immorality Act if they returned to South Africa and lived together.)

## REPRESENTATION ON CENTRAL GOVERNING BODIES

### THE SENATE

In terms of the South Africa Act of 1909 as amended by Act 54 of 1926, the Representation of Natives Act (No. 12 of 1936), and the South West Africa Affairs Amendment Act (No. 23 of 1949), the composition of the Senate in 1954 was:

(a) eight members nominated by the Governor-General, half of them being selected mainly on the grounds of their thorough acquaintance with the reasonable wants and wishes of the Coloured races in South Africa;

(b) eight members from each of the four provinces, elected by the M.P.s and M.P.C.s of the province concerned by the system of proportional representation;

(c) four from South West Africa, two of them elected by M.P.s and M.L.A.s, and the others nominated by the Governor-General, one of the latter being selected on the grounds of his knowledge of the reasonable wants and wishes of the Coloured races of the territory;

(d) four Whites elected by Africans of South Africa through a system of electoral colleges.

The total membership was, thus, 48. As mentioned earlier, the Asiatic Land Tenure and Indian Representation Act of 1946 provided for two additional White Senators, one appointed and the other elected, to represent Indians. This provision was never implemented, Indian leaders standing out for full franchise rights, and it was repealed in 1948, soon after the National Party Government came into power.

In 1955, during the constitutional struggle which is described below, the composition of the Senate was altered in terms of Act 53 of that year. The membership was increased to 89, with 16 instead of eight nominated members; 65 instead of 32 elected members from South Africa; (as before) four from South West Africa; and four elected by Africans. Elections (except of the African representatives) would be by majority vote on the "ticket" system.

The Separate Representation of Voters Act, No. 46 of 1951 (described below), provided for a further White Senator to be nominated by the Government on the ground of his thorough acquaintance with the reasonable wants and wishes of the Coloured people of the Cape, who were to be removed from the common voters' roll.

Representation of Africans by four elected Senators was abolished in terms of Promotion of Bantu Self-Government Act, No. 46 of 1959.

The Senate Act, No. 53 of 1960, restored the system of proportional representation, and reverted to the pre-1955 position in so far as the eight nominated members and the four representatives from South West Africa were concerned. The additional seat created in 1951, for a Senator acquainted with the wishes of the Coloured people of the Cape, was retained for the time being, but was abolished in 1968.

The Act provided for the number of Senators to be elected from each province of South Africa to be determined by dividing the number of M.P.s and M.P.C.s from the province concerned by ten. There would, however, be a minimum of eight elected Senators per province.

**THE HOUSE OF ASSEMBLY, 1910-1965**

In terms of the South Africa Act and Acts 54 of 1926, 12 of 1936, and 23 of 1949, the composition of the Assembly in 1950 was:

(a) 150 members elected by White voters (men and women) throughout South Africa, together with Coloured and Asian men in the Cape and Coloured men in Natal who could qualify for registration (see page 1);

(b) three White members elected by African men in the Cape;

(c) six members elected by White voters (men and women) in South West Africa.

The provision made in 1946 for three White representatives of Indian male voters in the Transvaal and Natal was repealed in 1948, and African representation was abolished in terms of the Promotion of Bantu Self-Government Act, No. 46 of 1959.

In 1951 the Government decided to remove Coloured men in the Cape and Natal, and Asian men in the Cape, from the common voters' roll. It introduced the Separate Representation of Voters Act, No. 46 of that year; but this measure was declared invalid by the Appellate Division of the Supreme Court. This led to a prolonged constitutional struggle during the course of which the Government unsuccessfully tried the following expedients to attain its objective:

(a) High Court of Parliament Act, No. 35 of 1952. Declared invalid by the Appellate Division.

(b) South Africa Act Amendment Bill of 1953. Failed to gain a two-thirds majority at its third reading at a Joint Sitting.

(c) Appellate Division Bill of 1953. Withdrawn.

(d) Separate Representation of Voters Act Validation and Amendment Bill of 1954. Failed to gain a two-thirds majority.

Finally, Parliament passed three measures which gave the Government the powers necessary to attain its end constitutionally and to prevent the courts of law from interfering. These were:

(a) Appellate Division Quorum Act, No. 27 of 1955. Increased the quorum in the Appellate Division from four to five, with the proviso that in cases where the validity of any Act of Parliament is in question the quorum shall be eleven, judgment to be the decision of at least six of the judges. Five further judges of appeal were then appointed to bring the total number to eleven.

(b) Senate Act, No. 53 of 1955, described earlier, which increased the membership of the Senate in such a way that it proved possible for the Government to obtain a two-thirds majority at a Joint Session when the Separate Representation of Voters Act was validated. After this had been done, the number of Senators was reduced, in 1960.

(c) South Africa Act Amendment Act, No. 9 of 1956. This validated the Separate Representation of Voters Act, removed the entrenchment of voting rights, and provided that no court of law shall be competent to enquire into or pronounce upon the validity of any law passed by Parliament other than a law which interferes with the

legal equality of the two official languages or with the procedure for the amendment of the constitution itself.

In its final form the Separate Representation of Voters Act, as amended by Act 30 of 1956, provided that the Coloured voters of the Cape (including Asians) should be removed from the common roll and placed on a separate roll to elect four White representatives to the Assembly and two to the Cape Provincial Council. Registered Coloured voters in Natal (there are none in the remaining provinces) would remain on the common roll until their death, but no further Coloured persons would be registered as voters there. A Union Council for Coloured Affairs (described on page 19) would be created.

The Constitution Amendment Act, No. 83 of 1965, increased the number of constituencies in South Africa from 150 to 160, and made certain changes in the method of delimitation. There would, as before, be six further members from South West Africa, and, for the time being, four elected by registered Coloured and Asian voters of the Cape.

## PROVINCIAL COUNCILS, 1910-1965

Non-whites have never been represented in the Transvaal or Free State Provincial Councils. Until 1951, Coloured men could qualify for the franchise on the common roll in Natal, but since the 1951 Act was validated in 1956 no further Coloured voters have been registered there. Asian and African men in Natal lost their common-roll franchise rights at the time of Union (except that those then registered could retain the vote). In terms of the Asiatic Land Tenure and Indian Representation Act of 1946, Indians were to be placed on a separate roll to elect two representatives, who might be Whites or Indians, to the Natal Provincial Council; but this provision was repealed in 1948.

In the Cape, African men could qualify for the common roll until 1936, when they were placed on a separate roll to elect two White M.P.C.s. This representation was abolished in terms of the Promotion of Bantu Self-Government Act, No. 46 of 1959. Coloured and Asian men who qualified for the vote remained on the common roll until the Separate Representation of Voters Act was validated in 1956, when they, too, were placed on a separate roll to elect two White M.P.C.s.

## SUBSEQUENT MEASURES RELATING TO POLITICAL REPRESENTATION

### 1. Regulations governing participation of Coloured people in politics

In terms of Government Notice R1308 of 1965, Coloured teachers were prohibited from being members of the National, United, Progressive, or Liberal Parties.

New regulations for rural Coloured areas were published in Government Notice 1375 of 1965. As previously (regulations of 1960 and 1961) it was provided that, with certain exceptions, it is an offence to hold or address a gathering of more than five persons in such areas unless with official permission. Among the gatherings previously exempted were meetings presided over by a Senator, M.P., or M.P.C., but the new regulations omitted this exemption.

2. **Separate Representation of Voters Amendment Act, No. 72 of 1965**

Act No. 46 of 1951 provided that the election of M.P.s and M.P.C.s to represent Coloured voters should take place not less than eight days before the polling day fixed for White voters. The 1965 Amendment Act stipulated that the existing Coloured representatives, and representatives elected in future, would hold office for a fixed period of five years from the time of their election.

3. **Separate Representation of Voters Amendment Act, No. 34 of 1966**

The term of office of the existing representatives of the Coloured community in the Assembly and Cape Provincial Council was extended to 27 October 1967, or such earlier date as the State President might determine. If a vacancy occurred before this date, it would not be filled until the next election of representatives of Coloured people.

A further Amendment Act, No. 66 of 1967, extended this period to 30 October 1969.

(For a first time, in 1965, the Progressive Party contested the two seats for Coloured representatives in the Cape Provincial Council elections, capturing both of them from the United Party. It then nominated candidates for all four seats for Coloured representatives in the House of Assembly elections, to be held in 1966. A Prohibition of Improper Interference Bill was then introduced, but before its second reading was referred to a Select Committee.)

4. **Prohibition of Political Interference Act, No. 51 of 1968**

(This Act was based on a majority report of the Select Committee, which had been converted into a Commission.)

It was rendered illegal for anyone:

(a) to belong to a racially-mixed political party;

(b) to assist a political party that had members drawn from a population group other than his own, or to assist a candidate of another population group standing for election to a statutory governing body;

(c) to address any meeting to further the interests of a political party or a candidate for election to a governing body if all or the greater majority of those present belonged to a population group other than his own;

(d) to receive any money from outside the Republic, or cause such money to be brought in, if it might be used to further the interests of a political party or a candidate for election, or to combat any aim or principle of a political party.

No prosecutions could be instituted under the Act unless on the direction of the attorney-general. Minimum sentences were prescribed for those found guilty of offences.

When this Act became law, the racially-mixed Liberal Party decided to disband. The Progressive Party decided, "under protest and compulsion", to confine its membership to whites. (The National Party and United Party had previously not accepted non-white members.)

5. **Separate Representation of Voters Amendment Act, No. 50 of 1968**

It was provided that Coloured representation in the House of Assembly and Cape Provincial Council would cease when these bodies were dissolved before the next elections (held in 1970). Any vacancies existing or occurring before then would not be filled.

The Government would not fill the vacant seat for a Senator nominated on the ground of his thorough acquaintance with the reasonable wants and wishes of the Coloured people of the Cape.

6. **Electoral Laws Amendment Act, No. 99 of 1969**

A person will be disqualified for ever as a voter in elections for statutory governing bodies if he has been convicted of an offence under the Suppression of Communism or Terrorism Acts, and has been sentenced to a term of imprisonment (even if suspended) without the option of a fine. (There was a similar provision in Section 23 of the General Law Amendment Act, No. 101 of 1969.)

**GOVERNMENT OF SOUTH WEST AFRICA**

1. **South West Africa Constitution Act, No. 39 of 1968**

This was a consolidating measure.

2. **South West Africa Affairs Act, No. 25 of 1969**

Certain matters had previously been reserved to the Government of the Republic. The South African Government now took

over from the Legislative Assembly of the territory a large number of other matters, including all non-white affairs. The Legislative Assembly continued to be responsible for the education of whites, and, in the white area, for local authorities, roads and works, health services, licensing, and other matters not expressly taken over by the Republic.

## SEPARATE REPRESENTATIVE BODIES FOR THE COLOURED AND INDIAN COMMUNITIES

### COLOURED COMMUNITY

#### 1. Union Council for Coloured Affairs

The Separate Representation of Voters Act of 1951 provided that a Union Council for Coloured Affairs would be set up, with fifteen nominated and twelve elected members, to advise the Government on the interests of Coloured people and to carry out such statutory or administrative powers as might be assigned to it. This body was established in 1959, under a nominated chairman.

Provision for a more representative council, with thirty elected and sixteen nominated members, was made in terms of the Coloured Persons' Representative Council Act, No. 49 of 1964. In the event, this Act was never brought into effect, except for a provision empowering the State President to extend the term of office of members of the Union Council for Coloured Affairs until such time as the first Representative Council assumed office. A Proclamation to this effect was gazetted.

#### 2. Coloured Persons' Representative Council Act, No. 52 of 1968

Provision was made for a Representative Council to consist of 40 elected and 20 nominated members. Of the latter, two must be Cape Malays, two Griquas, and the rest representative of the Provinces (twelve from the Cape, two from the Transvaal, and one each from Natal and the Free State).

There would be 28 electoral divisions in the Cape, 6 in the Transvaal, and 3 each in Natal and the Free State.

The chairman of the Council would be elected by members. It would have an Executive Committee, with a chairman designated by the State President and four other members elected by the Council. The Executive Committee members would head departments dealing with matters assigned to the Council, i.e. finance, local government, education, community development, Coloured rural settlements, and such other matters as the State President might from time to time determine.

The Council was empowered to draft laws in respect of these

matters; but no proposed law might be introduced except with the approval of the Minister of Coloured Affairs, granted after consultation with the Minister of Finance and the Provincial Administrators.

The Executive Committee would prepare estimates of expenditure, which would require the approval of the Minister in consultation with the Minister of Finance. These Ministers would decide upon the total amount to be submitted to Parliament for appropriation. Thereafter the Executive would submit its estimates (revised if necessary) to the Representative Council. Unspent balances at the end of a financial year would be repaid into the Consolidated Revenue Fund. Meetings of the Council would be open to the public.

An Administration of Coloured Affairs was created as from 1 July 1969 to administer matters within the Council's purview. It is headed by a Commissioner for Coloured Affairs, to which post a white civil servant was appointed. The services of Coloured teachers and other officials employed in services assigned to the Council were transferred to the Administration, while a considerable number of white senior officials were seconded to this body until such time as Coloured persons are appointed to take over the posts.

The previous Department of Coloured Affairs was abolished and replaced by a Department of Coloured Relations and Rehoboth Affairs, which deals with such matters affecting Coloured people as have not been assigned to the Council, and which maintains liaison between the Administration and the central Government. Both this department and the Administration fall under a Minister of Coloured Affairs and Rehoboth Affairs.

In terms of Government Notice R3669 of 31 October 1969, the Minister announced a list of powers that were to be delegated to the Representative Council.

The first elections were held on 24 September 1969. Five parties entered candidates.

The Labour Party stood for one-man-one-vote, with direct parliamentary representation for all South Africans. The Federal Coloured People's Party (led by Mr. Tom Swartz, the Government-appointed chairman of the previous Council) stood for parallel development, believing that the Coloured people were a nation with an identity of their own. They were prepared to cooperate with the Government in matters promoting the advancement of their people, but wanted eventual equality with whites. The other three parties advocated parallel development, too, differing merely over aspects of this policy.

It appeared, from the election results, that large numbers of urbanized Coloured people, particularly in the Western Cape, boycotted the elections.

The Labour Party won 26 seats, the Federal Party 11, the remaining 3 going to members of the minor parties and an independent.

The Government then appointed its 20 nominees: all were supporters of the policy of separate development, 13 of them being members of the Federal Party who had been defeated in the elections. One of these men, Mr. Swartz, was appointed Chairman of the Council's Executive. His group had a majority of 34 to 26 (Labour) in the Council.

### 3. Coloured Persons' Representative Council Amendment Act, No. 87 of 1970

The main provision empowered the Minister to appoint such times for the holding of sessions of the Representative Council as he deems fit, and to prorogue the Council. There must be at least one session per year.

### 4. Powers and Privileges of the Coloured Persons' Representative Council Act, No. 91 of 1970

Reports and proceedings of the Representative Council will be privileged documents in proceedings of courts of law.

The Council, or a duly authorized committee of it, may enquire into any matter relating to the functions of the Council, and may call any Coloured persons as witnesses at such an enquiry.

A number of offences against or by members of the Council were defined.

## INDIAN COMMUNITY

### 1. Status of community

In August 1961 the Government established a separate Department of Indian Affairs (Indians had previously fallen under the Department of the Interior).

The Minister of Indian Affairs said on 8 February 1962[1] it had become clear that the repatriation scheme had failed. The Government had, accordingly, decided that it had no choice but to regard the Indians as permanent inhabitants of the country.

### 2. South African Indian Council

After his appointment, the Minister of Indian Affairs endeavoured to set up consultative committees throughout the country, with members appointed by Indians and representative of workers as well as of commercial interests. His plan was that

[1] Senate Hansard 3 of 1962, cols. 503-520.

from these bodies a central consultative committee would be constituted which might develop along the lines envisaged for the Council of Coloured Affairs. General support for this plan was not forthcoming, however.

In December 1963 the Minister held a conference in Pretoria to which prominent Indians were invited. They accepted his suggestion that a National Indian Council be established as an interim measure "until such time as it becomes expedient for the Government to improve the present pattern of representation,"[2] and, early in 1964, 21 members of the Indian community, from various walks of life, were nominated as constituting the first Council. Their meetings were presided over by the Secretary for Indian Affairs, and they had merely advisory powers.

At the request of members, the name of the body was changed in 1965 to the South African Indian Council. An *ad hoc* committee was appointed to study the implications of the Government's suggestion that the council be converted into a statutory and elected body. Indians had been very much divided in opinion as to whether or not the establishment of the council should be supported.

### 3. South African Indian Council Act, No. 31 of 1968

The Council became a statutory body. Its membership was enlarged to not more than 25 Indian persons appointed by the Minister to represent the three provinces concerned (there are no Indians in the Free State). The Council would appoint a chairman from amongst its members.

It would have an executive Committee with a chairman appointed by the Minister and four other members elected by the Council itself.

The Council still had advisory powers only.

## SEPARATE REPRESENTATIVE BODIES FOR AFRICANS

### 1. Bantu Authorities Act, No. 68 of 1951

This Act made provision for the establishment of Bantu tribal, regional, and territorial authorities, and for the gradual delegation to these authorities of certain executive and administrative powers in their own areas, including the levying of rates. In terms of this Act the Natives' Representative Council (established in 1936) was abolished.

African opinion appeared to be divided. Certain of the chiefs and their followers welcomed the measure, which would reinforce or re-establish tribalism and enhance the power of chiefs. Many urbanized Africans pointed out that, except to a very limited

[2] Department of Information Press Release 226/63(P) of 11 December, 1963.

extent in the Transkei, there was no provision for the elective principle in the constitution of these authorities. The Act was likely to have the effect of dividing the African people into separate ethnic groups. The system envisaged was for local government only and could be no substitute for direct central political representation.

## 2. Promotion of Bantu Self-Government Act, No. 46 of 1959

It was stated in a White Paper accompanying the Promotion of Bantu Self-Government Bill that the Government had decided to return to the basic aims, pursued between 1913 and 1936, of identifying each of the various African communities with its own land in the Reserves; and, secondly, of ensuring that Africans entered the "white" areas (i.e. the remainder of South Africa) as migrant labourers only.

In various speeches[1] the Prime Minister made it clear, firstly, that although large numbers of Africans would live in the towns as family units for numbers of years they would be "interchangeable". Secondly, he said his party supported the policy that the white man should retain his domination over his part of the country, and he was prepared to pay a certain price for it, namely by giving the Bantu full rights to develop in their own areas. If it was within the powers of the Bantu their territories might develop to full independence, possibly eventually forming a South African commonwealth with white South Africa serving as its core and as guardian of the emerging Bantu states. The white guardian would meet his obligations on the basis of "creative self-withdrawal".

The Act abolished the Parliamentary representation of Africans. It recognized eight African national units—North-Sotho, South-Sotho, Tswana, Zulu, Swazi, Xhosa, Tsonga, and Venda—and provided for the appointment of, initially, five Commissioners-General to represent the Government in African areas.

The constitution and powers of Bantu territorial, regional, and tribal authorities were more clearly defined; and it was laid down that representatives of territorial authorities would be appointed in urban areas.

## 3. Constitution Amendment Act, No. 9 of 1963

This Act stated that, notwithstanding the entrenched clause of the Constitution Act of 1961 (which clause provides that English and Afrikaans shall be the official languages and be treated on a basis of equality), an Act of Parliament which declares a Bantu area to be a self-governing area may provide for the

[1] Assembly, 20 May, 1959, Hansard 16 cols. 6215-6; 24 March, 1959, Hansard, 9 cols. 3076-8; White Paper report.

recognition of one or more Bantu languages as additional official languages in that area.

### 4. Transkei Constitution Act, No. 48 of 1963

In terms of this Act, the "African" parts of the Transkei are to become a separate territory (certain towns or parts thereof and certain white farming areas are excluded). Its citizens are all Africans who were born in the Transkei or have been legally domiciled there for at least five years, and those outside the area who derive from or are members of tribes resident in the Transkei.

The Act provided for a Legislative Assembly composed of 64 chiefs and 45 elected members. All adult citizens qualify for the franchise. The Assembly elects a Cabinet, initially to consist of a Chief Minister who is also Minister of Finance, and five other Ministers holding the portfolios of Justice; the Interior; Education; Agriculture and Forestry; and Roads and Works.

The Republican Parliament retains control over defence; external affairs; internal security; postal and related services; railways; immigration; currency, banking, customs and excise; and the Transkeian Constitution.

Laws passed by the Legislative Assembly in relation to matters under its jurisdiction require the State President's assent. He may refer Bills back to the Assembly for further consideration.

A Transkeian Revenue Fund was created, into which is paid all taxes, levies, and rates paid by citizens, fees derived from the administration of matters assigned to the Assembly, an annual grant from the Republic equal to its expenditure on such matters in the year preceding the date of transfer, and such an additional sum as may be voted by the Republican Parliament.

### 5. Transkeian Authorities Act, No. 4 of 1965

The Transkeian Authorities Act, passed by the Legislative Assembly in 1965, amended the Bantu Authorities Act so as to do away with district authorities (which had existed in the Transkei only). The duties of these bodies were distributed between regional and tribal authorities, and the whole system was streamlined. Provision was made for a maximum penalty of R400 or two years or both for an official found guilty of bribery or corruption, and for the revision by Bantu Authorities of trials conducted by chiefs or headmen.

### 6. Transkei Constitution Amendment Act, No. 101 of 1967

Changes were made in the period of retention by chiefs of their seats in the Assembly, and in the demarcation of the constituencies for elected members.

### 7. Second Bantu Laws Amendment Act, No. 27 of 1970

A section of this Act tightened the procedure relating to the auditing by the Controller and Auditor-General of the accounts of African governing bodies.

Provision was made for moveable property to be transferred from State ownership to that of African governing bodies if the property is connected with the functioning of these bodies.

### 8. Constitution Amendment Act, No. 1 of 1971

One or more Bantu languages may be recognized as additional official languages in any Bantu self-governing area by the State President, by proclamation. (In terms of the 1963 Act, this had to be done separately for each area, by Acts of Parliament.)

### 9. Bantu Homelands Constitution Act, No. 21 of 1971

This was a blanket measure, enabling increased powers of self-government to be conferred by stages in the various homelands, by proclamation, when the Government deems that the time is ripe. The constitution of each body will be determined by the State President after consultation with the people concerned.

The territorial authorities will be replaced by legislative assemblies, the powers of which will at first be circumscribed. At a later stage, when self-government is granted, these powers will be increased: they will then resemble those of the Transkeian Legislative Assembly, in terms of the 1963 Act (see page 24). Each self-governing area will have its own national anthem and flag. The State President may legislate by proclamation in respect of matters that are not assigned to a legislative assembly.

All proclamations issued under the Act must be tabled in Parliament, and will cease to have effect if they are not approved.

At the time of writing, in mid-1971, there are seven territorial authorities (i.e. in respect of all the main national units, as defined in 1959, except the Swazi). They are:

Ciskei (Xhosa)
Lebowa (N. Sotho)
Basotho Ba Borwa (S. Sotho)
Tswana
Mashangana (Tsonga)
Venda
Zulu

The first six have established departments dealing with finance and Authority affairs, community affairs, education and culture, works, agriculture, and justice. In the case of the Basotho Ba Borwa Territorial Authority, certain of these portfolios are grouped together. No portfolios have, as yet, been designated in respect of the more recently-established Zulu Territorial Authority.

The Transkeian Legislative Assembly and all the territorial authorities are heavily subsidized financially by the South African Government and are assisted by seconded white civil servants.

### 10. Development of Self-Government for Native Nations of South West Africa Act, No. 54 of 1968

Homelands were defined for six "Native" nations of South West Africa, and forms of local self-government provided for, on lines similar to those described above. After consultation with a "nation", the State President may establish a legislative council for its area. Matters with which these councils may deal were set out in detail. A council may make enactments in regard to these matters, which will require the State President's approval.

Executive councils may be constituted from among the members of a legislative council, and they may establish departments to control the various matters with which the council deals. Employees of the Republic's service may be designated to assist the executive councils.

The Act made provision, too, for tribal or community authorities and regional authorities, and for revenue funds.

By mid-1971 the Ovamboland and Kavango Legislative Councils had been established. "Native" nations which had not reached this stage were the peoples of the Kaokoveld and the Caprivi Strip, and the Damara, Herero, Tswana, and Bushmen groups. All of these "native" groups fall under the Republic's Department of Bantu Administration and Development.

Three groups fall under the Republic's Department of Coloured Affairs and Rehoboth Affairs: the Coloured, the Nama, and the Rehoboth. There is a nominated Council for the Coloured group, established in 1962, with advisory powers only.

## LOCAL GOVERNMENT IN URBAN AREAS

### 1. Municipal Councils

Non-whites have never had representation on municipal councils or other local authorities in the Transvaal or Free State.

Africans have never been entitled to vote in municipal elections in Natal; but Asians could register as voters until 1924, when, in terms of a provincial ordinance, they ceased to qualify (although those whose names were on the voters' roll at the time could continue to vote and to stand for election). Coloured people could qualify for registration until 1956, when the Separate Representation of Voters Act came into force; but no new Coloured names have been added to the roll since then because the relevant ordinance provides that municipal voters must either be registered as Parliamentary voters or be entitled to such registration.

In theory, until 1970 members of all racial groups in the Cape had the municipal franchise on equal terms, voted on a common roll, and were entitled to stand for election. But in practice the terms of the franchise qualifications placed Coloured and Asian citizens at a disadvantage, and virtually excluded Africans.

The establishment of management committees is described in the next section. On 27 February 1962 the Minister of Community Development said in the Assembly[1] that the rights of Coloured and Asian persons who were already registered as municipal voters at the date when a management committee was created would not be affected as long as they retained their qualifications; but the expansion of their franchise rights would have to be limited to their own group areas.

In February 1970, however, the Prime Minister stated in the Assembly[2] that the "mixed" municipal voters' rolls in the Cape were to be scrapped, the exclusively white Parliamentary voters' rolls being used instead in municipal elections.

## 2. Consultative and management committees in Coloured and Asian group areas

The Group Areas Amendment Act, No. 49 of 1962, extended the provisions of the principal Act relating to local governing bodies in Coloured and Indian group areas.

It provided for the establishment of, initially, consultative committees; at a later stage management committees; and eventually, local authorities. A consultative committee will merely be consulted by the local authority having jurisdiction in the area concerned. A management committee will exercise such powers and functions as may be conferred on it, under the supervision and control of the local authority.

The provincial administrations were permitted to frame ordinances governing the administration of the Act in their areas. Natal decided on a pattern differing from that described above. As an initial stage there will be purely advisory local affairs committees, with nominated members. Later, some of the members will be elected. At a third stage of development, executive and financial powers will be conferred gradually on the committees; and, finally, independent local authorities will be created.

By mid-1971, there were 22 Coloured management committees, 6 of them with some elected members, and 53 consultative committees. There was one Indian town board (for Verulam); 16 Indian local affairs committees, 11 of them having some elected members; and 7 consultative committees.

[1] Hansard 6 cols. 1639, 1641.
[2] Hansard 1 col. 462.

### 3. Urban Bantu Councils

The Urban Bantu Councils Act, No. 79 of 1961, empowered an urban local authority to establish urban Bantu councils in Bantu residential areas under its jurisdiction, after consultation with the advisory board should one exist, and otherwise with the African community. A council must be set up if the advisory board so requests or if the Minister is satisfied that the Africans want one. No further advisory boards will be created.

Councils might have elected and selected members, the number of selected members not to exceed the number elected. The body might be established for a particular national unit, in which case only members of this group would vote. Otherwise all qualified Africans of the area would vote. Selected members would be chosen by and from the recognized representatives of chiefs in the area, subject to the approval of the Minister and the local authority.

Various defined powers may be assigned to urban Bantu councils; but they have consultative powers only in regard to expenditure from the municipal Native Revenue Account, into which all moneys accruing to the councils will be paid.

The Bantu Laws Amendment Act, No. 76 of 1963, stipulated that these councils must exercise the powers assigned to them on behalf of and subject to the directions of the local authority concerned. Such assignments of powers may be withdrawn.

By 1971, only 23 urban Bantu councils had been established.

### 4. Third Bantu Laws Amendment Act, No. 49 of 1970

It was provided that, in future, all the members of urban Bantu Councils would be elected. Serving selected members would retain their seats for the remainder of the periods for which they were selected.

As mentioned earlier, the Promotion of Bantu Self-Government Act of 1959 provided for territorial authorities to appoint representatives in urban areas. In terms of the 1970 Act, each self-governing Bantu territory within the Republic, and each territorial authority, will appoint only one representative for urban areas in general, together with as many persons as are deemed necessary to assist him. Boards may be constituted for specific urban areas or for a combination of urban areas.

## TERRITORIAL AND RESIDENTIAL SEPARATION AND OCCUPATION OF LAND OR PREMISES

### BROAD GOVERNMENT POLICY

### 1. Eiselen Line policy

In January 1955 Dr. W. W. M. Eiselen, then Secretary for

Native Affairs, said that it was the Government's policy eventually to remove all Africans from the Western Province of the Cape, since this was the natural home of the Coloured people who should receive protection in the labour market. The Government planned, as a first stage, to remove foreign Africans, to "freeze" the existing position as regards families, to send back to the Reserves all women and children who did not qualify to remain, and to allow only the controlled entry of migratory workers.

Since 1955 influx control has been applied very strictly in the Western Cape. Legislation relating to influx control is described on page 35 *et seq*.

### 2. Aliwal North—Kat/Fish River line

On 19 January 1967 the Minister of Planning announced that Coloured people were to have employment preference in the Cape Midlands and Western Cape, i.e. westwards from a line drawn from Aliwal North (on the Orange River) to the Kat River and then along the Fish River to the coast. To the east of this, in the Ciskei and Transkei, Africans would have employment preference.

So far as is feasible, Coloured people are to be removed from the latter region and resettled to the west of the demarcated line, or in a few regional townships in the Ciskei.

### 3. Zululand

During February 1970, Cabinet Ministers stated that Indians, and many of the Coloured people, in Zululand were gradually to be "canalized" to areas south of the Tugela River. Except for the (Coloured) Dunn community, those remaining in Zululand would require permits.

### 4. The remainder of the Republic

The creation of African homeland governments is described in a previous chapter.

So far as Natal, the Transvaal, and the Free State are concerned, official policy is that Coloured and Indian communities in the smaller towns should gradually be resettled in regional townships.

## LEGISLATION: GROUP AREAS AND COMMUNITY DEVELOPMENT

### 1. Natives Resettlement Act, No. 19 of 1954

This Act provided for the establishment of a Government-appointed Resettlement Board to undertake the removal of more than 10 000 African families from the Western Areas of Johannesburg, and to resettle them at Meadowlands or Diepkloof, further south, adjoining the municipal African townships.

From 1959 onward the Resettlement Board also erected new housing in these townships for certain of the families removed (by the Peri-Urban Areas Health Board[1]) from Alexandra Township.

In general, the new dwellings are better than those that the Africans concerned occupied previously; but transport costs are increased, and numbers of people lost freehold rights that they had possessed in the older townships.

## 2. Group Areas Acts, Nos. 41 of 1950 and 77 of 1957, as amended

Before the National Party came into power various measures existed for the segregation of Africans[2] and Indians,[3] but the Group Areas Act of 1950, which was re-enacted in consolidated form in 1957, was far more far-reaching than any previous legislation.

It imposed control throughout South Africa over inter-racial property transactions and inter-racial changes in occupation. These were made subject to permit. Coloured people in the Cape were for the first time brought within the scope of such control. Provision was made for the proclamation of "defined" areas, in which control is imposed, too, over the occupation of any buildings which are erected, extended, or altered.

A Group Areas Board was appointed, to report to the responsible Minister[4] on the allocation of full group areas in the various towns and villages for members of different racial groups. When a group area is proclaimed for occupation by a particular group the Minister determines the date by which disqualified persons must move out; this must be not less than one year after the date of the proclamation, and at least three months' prior notice must be given. In the case of business premises at least twelve months' further notice must be given after the initial year.

In group areas proclaimed for ownership disqualified owners may continue to own their properties for the rest of their lives, but may not occupy them. They can bequeath them to other disqualified persons, but such an heir would be given one year within which to dispose of the property to a member of the racial group for which the area is designated.

Companies other than banks, mines, and large factories are given a group character according to the race of the persons holding the controlling interest. Disqualified companies may con-

[1] Subsequently named the Transvaal Board for the Development of Peri-Urban Areas.
[2] e.g. Natives Land Act of 1913, Native Trust and Land Act 1936, Natives (Urban Areas) Act of 1923, as amended.
[3] Pre-Union legislation in the Transvaal and Free State, Trading and Occupation of Land (Transvaal and Natal) Act of 1943, Asiatic Land Tenure and Representation of Indians Act of 1946.
[4] At first the Minister of the Interior. From 1962 the Minister of Community Development, and, since 1965, the Minister of Planning.

tinue to occupy property in group areas but must dispose of ownership rights within ten years unless temporary exemption permits are granted.

Except for African townships, African and Coloured Reserves, and mission stations, all parts of the country that have not been allocated to specified groups are controlled areas in which interracial changes in ownership and occupation are controlled by permit. Within the controlled areas, "defined" areas may be proclaimed.

In large metropolitan areas it may be laid down by proclamation that buildings in "defined" areas may be used for particular purposes only, e.g. trading. When this is done a trader may continue to conduct his business from the building but must move his home to the group area set aside for members of his race. The Deputy Minister of the Interior said,[5] however, that the general principle would hold good that trading activities should take place in the group areas of the traders concerned.

### 3. Group Areas Amendment Act, No. 56 of 1965

This Act had two main features:

(a) The Minister of Planning was made responsible for the planning of group areas for Whites, Coloured and Asians by the Group Areas Board, and for permit control up to the time that group areas are proclaimed. After proclamation, the development of the areas and permit control therein falls under the control of the Minister of Community Development. But so far as African areas are concerned, the responsibility rests with the Minister of Bantu Administration and Development.

(b) Departmental officials will carry out administrative inspections such as obtaining facts required for the planning of group areas; but the Act conferred very wide powers on members of the police to ascertain whether or not the provisions of the Act are being complied with.

### 4. Community Development Amendment Act, No. 44 of 1965, and Group Areas Development Act, No. 69 of 1955, as amended

(a) One of the objects of these Acts was as far as possible to eliminate speculation in property values which may arise as a result of the proclamation of group areas.

A Group Areas Development Board (in 1965 renamed the Community Development Board) was established, its functions

[5] Senate, 8 February 1961, Hansard 3 col. 735.

being to assist disqualified persons to dispose of their properties and to re-establish themselves elsewhere, and, on its own initiative or in co-operation with local authorities, to develop new townships for displaced groups.

When the Development Act is applied to any area (in many cases *pari passu* with its proclamation as a group area) the Board arranges for a list of affected properties to be drawn up and for their "basic values" to be determined. The basic value is the market value of the land at the time when the group area was proclaimed, plus the estimated cost of the erection of the buildings at the time of the valuation, less depreciation.

The Board has a 30-day pre-emptive right to purchase an affected property at an agreed price. Should it not exercise this right the owner may sell to a qualified person. In terms of the 1955 Act, if he received more than the basic value he must pay 50 per cent of the difference to the Board; while if he received less, the Board paid him 80 per cent of the difference.

(b) The 1965 Act widened the functions of the Department of Community Development to include the provision of housing, slum clearance, urban renewal, etc., and it was empowered to exercise these functions outside as well as within proclaimed group areas (but not in African townships, African Reserves, or Coloured rural settlements).

The Board was rendered exempt from the provisions of by-laws, etc., relating to the type of building to be erected and materials to be used; and it may be exempted from restrictive conditions relating to the establishment of a township provided that its plan will not detract from the general appearance of the surrounding area. It may control the erection or alteration of any building in an area where a slum clearance or urban renewal scheme is being undertaken, and has preferential right to purchase properties offered for sale in such areas.

(c) In terms of the 1965 Act the Board may, with the Minister's approval, make payments in respect of any goodwill value which may be attached to any profession or business and is likely to be lost as a result of a group areas proclamation. Such payment will not exceed an amount equal to the net profit derived from the profession or business during the period of twelve months preceding the date on which the person was obliged to cease carrying it on, or preceding the date of the relevant proclamation, whichever amount is the greater.

### 5. Community Development Act, No. 3 of 1966, and Group Areas Act, No. 36 of 1966

These were consolidating measures.

6. **Community Development Amendment Act, No. 42 of 1967**

The term "market value", as applied to properties affected by group areas proclamations, was clarified, and dates were laid down within which appeals may be lodged against determinations of the value of properties.

It was stipulated that appreciation contributions need not be paid if an affected property is sold or expropriated within five years of the group areas proclamation. The Act made clear which party is responsible for any costs of arbitration.

7. **Community Development Amendment Act, No. 58 of 1968**

The powers of the Community Development Board to operate in areas under the control of a local authority were widened.

Traders wishing to operate in an area where they are disqualified persons must obtain permits from the Department before their trading licences are renewed. The Minister was empowered to prohibit the issue of such licences in an area where development has been frozen, pending its re-planning, unless a special permit has been obtained.

8. **Group Areas Amendment Act, No. 69 of 1969**

This Act widened the powers of the State President to provide that land and buildings in a defined area may be occupied or used for particular purposes only, e.g. trading.

9. **Community Development Amendment Act, No. 58 of 1969**

The Community Development Board was empowered to call upon a local authority to provide stated services in an area within the latter's boundaries in which the Board has taken over the local authority's powers. If the latter fails to do so, the Board may itself provide the services, recovering the costs by court action or by levying a special rate on rateable property within the local authority's area of jurisdiction.

The Board was empowered to compensate a local authority for development work done in a group area which for any reason is deproclaimed.

*N.B.* Other Acts dealing with housing are described on page 74.

**OCCUPATION OF LAND OR PREMISES**

*N.B.* Occupation by traders is dealt with in the preceding pages.

1. **Occupation for entertainment, refreshment, etc.**

Late in 1956 a judge of the Eastern Districts Local Division

of the Supreme Court decided that certain non-whites who had attended a cinema in the "white" part of a town had not occupied the premises within the meaning of the Act, for they had not been habitually or physically present over a period of time.

In terms of the Group Areas Amendment Act, No. 57 of 1957, the Government then took power to enable it to declare by proclamation that the provisions of the Act prohibiting the occupation of land or premises by racially disqualified persons shall apply, also, to occupation by such persons of land or premises, either generally or in a specified area, for a substantial period of time, or for the purpose of attending any place of public entertainment or partaking of any refreshments at a place where refreshments are served, or as a member of or guest in any club.

Proclamations were issued under this enabling Section in 1957, 1958, 1960, 1964 and 1965. The latest, No. R26 of 1965, was to the effect that, in controlled or group areas (in effect, the whole country), no racially disqualified person may attend any place of public entertainment, or partake of any refreshments ordinarily involving the use of seating accommodation as a customer in a licensed restaurant, refreshment or tearoom or eating-house, or as a member of or a guest in any club (except as a representative or guest of the State, a provincial administration, a local authority, or a statutory body).

It was rendered an offence, not only to be present in such premises in contravention of the proclamation, but also to allow a disqualified person to be present.

### 2. **Domestic Servants**

In terms of the principal Group Areas Act, *bona fide* domestic servants are excluded from the definition of disqualified persons.

The Group Areas Amendment Act, No. 69 of 1969, empowered the State President to lay down conditions in terms of which domestic servants who are legally resident in white group areas may receive visitors. (This was intended to apply to Coloured and Asian domestic servants: similar restrictions, in respect of Africans, may be imposed under the Bantu (Urban Areas) Consolidation Act of 1945 as amended.)

## EFFECTS OF THE GROUP AREAS ACT

According to the Minister of Community Development,[6] by the end of 1970 the following numbers of *families* had become disqualified occupants of properties, as the result of group areas proclamations thus far issued, and had been resettled in areas allocated to members of their own groups:

[6] Assembly, 4 February, 1971.

| | *No. disqualified* | *No. resettled* |
|---|---|---|
| Whites ... ... ... | 1 578 | 1 246 |
| Coloured ... ... | 70 889 | 37 616 |
| Chinese ... ... | 933 | 64 |
| Indians ... ... | 38 180 | 24 388 |

## URBAN AFRICAN AFFAIRS, RESTRICTIONS ON THE PRESENCE OF AFRICANS IN CERTAIN AREAS, AND ON THEIR RIGHT TO SEEK EMPLOYMENT.

### 1. Prevention of Illegal Squatting Act, No. 52 of 1951

In terms of this Act, in such areas as may be specified by proclamation no one may enter upon any land or enter any African location or village without permission. Anyone who has illegally entered any African location or village, or anyone who remains on land despite warning to depart, may be ordered by the magistrate to demolish any buildings erected by him and to move together with his dependants, to such place as may be specified.

### 2. Natives (Abolition of Passes and Co-ordination of Documents) Act, No. 67 of 1952

In terms of this Act all Africans in South Africa (men and women) who had attained the age of 16 years would, after certain fixed dates, be required to possess reference books (or identity documents in the case of foreign Africans) instead of a variety of documents that had to be carried formerly.[1] Certain previously existing pass laws which differed from province to province were repealed. But the Act introduced new restrictions on the free movement of African women and of many men in the Cape who until 1952 had not been required to carry documents which were producible on demand.

Furthermore, the system of exempting certain classes of Africans from the pass laws was in effect abolished.

### 3. Native Laws Amendment Act, No. 54 of 1952

The Native Laws Amendment Act of 1952 contained a concession, allowing any African born in South Africa to visit an urban area for up to 72 hours without obtaining a special permit. But it extended the system of influx control to all urban areas,[2] and it made this system applicable to African women as well as to men. The powers of the authorities to order the removal of Africans deemed to be "idle or undesirable" were extended.

[1] The fixed dates were, later, determined as 1 February, 1958 for men and 1 February 1963 for women.
[2] Previously this control was applied only if an urban local authority so requested.

The Act provided for the establishment of labour bureaux to control the movement of work-seekers, all of whom must register. Those in rural areas are not allowed to go to towns unless suitable vacancies exist there.

Special mention should at this stage be made of Section 10 of the Natives (Urban Areas) Consolidation Act of 1945 as amended in 1952, 1955, and 1957. It provided that no African may remain for more than 72 hours in an urban or proclaimed area unless he or she:

(a) has resided there continuously since birth;

(b) has worked there continuously for one employer for not less than 10 years; or has resided there lawfully and continuously for not less than 15 years; and has thereafter continued to reside there and is not employed outside; and has not while in the area been sentenced to a fine exceeding R100 or to imprisonment for a period exceeding six months;

(c) is the wife, unmarried daughter, or son under the age of 18 years, of an African in one of the categories mentioned above and ordinarily resides with him;[3]

(d) has been granted special permission to be in the area.

### 4. Natives (Urban Areas) Amendment Act, No. 69 of 1956

This Act enables an urban local authority to order an African to leave its area if it is considered that his presence is detrimental to the maintenance of peace and order. Should this be done the local authority, if so requested, will move the African's dependants and personal effects to his new place of residence, charging any costs to the municipal Native Revenue Account.

### 5. Natives (Prohibition of Interdicts) Act, No. 64 of 1956

The Prohibition of Interdicts Act enabled the Government to direct, by proclamation, that when specified types of removal orders are issued to Africans no court of law may issue an interdict which will have the effect of suspending their execution. Application for such interdict may be made only after the removal has taken place.

During 1957 and 1958 this Act was applied to orders issued to Africans convicted of being unlawfully in an urban area, to illegal squatters, to those required to leave Native Trust Land in the Reserves, and to those required to move from "white" rural areas.[4]

### 6. Native Laws Amendment Act, No. 36 of 1957

This Act contained the "church clause", which is described

[3] This sub-Section was amended in 1964. See page 40.
[4] Proclamations 79, 283, 345, and 380 of 1957 and 95, 116, and 268 of 1958.

on page 77. But it dealt, too, with influx control and with the powers of local authorities.

Further limitations were placed on the categories of Africans who qualify to remain in urban areas (this is dealt with on page 36); increased powers were granted to magistrates and native commissioners to order Africans who have failed to obey regulations to leave urban areas; and further classes of officials were empowered to demand the production of documents by Africans. The definition of an "undesirable" person was extended. Increased restrictions were placed on the entry of Whites to African townships.

The Minister was empowered to prohibit Africans from entering specified classes of work in any urban area. The Governor-General was given the power to prohibit African business and professional men (as well as contractors and casual labourers, as previously) from working in urban areas, including African townships, unless they have been licensed to do so.

The Act provided that the senior officer in every municipal Native Administration Department must report not only to the local authority (as stated in previous legislation) but also via the local authority to the Secretary for Native Affairs[5] any irregularity which may occur in his department, or any other occurrence on which he may deem it advisable to report.

The Minister was empowered, without consultation with a local authority concerned, to vary or amend draft regulations for the control of African townships submitted for his approval, or to reject them. Amendments made by him may, however, not introduce any new principle.

The power to permit African work-seekers to remain in urban areas for longer than 72 hours was removed from municipal influx control officers and vested in labour bureaux officials.

### 7. Revised Native Labour Regulations, 1959

Revised Native Labour Regulations, published in 1959,[6] tightened regulations governing the employment of Africans in urban areas. For the first time these regulations were made applicable to African women employees.

It was not rendered essential for unemployed African women to register, but such women cannot legally enter urban employment unless they have done so. Furthermore, it became necessary for all women in towns to obtain written proof of their authority to be there in order to safeguard themselves against arrest.

### 8. Employment of alleged petty offenders on farms

Because so many petty offenders against influx control regu-

[5] Now the Secretary for Bantu Administration and Development.
[6] Government Notice 63 of 9 January 1959.

lations, tax laws, etc., are unable to pay fines imposed by the courts they have to serve prison sentences, and it is impossible to find employment for all of them in public works. With the object of providing employment and of keeping minor offenders away from hardened criminals, the authorities have devised various schemes for hiring prison labour to farmers. So far as is feasible these schemes are under official supervision and inspection.

In 1947 the Native Commissioner in Johannesburg became perturbed about the large numbers of Africans who were brought before him for alleged contraventions of the pass laws. With Government approval he devised a scheme which gave them the option of accepting rural employment as an alternative to prosecution.

This scheme was elaborated and widely extended during 1954. Farmers, especially in the Transvaal, were invited to apply for such labour. Unemployed Africans arrested on suspicion of having committed minor technical offences were not forced to go to work on farms; but if they did not do so they were returned to the police and might have to face prosecution. Thereafter they were liable to re-arrest unless they were accepted for urban employment or left the area.

Various abuses crept into the system. Men who accepted work on a farm were sent there without being allowed an opportunity of returning home first, and the relatives were often ignorant of their whereabouts. Some of the men misunderstood the arrangements; numbers deserted at the first opportunity. During 1959, especially, there were numerous allegations of ill-treatment by farmers or "boss-boys", several of whom were found guilty by the courts. Eventually, after an official inquiry, the scheme was abandoned.

Africans who were endorsed out of urban areas may, however, have no alternative but to seek farm employment; and farmers may still hire prison labour.

9. **Bantu Laws Amendment Act, No. 76 of 1963**

The main provisions of 1963 Amendment Act were as follows:

(a) It tightened the provisions of previous laws relating to the compulsory residence of urban Africans in African townships.

(b) It enabled the Minister to limit the number of domestic servants who may be accommodated on the premises of an urban private employer to one per household, and stated that at a later stage the Minister may prohibit any servants from living in. Exemptions may be granted by local authorities.

(c) It eased the previous provisions relating to the entry of

Africans to urban townships, but strengthened the powers of authorized officers to eject persons whose presence is considered to be undesirable.

(d) It increased the Minister's power of control over regulations made by local authorities, and over resolutions passed by them.

(e) It made it clear that urban Bantu councils will exercise their powers subject to the directions of the local authority concerned.

Provisions of this Act that dealt with foreign Africans and with the rights of African widows are described below.

10. **Better Administration of Designated Areas Act, No. 51 of 1963**

The State President was empowered to extend the provisions of legislation affecting Africans in urban and proclaimed areas to any other area where communities of Africans live and have acquired interest in land. Such laws will be administered by the adjoining local authority if one exists, or by a body vested with the powers of a local authority in the area concerned, or, in the absence of any such authority, by the Bantu Affairs Commissioner.

11. **Bantu Laws Amendment Act, No. 42 of 1964**

(a) The term "prescribed area" was substituted for "proclaimed area". All existing proclaimed areas (including most towns and certain peri-urban areas), and all other urban areas, automatically became prescribed areas, in which the Bantu (Urban Areas) Act, the Bantu Labour Regulation Act, the Bantu Services Levy Act, the Urban Bantu Councils Act, the Bantu Building Workers' Act, and regulations issued under these Acts, are in force.

(b) The definition of an "authorized officer" (who, *inter alia*, may demand the production of documents by Africans), was widened to include further categories of officials.

(c) Further powers relating to influx control under Section 10 of the Urban Areas Act[7] were transferred from municipal influx control officers to labour bureaux. Africans who are not work-seekers and merely want to visit a town for longer than 72 hours must now obtain permission from a labour bureau, as must persons not of working age who want to come to live in a town (men over 65 years of age, women over 60 years, and children under 15 years), and women who want to join husbands who qualify to remain in prescribed areas. In considering applications, the

[7] See page 36.

labour bureau must give regard to the availability of accommodation in a Bantu residential area.

(d) It was laid down that, in order to qualify to remain with a man who is entitled to be in a prescribed area, his wife, unmarried daughters, and sons under the age of 18 must not only ordinarily reside with him (as stated in a previous Act), but must initially have entered the area lawfully.

(e) Provisions dealing with labour bureaux, previously contained in regulations, were incorporated in the Act, with certain changes, described below.

(f) The Act stated that no one may employ an African in a prescribed area unless the latter has permission from a labour bureau to enter such employment. The labour bureau machinery was, thus, extended to include casual labourers, independent contractors, and Africans who qualify to remain in a prescribed area under Section 10 (1) (a) or (b) of the Urban Areas Act. These Africans may, thus, be ordered to leave if the labour bureau refuses to register or cancels their contracts of service, or if they are declared medically unfit for employment. Such an order issued to a "qualified" African must be confirmed by the Chief Bantu Affairs Commissioner. If it is confirmed, and if the African cannot find employment and accommodation for himself and his family anywhere else, he must be provided with a residential site in a Reserve.

(g) Certain classes of Africans may be exempted from the labour bureaux machinery, e.g., chiefs and headmen, certain ministers of religion, teachers, government officials, professional persons, and registered owners of land.

(h) If the Secretary for Bantu Administration and Development approves, a labour officer may cancel a service contract, or refuse to register a contract, if he is satisfied that the African's presence in the area is likely to impair the safety of the State or the public, or to threaten the maintenance of public order.

(i) The State President was empowered to make regulations prescribing the documents to be produced by African women wishing to take up employment.

(j) The grounds on which Africans may be deemed "idle or undesirable" (and then be ordered out of a prescribed area) were again widened and, for the first time, were extended to Africans who qualify to remain in a prescribed area under Section 10 (1) (a), (b), or (c) of the Urban Areas Act.

(k) Additions were made to the provisions governing removal

orders which may be served on Africans who unlawfully remain in prescribed areas.

(l) Provision was made for the establishment of aid centres to which Africans may be taken by the police (instead of to police cells) if the Africans are suspected of having contravened laws and regulations relating to service contracts, reference books, or presence in prescribed areas. Courts may be held at the centres.

(m) The Minister was empowered to make regulations for the establishment of youth centres for the reception of Africans over 15 and under 21 years of age who are ordered by a competent authority to go there for the purpose of rehabilitation.

(n) It was rendered an offence for any person (or organization) other than a practising attorney or advocate to accept any money or reward for helping an African who is in difficulties over influx control, employment, making representations to authorities, detention, removal orders, or related matters.

(o) The Minister was empowered to exempt special classes of Africans from curfew regulations.

(p) Better protection was given to Africans against the withholding of wages and against malpractices by recruiting agents.

(q) It was laid down that before inspecting any African township or premises where Africans are accommodated, a competent Government official must consult the urban local authority concerned. Such officials were empowered, after consultation with the local authority, to convene or address any meeting of the advisory board or urban Bantu council.

Other provisions of the Act are dealt with in relevant sections of this pamphlet (see Index).

## 12. Bantu Labour Act, No. 67 of 1964

This measure consolidated laws relating to African labour and repealed the Native Labour Regulation Act of 1911 as amended.

## 13. Restrictions on the employment of Africans in the Western Cape

In December 1966, the African "labour complement" of employers in the Western Cape was frozen as from certain fixed dates earlier that year. The term "labour complement" implied the number of registered employees plus already-notified vacancies. An employer whose complement was below his frozen number could employ additional Africans who qualified to live in the

area, or could apply for male contract labourers (recruited from elsewhere, for not more than a year at a time), provided that he could produce a certificate from the Department of Labour to the effect that no Coloured workers were available. No applications for the introduction of contract labour would, however, be entertained for thirteen defined categories of work (e.g. domestic servants, vehicle drivers, delivery-men, clerks, petrol-pump attendants, etc.).

### 14. African widows and divorcées in urban areas

During September 1967 the Department of Bantu Administration and Development distributed an official circular reaffirming policy that, in some respects, had been in force since the previous year.

No African women were to be placed on the waiting list for family housing in an urban area. Those needing accommodation who qualified to be in the area must seek it as lodgers with registered householders.

If a woman became widowed while she was occupying a house with her husband and family, she could continue to occupy the house only if she qualified in her own right to remain in the area, and was able to pay the rent. If she did not qualify to remain, she must return to her "homeland", with her children, unless special exemption was granted.

A divorced woman might stay on in her home only if she was not the guilty party and had been granted custody of her children; if she qualified in her own right to remain in the town; if she could pay the rent; and if her former husband agreed to vacate the house and transfer the tenancy to her.

### 15. Bantu Laws Amendment Act, No. 56 of 1968

It was made clear that prescribed areas, where influx control and related laws and regulations are applied, need not necessarily be urban areas.

### 16. Criminal Procedure Amendment Act, No. 9 of 1968

This Act contained a clause intended to prevent fee-charging bail agencies from exploiting arrested persons (in practice, usually Africans).

### 17. Ownership of homes in urban areas, and housing permits

A directive issued by the Department in January 1968 laid down that Africans living in urban areas were no longer to be allowed to build their own homes on 30-year leasehold plots, or to buy or inherit such homes. Those who already owned houses might dispose of them only to the local authority concerned. In

future, leasehold tenure would apply throughout urban African townships.

Government Notice R1036 of June of that year made it clear that family housing permits might be allocated only to males who were South African citizens over 21 years of age, who qualified under Section 10 (1) (a) or (b) of the Urban Areas Act to remain in the area, who were employed there, and who had dependants legally living with them.

## 18. **Bantu Labour Regulations, 1968**

Proclamation R74 of 29 March 1968 set out new, detailed Bantu Labour Regulations. Provision was made for the establishment of labour bureaux in the offices of Bantu territorial, district, and tribal authorities in the homelands. Each is managed by a labour officer, who tries to place work-seekers in specific categories of employment, in accordance with the qualifications of the person concerned and the requisitions received for labour. All those in the homelands wanting employment, and those normally dependent on employment for a livelihood, must register as work-seekers at the nearest bureau, where they are classified into one of various categories of employment.

Employers must pay a fee of R1 in respect of every African whose contract of service is registered. Unless special authority is given, contracts may not be attested for periods longer than one year for adults or nine months for those under 18 years of age. But at the end of this period of service a "call-in" card system may be used if an employer wants a worker to return to him, and the latter is willing to do so. The official form states that in such cases the worker must return to his work within a month; but on application this period may be extended up to but not exceeding twelve months.

The effect is that, unless special exemption is granted, all African workers recruited from the Reserves must return home for a period after each year of employment outside these areas.

Unless with the approval of the Director of Bantu Labour, women may not be engaged for employment in a prescribed area. Boys may be engaged for agricultural work only.

Employers must undertake to repatriate workers to their homes at the end of the contract of service. The cost of this may be recovered from the wages paid. Employers other than farmers must be able to show that approved accommodation will be available for prospective workers.

The African may be called upon to make arrangements for the deferment of part of his wages, or, should he have dependants, for the remittance to them of part of his wages.

19. **Professional men and women in urban areas**

A Departmental directive, distributed in July 1969, stipulated that no further African professional men and women were to be allocated consulting rooms or office accommodation in urban townships unless they qualify, under Section 10, for residential rights there. All others should go to the homelands. Professional services in urban African townships should, in general, be rendered by white persons.

20. **Bantu Laws Amendment Act, No. 19 of 1970**

Certain sections of this Act provided that if an African is found guilty of illegal presence in an urban area, and if the court orders his removal to any work colony, institution, or rehabilitation scheme, he may be detained there for such period, and ordered to perform such labour, as may be prescribed by law.

A provision previously contained in the Bantu Labour Act was deleted: this was to the effect that an African must not be refused permission to re-enter a prescribed area after an absence of not more than twelve months for the purpose of re-entering employment if no objection is raised by the Bantu Affairs Commissioner. (But see the provisions relating to call-in cards, contained in the 1968 Bantu Labour Regulations.)

21. **Bantu Affairs Administration Act, No. 45 of 1971**

The Minister may, by notice in the *Gazette*, declare any area outside the Bantu homelands to be a Bantu Affairs Administration Area. This may include the area, or any portion of the area, of one or more urban local authorities: if this is done, the local authorities concerned must be consulted.

A Bantu Affairs Administration Board will be set up for each administrative area. The Minister will appoint the chairman and vice-chairman, and as many members as he deems necessary. The latter must include:

(a) one or more members with a wide knowledge of Bantu labour matters in agriculture (appointed after consultation with agricultural organizations);

(b) one or more persons with a wide knowledge of Bantu labour matters in commerce and other industries (appointed after consultation with representative employers' organizations);

(c) one or more persons in respect of each local authority whose area of jurisdiction, or part thereof, is included in the Board's administrative area. These members will be selected by the Minister from lists of persons submitted by the local authorities concerned.

Each board will appoint an executive committee, which must

include at least one person appointed in respect of any local authority represented on the board.

Persons in the service of such local authorities who deal with Bantu administration may, by agreement, be seconded to the service of the relevant board. The latter body may appoint other members of staff. The secondment will be for an initial period not exceeding six months. Thereafter, the officials concerned may accept permanent appointment in the board's service, or may return to the service of the local authority, or, in certain circumstances, may be deemed to have resigned. A chief executive officer will be appointed by the Minister on the recommendation of the board.

A board will be vested with the rights, powers and functions of a local authority in terms of the laws relating to urban Bantu administration. If rural areas are included in its administrative area, it will take over there such powers of the Bantu Affairs Commissioner as the Minister may direct.

All assets and liabilities of a local authority, in an area transferred to a board, will devolve on the board according to mutually agreed conditions. If agreement cannot be reached the matter will be settled by the Minister, or if he is unsuccessful, the Controller and Auditor-General.

Boards will take over local authorities' Bantu Revenue Accounts and moneys that would have been paid into these accounts had the Act not been passed; and, with Government approval, may raise loans. (It is intended that they will not receive any funds from the Treasury. In mid-1971, 21 local authorities, including Johannesburg and other large cities, were subsidizing their Bantu Revenue Accounts.) With Government approval, and subject to existing laws, boards may make grants from their funds to the S.A. Bantu Trust, for use in the homelands.

A board may require a local authority to provide services in its administrative area. Should the latter fail to comply, the board may itself provide the services, recovering the costs from the local authority.

The Minister (and not the boards themselves) will have power to make regulations for administrative areas, including regulations dealing with the movement of African labour within an area and its distribution between different categories of employment. The stated aim is to promote the more effective utilization of labour.

If an urban area, or part of it, is transferred to a board, Africans will not forfeit residential rights held or acquired there under Section 10 (1) of the Bantu (Urban Areas) Act. While retaining these rights, they will qualify, too, to live or work in any other prescribed area that is included in the same board's

administrative area. But if they lose these rights in one area, they do so in all the areas under the board's jurisdiction.

### PROSECUTIONS FOR FAILURE TO COMPLY WITH THE LAWS DESCRIBED IN THIS CHAPTER

The report of the Commissioner of the S.A. Police for the year 1968-9 (the latest available such report at the time of writing) showed that 632 077 persons were that year sent for trial for infringements of the laws and regulations described in this chapter — an average of 1 732 a day. These cases represented 26,5 per cent of the total number of prosecutions of persons of all races, for all offences.

## PRESENCE OF AFRICANS IN RURAL AREAS

### 1. Removal orders

Various proclamations published in 1957[1] widened the Government's powers (conferred on it in 1936) to cancel an African's right to occupation of land owned by the Trust, and to order Africans to move off land to be reserved for commonages or other purposes. The terms of the Native (Prohibition of Interdicts) Act were applied to such orders.

### 2. Native Trust and Land Amendment Act, No. 18 of 1954

This Act amended Chapter IV of the principal Act of 1936. It dealt with:

(a) labour tenants, who work for a farmer for a fixed number of weeks a year in return for the right to grow crops and run stock on a portion of the farm;

(b) squatters maintained by certain farmers as labour pools, or renting land from a farmer but working elsewhere.

The object of the Act was to discourage these systems and to encourage farmers to employ full-time labourers. It provided that the number of labour tenants an individual farmer may employ will be determined by labour tenant control boards composed of officials and local farmers, or by divisional councils in the Cape. The Minister stated[2] it would be assumed that five tenants were the normal number required per farm.

Farmers were required to register squatters annually, and it was provided that the registration fee would be progressively increased. Squatters could not be registered unless they had been continuously resident on the land concerned since 31 August 1936.

The Act removed a previously binding obligation on the Government to find alternative land for Africans who were dis-

[1] Nos. 12, 13, and 236 of 1957.
[2] Assembly, 22 February 1954, Hansard 4 col. 911.

placed. With certain exceptions it enabled the authorities to offer them employment instead.

3. **Bantu Laws Amendment Act, No. 42 of 1964**

(a) Further machinery was provided for the abolition of labour farms (where a farmer accommodates Africans until he needs their services) and for the gradual abolition of the labour tenant system. It was stipulated that only Africans over the age of 15 years, born in the Republic or South West Africa, may enter into labour tenants' contracts. (It would appear that members of the African's family will not be required to work for the farmer unless they themselves enter into contracts.)

No labour tenant contract may be entered into for a period in excess of three years. If no period is expressly stipulated the contract will be deemed to have been entered into for one year. Contracts will not be registered if the farmer did not previously employ labour tenants. The Minister was empowered to declare that in any specified area no labour tenants shall be employed.

The definition of a "dependant" of an African on a farm, who may live with him there, was widened.

(b) The Minister was given power to establish Bantu labour control boards which will have jurisdiction in respect of all farm labourers and domestic servants as well as labour tenants. This will not apply in the Cape, where divisional councils control these matters. In areas where there is no divisional council or control board, Bantu Affairs Commissioners will have power to act. Boards may be directed by the Government to consider the availability of non-African labour.

(c) The relevant authorities were empowered to issue a second removal order to an African convicted of being in an area unlawfully if, on his arrival at the first place to which he has been removed, there is no suitable accommodation or employment.

(d) The Minister was empowered to prohibit a farmer from allowing Africans to congregate or reside on his land if, in the Minister's opinion, their presence is undesirable in view of the situation of the land, or if they are causing a nuisance to persons living in the vicinity. Gatherings connected exclusively with religious services or church functions may not be prohibited.

By mid-1970, new labour tenants' contracts had been prohibited in the whole of the Free State, 41 districts of the Transvaal, 3 in the Cape, and 23 in Natal. As existing contracts expire,

the Africans concerned are encouraged to become full-time farm workers (which may mean that they lose the right to keep cattle). Those who refuse may be allowed to accept work in country towns, but their families must go to a resettlement village in an African Reserve, and they must dispose of their stock.

### 4. Bantu Laws Amendment Act, No. 19 of 1970

A section of this Act made it illegal for an African who lawfully occupies a dwelling on a white-owned farm to allow any other African to occupy this dwelling unless the latter is entitled to live on the farm concerned.

## THE AFRICAN RESERVES

### 1. Area of the Reserves

The total area of the African Reserves at the end of 1969 (including African parts of the Transkei) was 17 942 792 morgen, or 15 368 575 hectares, or 59 338 square miles. This represented 12,59 per cent of the total area of the Republic.

An additional 1 382 200 morgen (about 4 561 square miles) had then to be acquired to reach the total area to be allocated to Africans in terms of the Native Trust and Land Act of 1936.

In terms of Government policy, further land, in addition to this, is being bought, adjoining the Reserves, on which Africans from "black spots" are being resettled. "Black spots" are African-owned farms that are surrounded by white-owned land, including outlying parts of Reserves that jut out into white farming areas.

### 2. Bantu Investment Corporation Act, No. 34 of 1959

This measure provided for the establishment of a corporate body, the Bantu Investment Corporation of S.A., Ltd., with a board of directors appointed by the Minister of Bantu Administration and Development,[1] to promote and encourage the development of Bantu enterprise in the Reserves.

Using share capital made available by the S.A. Bantu Trust and moneys invested with it by Africans, the Corporation would provide financial, technical, and other assistance and expert advice to African businessmen in the Reserves; would promote the expansion of existing commercial and light industrial undertakings and the establishment of new ones in these areas; would establish savings banks; and would make housing loans available.

As described later, in 1966 the Bantu Investment Corporation handed over most of its activities in the Transkei and Ciskei to the Xhosa Development Corporation.

[1] All the directors selected by the Minister were white men.

### 3. Border Industries

An Industrial Development Corporation was established in 1940 to promote industrial development in the country generally. It was decided some years later, in the light of certain of the recommendations published by the Tomlinson Commission in 1955, that this Corporation would assist in the development of industrial townships at selected places in white areas bordering on the Bantu homelands. The Department of Bantu Administration and Development would provide housing within the homelands for the African workers, situated in such a way that these people could commute to work daily, or, should this not be feasible, weekly.

In 1960 a new body, the Permanent Committee for the Location of Industry, was set up to co-ordinate plans for the decentralization of industry, primarily to the border areas. It is composed of senior officials of the government departments concerned and representatives of the Industrial Development Corporation and the Prime Minister's Economic Advisory Committee.

Various concessions were offered to industrialists who establish or expand concerns in the border areas. These were augmented in 1964, and again in 1968, 1970 and 1971. Government agencies provide the basic infrastructure, and factory buildings may be erected, which entrepreneurs may rent with the option of purchase. Industrialists may qualify for direct financial assistance, income tax concessions, transport and harbour rebates, tender preferences, and financial assistance in the provision of housing for key white personnel. Exemptions from the terms of wage agreements may be granted if justified by lower productivity and cost of living.

In order to expedite progress, in 1970 the Government set up an inter-departmental committee to investigate the whole question of the decentralization of industry.

### 4. Bantu Homelands Development Corporation Act, No. 86 of 1965

(a) The Minister of Bantu Administration and Development was empowered to establish a non-profit-making development corporation in respect of the homeland of each national unit, with the object of planning and promoting economic development and the general welfare and advancement of the homeland and its peoples. These corporations may themselves undertake projects and/or may stimulate and help Africans to do so.

In his Second Reading speech on the Bill[2] the Minister said that the corporations would have power to call for

[2] Assembly, 7 June 1965, Hansard 19 cols 7336-8, 7369-71.

tenders and to employ agents to develop specific projects, e.g. a mine, in accordance with the Government's rules and principles. Such agents would be allowed a reasonable return on their capital, but would not be permitted to keep all the profits.

(b) A corporation will be managed by a board of directors appointed by the Minister. Members of the Senate, Assembly, or a provincial council may not be included. The Minister said that the directors would all be white.

(c) A corporation may raise or borrow money (including "white" money) with or without security and/or interest, and may accept donations. All the shares will be held by the S.A. Bantu Trust.

(d) A corporation may exercise its powers in an urban area which is surrounded by a homeland, but not in an urban area which is not intended for occupation or ownership by Africans. (The racial zoning of towns in the Transkei is dealt with on page 51).

In terms of this Act, the Government established the Xhosa Development Corporation,[3] which commenced functioning in 1966. It has taken over the activities of the Bantu Investment Corporation in the Transkei and Ciskei (except for the running of savings banks), and has assisted or itself established various commercial and light industrial concerns.

The S.A. Bantu Trust has been purchasing trading stations in the Transkei from whites who want to sell them, paying compensation for loss of goodwill. Those that are considered to be profitable are let to the Xhosa Development Corporation, or, temporarily, to their previous owners. The plan is that they should eventually be resold to Africans. Similarly, some previously-white hotels have been taken over. The Corporation is providing on-the-job training for Africans at trading stations and in various others of its concerns.

### 5. Transkeian Development and Reserve Fund, Act, 1964

In terms of Act 3 of 1964 passed by the Legislative Assembly, a Transkeian Development and Reserve Fund was created, with the object of encouraging and promoting the economic development of the territory and of creating a reserve on which to draw in lean years or in the event of an emergency. This fund is controlled by the Transkeian Secretary for Finance.

### 6. Transkeian Trading Amendment Act, 1964

Act 5 of 1964 passed by the Transkeian Legislative Assembly

[3] In terms of Government Notices 1190 and 1358 of 1965.

removed a restriction, contained in an earlier proclamation, to the effect that a licence for an African trader, butcher, or baker would not be granted if the proposed business was within two miles of another business of the same type. But it added that a licence holder may not take out another such licence in respect of premises situated within 20 miles of his existing business. The object is to prevent the establishment of monopolies.

## 7. Racial zoning of towns in the Transkei

Following recommendations made by a committee appointed by the Republican Government, the provisional future of towns in the Transkei was decided upon. In terms of Proclamations R336 of December 1965 and R54 of February 1970, 30 of the smaller towns have been reserved completely for African citizens of the territory, while parts of further towns have been so reserved.

Except with the Minister's permission, no one but the Transkeian Government, the S.A. Bantu Trust, the Bantu Investment Corporation, the Xhosa Development Corporation, or a Transkeian citizen may acquire an interest in land in a reserved area, unless by inheritance or donation. The occupation of premises for professional or business purposes in such areas is controlled. (Existing local authorities would, for the time being, continue to administer the reserved areas.)

Towns omitted from the investigation, and apparently to remain "white", were Port St. Johns, Umzimkulu, and Matatiele.

An Adjustment Committee has been appointed to value white properties offered for sale, to estimate the value of traders' goodwill, and to determine whether compensation should be paid for real losses experienced.

In terms of various proclamations of 1965 and 1966, certain towns in the Transkei have been deemed no longer to be prescribed areas for the purposes of the Bantu (Urban Areas) Consolidation Act.

## 8. Bantu Laws Amendment Act, No. 63 of 1966

The Minister's permission is required before anyone who is not a citizen of an African territory within the Republic that is declared a self-governing territory may live there, or may carry on any profession, business, trade, or other calling in the territory.

No civil action against the State or any of its officers, a Cabinet Minister, a chief or headman, or an African tribe or community, in respect of any matter arising from the Bantu Administration Act of 1927 as amended, shall be capable of being instituted if a period of twelve months has elapsed from the date on which the cause of action arose.

9. **General Law Amendment Act, No. 70 of 1968**

The procedure was simplified for serving notices of expropriation of land owned by Africans in black spots.

10. **Promotion of Economic Development of Homelands Act, No. 46 of 1968**

The State President was empowered to establish corporations in respect of any industrial, commercial, financial, mining, or other business undertaking in the homelands, and corporations to plan, finance, carry out, or assist in promoting economic development projects.

Such corporations will have white directors appointed by the Minister, and may have advisory boards with appointed African members, selected in consultation with the African governmental body with jurisdiction in the area. Their share capital will be contributed by the S.A. Bantu Trust.

The corporations will be subject to the directions of the Bantu Trust. The Bantu Investment Corporation will be the co-ordinating body, acting as the Trust's economic instrument.

When introducing the Bill[4], the Minister said that, when this was justified, whites would be employed for fixed periods as agents or contractors to undertake development projects. They would be granted only leasehold tenure of land and their businesses must have no links with foreign interests. So far as possible, Africans must be employed, and trained to hold increasingly senior posts. A system of apprenticeship was being worked out: certificates of training issued would be valid in the homelands only. Agents would have to pay rent, royalties, commission, or a share of profits to a corporation and/or to the Bantu Authority in the area concerned.

Further concessions, additional to those available in border areas, have been offered to white entrepreneurs who establish concerns within the homelands. The provisions of the Industrial Conciliation Act and the Apprenticeship Act, and wage determinations made by the Wage Board, will be suspended in the homelands from a date to be announced. (No such date had been fixed by early 1971.)

Four growth-points are to be developed, for a start, at which white entrepreneurs will be encouraged to establish factories. The first three are Babelegi, to the north of Pretoria; Sitebe near Mandeni in Zululand, and near Potgietersrus in the Northern Transvaal. Besides these, the Xhosa Development Corporation and other agencies are developing growth-points at Umtata, Butterworth, and other places in the Transkei.

[4] Assembly Hansard 5 of 1968, cols. 1762-73.

11. **Mining in Bantu areas**

The Mining Rights Act, No. 20 of 1967, widened the powers of the Minister of Bantu Administration and Development to control the issue of prospecting and mining licences to white persons or companies in the Bantu homelands, and provided that such licences might be issued to Africans.

A Bantu Mining Development Corporation was established in March 1969[5]. This corporation, or agents acting on its behalf, will investigate the mining potential of Bantu areas, undertake prospecting, and work specific projects. A few private white concerns are already operating mines in the Reserves: unlike such private companies, the corporation will aim at creating employment, hence the profit motive will not be its main consideration.

12. **Townships Board and councils in the Transkei**

Proclamation R41 of 1970 provided for the establishment of a Townships Board for the Transkei, which will gradually take over from existing local authorities the administration of towns that have been wholly reserved for African ownership or occupation.

The Transkei Townships Amendment Act (Transkeian Act 9 of 1969) made provision for the establishment of township councils in black-zoned towns.

13. **Townships and employment in the African Reserves of the Republic**

The Minister said in September 1970[6] that there were 69 townships in various stages of development in the Reserves. Some had been provided with full services, while others had as yet but rudimentary services.

Some of these townships are close to "white" towns or to border industrial areas, where adequate employment opportunities exist. Others serve administrative or educational centres, or house workers employed in agricultural or other projects.

But there are, as well, increasing numbers of "closer settlement" areas, often in the more remote parts of the Reserves, to house Africans endorsed out of towns or ordered to leave white farming areas, and landless people removed from black spots. All those settled in such villages must dispose of any stock they own. Residential plots only are available. In some cases, Africans have been moved to such areas before even rudimentary services were available: they have been provided with tents in which to live until they could build new dwellings for themselves. The main problem, in most of the resettlement villages, is the lack of local employment opportunities.

[5] Government Notices 456 and 457 of 28 March 1969.
[6] Assembly Hansard 11 of 1970, col. 5264.

It is clear, from the latest official reports available at the time of writing, that the new jobs thus far being created in border areas and within the Reserves are far too few even to absorb the natural growth of the people in the areas concerned. There is extensive poverty and malnutrition.

### 14. Health services in the Reserves

Proclamation R96 of March 1970 provided that all the powers, functions, and duties affecting the administration of health matters, including hospitalization, in Bantu homelands would be transferred to the Minister of Bantu Administration and Development. (Control had, previously, been divided between the Department of Health, the provincial administration, and local authorities.) The Department of Health will be the executive authority, but its budget of expenditure in Bantu areas will be subject to the approval of the Minister of Bantu Administration and Development, the expenditure being defrayed from the S.A. Bantu Trust Fund.

The Second Finance Act, No. 97 of 1970, empowered the Minister of Bantu Administration and Development, with the concurrence of the Minister of Finance and, if appropriate, the provincial administrator concerned, to direct that any assets, liabilities, rights, or obligations of the Department of Health or the provincial administrations that were connected with health matters in the Bantu homelands should devolve on the S.A. Bantu Trust.

On 7 August 1970 the Minister of Health outlined plans for a comprehensive health service in Bantu areas, to be centred on the hospitals. These would have outlying curative and preventive clinics, from which nurses and other workers would take health services "direct to the people".

## IMMIGRATION, AND EMPLOYMENT FOR FOREIGN AFRICANS

### 1. Immigration Regulation Act, No. 43 of 1953

The Immigration Regulation Act amended an earlier measure of 1913 in terms of which the wives and minor children of Indians permanently resident in South Africa were permitted to come from India (and, later, from Pakistan) to join them. The new Act provided that no women born outside South Africa who contracted marriages overseas to South African Asians after 10 February 1953, nor their minor children, would be permitted to enter the country unless special permission was granted. Women who had already contracted such marriages, and minor children born to them before 10 February 1954, would not be debarred from entry until 10 February 1956.

2. **Immigration Amendment Act, No. 8 of 1960**

In terms of the Immigration Regulation Act of 1913, Asians may not move from the province where they are domiciled unless they are in possession of permits granted by the Department of the Interior (the Department of Indian Affairs has since taken over these powers in respect of Indians). Asians are prohibited immigrants in other provinces, and there is a total ban on their residence in the Free State.

Until 1960, although the responsible Minister could permit an Asian to visit a province other than the one in which he lived, he had no power to authorize a permanent change of residence. The Act of 1960 granted this power, but stipulated that an Asian who is allowed to settle in another province will lose his right of domicile in the province where he lived originally.

3. **Aliens Control Act, No. 30 of 1963**

Before 1963, Africans entering South Africa to seek work (other than recruited mine or other labourers) were usually not in possession of travel documents, but this was condoned if they reported to a passport control officer and were issued with temporary immigration permits.

The Act of 1963 made it an offence for an African to enter South Africa without a travel document issued by his own country and recognized by the South African Government. If convicted of such an offence an African is liable to a maximum penalty of six months. Whether or not he is tried and convicted he may be arrested and deported: should he be deported any unexpired sentence of imprisonment will lapse.

4. **Bantu Laws Amendment Act, No. 76 of 1963**

The Bantu Laws Amendment Act of 1963 tightened control of the presence and employment of foreign Africans in South Africa, other than those recruited for work on the mines or in other specified industries. All the rest now need the written permission of the Secretary for Bantu Administration and Development, or an officer authorized thereto by him. Conditions may be imposed.

Foreign Africans wishing to enter the country must obtain prior permission. If this is granted their travel documents will be endorsed at the border by passport control officers stating the area in which their presence is authorized and the purpose and period of their visit. If the African is entering to take up employment, details of his service contract will be entered on his travel documents.

Foreign Africans who were already in South Africa on 30 June 1963 were required to obtain passports from their home countries before 31 December 1965.

5. **Policy decisions on foreign Africans**

(a) It was decided in 1963[1] that on entering into a service contract with a foreign African an employer must undertake to return the worker to his home on the completion of the contract. In no case may such an African be employed for longer than two years. He may be considered for further service if he returns to his home and then re-applies.

(b) A decision made in 1965 was that foreign Africans would no longer be issued with reference books (instead, they must be able to produce passports). They will no longer pay South African taxes, but must possess proof that they have paid the taxes imposed in their home countries.

(c) Fewer permits are being given to foreign Africans to work in prescribed areas.

(d) Foreign Africans who have entered South Africa without proper travel documents may be allowed to enter employment in order to earn the money necessary for the fare back to their homes, provided that the employer deposits with the authorities a sum of R20 towards this fare. This sum may be deducted from wages paid. (No deposit is required in the cases of Africans from Lesotho, Swaziland, Botswana, or Portuguese East Africa.)[2]

6. **Gratuities for certain Government employees**

In terms of the Railways and Harbours Amendment Act, No. 6 of 1965, and the Pension Laws Amendment Act, No. 102 of 1965, gratuities may be paid to foreign Africans who started work in a Government department (including the Railways) before 1955, thereafter completing at least ten years' service, and whose services are terminated because of the expiration or cancellation of their permits to live and work in the area concerned.

7. **Border Control Act, No. 61 of 1967**

Persons arriving in South Africa must enter the country at a place where a passport control officer is stationed, and authority to enter must be obtained before arrival at the border. Children require travel documents unless they arrive with their parents and their names are included in the latter's passports. If permission to enter is refused, appeal may be made to an immigration board.

Unless exemption is granted, foreigners passing through South Africa require transit visas. Special visas may be granted to those who need to cross the border frequently.

Aliens may be restricted to specified areas, and allowed to be

[1] Department of Information circular 126/63(K).
[2] Announcement in *The Star* 15 March 1966.

there for specified periods only. Any conditions imposed on African aliens may differ from those for other groups.

### 8. Admission of Persons to and Departure from the Republic Regulation Amendment Act, No. 38 of 1969

Policemen and passport control officers may call upon any person to produce proof that he is entitled to be in the Republic. If satisfactory proof is not furnished, the person concerned may be arrested without warrant. He must then be brought before a passport control officer as soon as possible. Should this officer deny him permission to remain in the country, the person concerned may still appeal to an immigration board; but the maximum deposit required in such cases was raised from R200 to R1 000. The Act provided that an appellant may be held in custody pending the hearing.

A decision by the Minister of the Interior that a person shall be deported is not subject to appeal, nor to review by any court of law. No-one is entitled to be furnished with reasons for the Minister's decision.

## SEPARATION IN EMPLOYMENT

### 1. Civilized labour policy

In 1948 the Government re-affirmed the "civilized labour" policy for the Public Service and Railways. This policy, originally introduced by the Pact Government in 1924, was that so far as possible the employees other than labourers should be persons who drew adequate pay to enable them to maintain "the standard recognized as tolerable from the usual European standpoint". The effect was that white workers were employed in numbers of lower skilled posts, and were paid at far higher rates than were received by non-whites doing similar work in private sectors of the economy.

### 2. Native Labour (Settlement of Disputes) Act, No. 48 of 1953

This measure re-defined the term "employee" in the Industrial Conciliation Act to exclude all Africans;[1] prevented registered trade unions from having African members; and prohibited strikes by African employees,[2] sympathetic strikes by workers of other racial groups, lock-outs, or the instigation of such strikes or lock-outs.

The Act provided for the setting-up of separate industrial conciliation machinery for certain categories of African workers. It did not prohibit African trade unions but denied them official

[1] Most Africans had been excluded from this definition in terms of the Industrial Conciliation Acts of 1924 and 1937; but certain of them did still qualify until 1953.
[2] Such strikes were already illegal in terms of War Measure 145 of 1942.

registration and status, thus placing them at considerable disadvantage when negotiating with employers or collecting subscriptions.

### 3. Industrial Conciliation Act, No. 28 of 1956

In terms of this Act no further "mixed" trade unions (catering for both White and Coloured or Asian members) may be registered; machinery was created for the splitting of existing such unions along racial lines; and it was laid down that any mixed unions which continued to exist must create separate branches for white and non-white members and hold separate meetings.

Furthermore, provision was made for "job reservation", that is, for specified types of work to be reserved for persons of a specified racial group. This section of the Act has, since, been used firstly to safeguard the position of White workers; and in the second place to protect Coloured workers against African competition.

### 4. Industrial Conciliation Amendment Act, No. 41 of 1959

In 1959 further restrictions were placed on the operation of remaining mixed trade unions. *Inter alia,* they may not extend their interests unless they do so in respect of one racial group only. It was rendered illegal for employers to collect trade union dues from Africans.

The Government's power to prohibit strikes in essential industries and services were extended to the canning industry; and the procedure for effecting job reservation was streamlined.

### 5. Industrial Conciliation Amendment Act, No. 43 of 1966

The Minister of Labour was empowered to issue orders for the deduction of trade union dues from the wages of White, Coloured, and Asian workers if he is satisfied that at least half the workers concerned want this to be done. He may act without this assurance in the case of a registered union which limits its membership either to White or to Coloured (including Asian) members. Even if such an order is issued, however, trade union dues will be deducted only if a member so requests.

### 6. Industrial Conciliation Further Amendment Act, No. 61 of 1966

Strikes and lock-outs were prohibited for any purpose connected with the relationship between employers and employees.

### 7. Effects of these measures

#### (a) Trade unionism

In 1961 roughly 31,7 per cent of the economically active White workers were members of trade unions, 19,2 per cent of the

Coloured, 19,1 per cent of the Asians, and only 1,9 per cent of the Africans (even if peasants are excluded from the number of African workers). Trade unionism was, then, not highly developed among non-whites.

As a result of dissension among white trade unionists, mainly over the question of co-operation with non-whites, early co-ordinating bodies split, and two right-wing organizations that supported the Government's policies were formed — the Co-ordinating Council of S.A. Trade Unions in 1947, and the S.A. Federation of Trade Unions in 1950. In 1957 they joined the Federal Consultative Council of S.A. Railways and Harbours Staff Associations to form the S.A. Confederation of Labour.

When the clauses of the Industrial Conciliation Act of 1956 that are described above were first published, a new body called the Trade Union Council of S.A. (Tucsa) was formed to unite as many workers as possible in an endeavour to prevent any interference with the collective bargaining system. The right-wing unions that support government policy did not join it, but nevertheless, in order to obtain as much support as possible, it was considered necessary to confine membership to registered unions — thus excluding African ones. A few unions that disagreed with this policy broke away: together with certain African unions they formed the S.A. Congress of Trade Unions (Sactu).

Sactu aligned itself with non-white political movements. This policy was opposed by some of the African trade unions, which formed themselves into the Federation of Free African Trade Unions of S.A. (Fofatusa). After the Suppression of Communism Act (described in a subsequent chapter) was passed in 1960, the Government "banned" most of the leaders of Sactu, forcing them to resign from their unions. In consequence, this body ceased to operate.

From 1963 Tucsa changed its policy and invited affiliation from all unions. For a time it maintained a loose liaison with Fofatusa, some African unions being members of both bodies. As Tucsa increased its organizational work among African workers the membership of Fofatusa declined, and, early in 1966, the latter body decided to disband.

Not all the member-unions of Tucsa, however, had agreed that African unions should be encouraged to affiliate. Their opposition was strengthened by several threatening speeches by the Minister of Labour. By early 1969, fourteen large unions had resigned from Tucsa over the issue, carrying with them about 18 per cent of the organization's individual membership, and others were threatening to withdraw. In the face of this development, Tucsa's national conference in February 1969 decided again to reverse its policy, confining membership to registered unions.

Most of the affiliated African unions had, in any case, decided

to disaffiliate, in a gesture designed to save the council from disintegrating. Since 1969, all but two or three of these unions have ceased to operate effectively.

The S.A. Federation of Trade Unions disbanded in 1968, many of its constituent unions becoming individual affiliates of the Confederation.

In mid-1969 the individual membership of trade unions was calculated by the writer to be:

| | *Affiliated to:* | | *Unaffiliated* |
|---|---|---|---|
| | *Confederation* | *Tucsa* | |
| White unions ... ... ... | 183 781 | 33 088 | 148 985 |
| Racially mixed unions ... | — | 129 830 | 20 093 |
| Coloured and/or Asian unions ... ... ... ... | — | 23 560 | 27 550 |
| African unions ... ... | — | — | 16 040 |
| | 183 781 | 186 478 | 212 668 |

After lengthy enquiries, the writer was able to trace only 24 African works committees, in factories and other concerns throughout the country, operating on lines suggested in the Native Labour (Settlement of Disputes) Act of 1953. The Department of Labour has, however, repeatedly stated that Bantu labour officers and officials appointed in terms of this Act have been successful in preventing many stoppages of work and in persuading employers to raise the wages of African workers.

(b) **Job reservation**

Since provision for job reservation was made in 1956, and until mid-1971, 26 job reservation determinations have been gazetted. Two of these have been withdrawn, and large-scale exemptions granted from most of the others. The Minister of Labour said during September 1970[3] that only about 2,9 per cent of the country's total labour force was *potentially* affected by the determinations: the percentage *actually* affected, in view of the exemptions granted, is not known.

The relevant Act, and threats of possible new determinations, have however, undoubtedly deterred many employers from promoting non-whites if this is opposed by the white workers in the undertaking concerned. Many employers maintain that the artificial protection thus granted has led to a falling-off of productivity among a considerable proportion of the whites.

In a number of industries, e.g. engineering, governmental job reservation has been avoided by the introduction of new industrial council agreements. In general, these allow for Coloured and

[3] Assembly Hansard 8 col. 3919.

Asian advancement so long as the minimum rate for the job is paid. (Whites engaged in similar work generally receive more than the prescribed minima.) A certain measure of African progress in operative jobs is possible too (except in mining), but the closed shop principle may be applied in skilled grades of work, thus excluding Africans because they cannot be members of registered trade unions.

8. **Nursing Act, No. 69 of 1957**

The Nursing Act, which replaced an earlier measure, stipulated that the Nursing Council (the body that deals with the registration, training, and discipline of nurses) must consist of white persons only. Provision was made for advisory boards to be elected by non-white nurses. The Council must keep separate registers of nurses according to their race, and may prescribe different qualifications for registration and different uniforms.

The Nursing Association was required to set up separate branches for members of each racial group, and to arrange separate meetings. The controlling board must consist of white persons, elected by white nurses; although non-whites may elect advisory committees.

It was rendered an offence to employ a white nurse or student-nurse under the supervision of a non-white nurse (except in cases of emergency).

9. **Factories, Machinery, and Building Works Amendment Act, No. 31 of 1960**

This Amendment Act enabled regulations to be made governing the separation in any factory of workers of different races or classes.

10. **Industrial Conciliation Amendment Act, No. 21 of 1970**

If an industrial council agreement provides for a scheme for the training of employees and the establishment of a fund for this purpose, to be financed by contributions from employers, the Minister of Labour may declare any of these provisions to be binding in an area additional to that in respect of which the industrial council concerned is registered, or in respect of any other undertaking or occupation in the area.

Should a training scheme be devised by a group or association of employers who are not under the jurisdiction of an industrial council, they may request the Minister to declare the scheme to be binding in respect of the relevant undertaking or occupation in the area concerned.

(Employers who provide no training schemes may, thus, be obliged to help pay the costs of schemes operated in undertakings similar to their own.)

## 11. Physical Planning and Utilization of Resources Act, No. 88 of 1967

Firstly, this Act replaced and extended the provisions of the Natural Resources Development Act of 1947, as amended in 1955. It placed control under the Minister of Planning, and widened Ministerial powers to determine the utilization of natural resources, including land — in particular, land to be used for industrial purposes.

Entirely new provisions enabled the State President, by proclamation, to impose control over the establishment or extension of all factories, or particular factories, in an area or areas defined by him. If such control is imposed, no factories affected may be established or extended without the prior approval of the Minister, who may impose conditions. An extension of a factory is defined as any increase in the number of African employees.

Proclamation R6 of 1968 imposed such control on all land not previously zoned for industrial purposes, and throughout 37 magisterial districts of the Transvaal, Cape, and Free State (including all the major industrial centres in these provinces). The Minister of Bantu Administration and Development said during February 1970[4] that, to the end of 1969, a total of 27 468 potential African employees had been affected by the refusal of applications for the establishment or extension of factories in the controlled areas.

## 12. Other restrictions on African economic progress in urban areas

(a) Section 66 of the Bantu Laws Amendment Act, No. 42 of 1964, provided that no African may carry on any trade or business as a hawker, pedlar, dealer, or speculator in livestock or produce, or any street trade or business which the Minister of Bantu Administration and Development may specify, in a prescribed area outside a Bantu residential area, unless he has the permission of the local authority. Local authorities may not grant such permission unless, at their request, the Minister has authorized them to do so. He may direct that no such trading be permitted in specified portions of a prescribed area, or may impose other conditions.

(b) Restrictions on the employment of Africans in the Western Cape and Cape Midlands are described on pages 29 and 41.

(c) It is mentioned on page 44 that African professional men and women may no longer be allocated consulting rooms or offices in urban African townships unless they

[4] Assembly Hansard 1 col. 119; Hansard 2 col. 605 (1970).

qualify under Section 10 (1) of the Bantu (Urban Areas) Consolidation Act to live in the areas concerned.

(d) The Bantu Laws Amendment Act, No. 19 of 1970, empowered the Minister of Bantu Administration and Development, after consultation with the Minister of Labour, by notice in the *Gazette* to prohibit the performance of work by, or the employment or continued employment of an African:

(i) in a specified area;

(ii) in a specified class of employment;

(iii) in a specified trade; or

(iv) in the service of a specified employer or class of employer.

The last three of the types of prohibition mentioned may be applied either in a specified area, or generally.

The Minister must give at least one month's prior notice of his intention, in the *Gazette*. He may amend or withdraw a prohibition, or grant exemptions.

A first notice of intention was gazetted on 3 April 1970, but, after a public outcry, was redrafted.

A new version was published as Government Notice R1260 of 7 August 1970. It did not apply to urban Bantu townships, the Transkei, certain districts of Zululand, or white farming areas. The Minister stated that in other areas (i.e. the "white" parts of towns and in Coloured and Asian group areas), he intended prohibiting the employment of Africans:

(i) as shop assistants or salesmen in shops and factories;

(ii) as reception clerks in establishments supplying lodging for reward, or in the service of persons pursuing a profession;

(iii) as telephonists, typists, clerks, or cashiers in shops, offices, factories, and accommodation establishments.

There were a considerable number of qualifications, for example that the prohibition would not apply if the work was performed in a separate part of the building from that used by other employees. Interested persons and organizations were invited to submit recommendations.

At the time of writing (mid-1971) no final notice has been gazetted.

## 13. Pension and other benefit funds

(a) The Unemployment Insurance Amendment Act, No. 53 of 1946 as amended, established a fund to which persons earning up to set amounts (increased from time to time) may become contributors. But certain classes of workers

are excluded: domestic servants, public servants, agricultural workers, African mine-workers, casual workers, and certain types of seasonal workers.

(b) The Railways and Harbours Amendment Act, No. 6 of 1965, provided for the creation of a provident fund for non-white railway and harbour workers.

(c) In terms of this Act and the Pension Laws Amendment Act, No. 102 of 1965, gratuities may be paid to Africans who started work in a Government department before 1955, thereafter completing at least ten years' service, and whose services are terminated under laws and regulations governing influx control.

(d) The Government Non-White Employees' Pensions Act, No. 42 of 1966, established a pension fund for non-white government employees who were not otherwise thus provided for (including African teachers whose salaries are paid by the Department of Bantu Education). The Act applied to South West Africa as well as to the Republic.

(e) In terms of the Bantu Authorities Pensions Act, No. 6 of 1971, a joint pensions fund is to be created for permanent employees of Bantu Authorities, as well as a joint superannuation fund for temporary employees.

## SEPARATION IN EDUCATION

### SCHOOL EDUCATION AND TEACHER-TRAINING

### A. AFRICANS

#### 1. Bantu Education Act, No. 47 of 1953

In terms of the Bantu Education Act the control of African education was transferred from the provinces to the Union Department of Native Affairs (and later to the newly established Department of Bantu Education). No school may be established or conducted unless they have been registered. The Minister was given very wide powers to make regulations.

During the following year the Government decided that the State should continue to pay into the Bantu Education Account an amount equivalent to its expenditure in 1953, that is R13 000 000 a year. Any excess expenditure over this amount would be met by African taxpayers themselves.[1] (As described below, this policy has, since, been amended.)

It was, further, decided that subsidies to teacher-training schools run by missions would be terminated in 1955, and that those paid to mission-run primary and secondary schools would be reduced progressively until 1957, after which they would cease.

[1] Exchequer and Audit Amendment Act, No. 7 of 1955.

Churches could rent or sell their schools to the Department, or could close them. If, however, they wished to retain control of schools on an unsubsidized basis they would have to apply for the registration of these institutions as private schools: the decision whether or not to grant registration would be made by the Minister of Bantu Education.

At the time when the Bill was introduced Dr. H. F. Verwoerd, then Minister of Native Affairs, said,[2] "Education must train and teach people in accordance with their opportunities in life, according to the sphere in which they live". Later, he added that in terms of the apartheid policy there was no place for Bantu within the white community above the level of certain forms of labour. Within their own areas, however, all doors were open. Education should, thus, stand with both feet in the Reserves and have its roots in the spirit and being of a Bantu society.

Most Africans resented the conception of "Bantu" education. They feared that the facilities provided for them would be inferior, and they strenuously opposed the introduction of a separate type of education with new syllabuses. There has been considerable controversy over a decision to use the mother-tongue as the medium of instruction throughout primary schools: before 1953 most schools began introducing one of the official languages as the medium after Standard II.

Another cause for dissatisfaction, in urban areas, was the official decision that most of the new high schools (post-Junior Certificate) and vocational schools should be sited in the African Reserves rather than in towns.

Probably the main criticism, however, was the pegging of the State's contribution to the cost of Bantu education. To ease the pressure on the Bantu Education Account, African parents and school boards were required to contribute in a variety of ways.

(a) It was decided that the capital costs of lower primary schools (to Standard II) in urban areas would be recovered gradually by adding an amount of up to 20 cents a month to the rentals of houses.

(b) African school boards were required to raise half the capital costs of all other schools, and to pay for maintenance and cleaning.

(c) Government and aided schools were given initial supplies of furniture and essential equipment, but school boards had to pay for replacements.

(d) To help to meet their expenses, school boards were empowered to introduce compulsory contributions to school funds in post-primary schools, and to ask for voluntary contributions in primary schools.

[2] Assembly Hansard 10 of 1953, cols. 3576, 3585; Senate Hansard of 7 June 1954.

(e) The school feeding scheme was abolished.

(f) Primary school pupils were supplied with readers in three languages, but, apart from this, parents had to pay for all text-books and stationery needed by their children.

(g) From 1955, double sessions were introduced in lower primary schools, in order that teachers, classrooms, and school materials might serve two sets of pupils daily.

(h) Savings were effected on teachers' salaries by training and employing large numbers with low qualifications.

African parents became alarmed over the declining standards, due mainly to the financial position. Besides the sums that they were officially called upon to pay, they voluntarily raised further very large sums to pay the salaries of additional teachers and the cost of building extra classrooms.

2. **Subsequent decisions in regard to the financing of Bantu education**

(a) It was decided in 1960 that sums required for capital expenditure on the Bantu university colleges (described later) would be advanced to the Bantu Education Account in the form of interest-free loans.

(b) From 1963, an additional grant of R1 500 000 a year has been paid into the Bantu Education Account towards the maintenance costs of the university colleges.

(c) Until 1963, only four-fifths of the amount paid by Africans in general taxation accrued to the Bantu Education Account. From that year, the whole amount became available for education.

(d) In terms of the Bantu Special Education Act, No. 24 of 1964, the Minister of Bantu Education was empowered to establish special schools for handicapped children, and to grant subsidies to private special schools. Expenditure was defrayed from the country's Consolidated Revenue Fund (not the Bantu Education Account).

(e) The salaries of the Minister of Bantu Education and of his staff were from 1963 transferred to the Consolidated Revenue Account.

(f) After 1964, educational services in the Transkei were separately financed with the aid of an annual grant from the Consolidated Revenue Fund, but the annual allocation from this Fund to the Bantu Education Account was not reduced in consequence.

(g) Many schools in the African Reserves have in recent years been built and financed by the S.A. Bantu Trust.

(h) The Finance Act, No. 78 of 1968, provided, *inter alia*, that if at any time during the course of a month the moneys in the Bantu Education Account were insufficient to defray the authorized charges on this Account, the Treasury might utilize other moneys available in the Exchequer Account in order to meet the deficiency.

Any deficiency that existed on the last day of a financial year would be met by means of an interest-free recoverable advance from the Loan Account. (According to the Deputy Minister of Finance,[3] the total amount thus advanced had reached R33 600 000 by 31 March 1970. Besides this, in spite of paying annual redemption instalments, the Bantu Education Account owed the Loan Account approximately R12 000 000 for sums advanced for capital expenditure on buildings.)

(i) In his Budget speech on 12 August 1970,[4] the Minister of Finance said that this method of financing the Bantu Education Account was unsatisfactory. A revised method would be devised when the results of the new basis for African taxation (described later) were known.

Meanwhile, in terms of the Second Finance Act, No. 97 of 1970, grants, instead of loans, were made from the Consolidated Revenue Fund to meet current expenditure for the next two years. These amounted to R17 500 000 in 1970-1 and (preliminary official figures indicate) R27 800 000 in 1971-2.

(j) Since 1969, local authorities have become responsible for the erection of higher primary and lower secondary schools, as well as lower primary schools, in urban areas. African school boards no longer have to pay half the costs. But all heads of families in these areas must pay a school levy of up to 20 cents a month. To meet the balance of the costs, local authorities may borrow money from the Bantu Housing Board, or the Department of Community Development, or (with the Minister's approval) some other source.

Africans are themselves raising money for the erection of schools in urban areas through the Association for the Educational and Cultural Advancement of the African People.

(k) Since 1969, the S.A. Bantu Trust has assumed responsibility for the building of all schools in African Reserves. (The capital costs of schools on white-owned farms must,

[3] Assembly, 1 October 1970, Hansard 11 col. 5535.
[4] Hansard 4 of 1970, col. 1537.

as before, be met by the owners of the farms or other private persons.)

These new arrangements have made it possible for the expenditure on Bantu education to be increased considerably. The salaries of teachers have been raised, and a pension scheme introduced. Nevertheless, the writer estimates that in 1970, for every R100 spent on the education of a White child, only about R6 was being spent on each African pupil; about 21 per cent of African children were not in school at all, and, amongst those who were, the drop-out rate was very high: only 1 842 passed the matriculation or Standard X school-leaving certificate examinations in 1970 (in the Republic, Transkei, and South West Africa).

The pressure on parents is very gradually being reduced: more textbooks are provided, although far from all those required, and fewer teachers have to be paid privately. But parents are still called upon to make large contributions.

## 2. Developments in the African Reserves

Act No. 2 of the Transkeian Legislative Assembly, passed during the first year of this Assembly's existence, provided that all community schools in its area (established or maintained by Bantu authorities, tribes, or communities) would become government schools. School boards would be disestablished, but school committees retained.

It was decided, later, that all privately paid teachers in the Transkei would become government employees. In Standard III (instead of after Standard VI, as in the Republic) either English or Afrikaans, as selected by parents, would gradually be substituted for the mother-tongue as the medium of instruction — every school selected English. Free text-books would be supplied. The examination at the end of Standard II was abolished.

As mentioned in an earlier chapter, territorial authorities in other African areas of the Republic have established or are setting up their own education departments, which are responsible for the erection and maintenance of community schools, supplies, and the employment of teachers. Each department receives an annual grant from the Bantu Education Account via the S.A. Bantu Trust: this is augmented by moneys from local sources.

The central Department of Bantu Education is responsible for schools in white areas, for education policy for Bantu education as a whole, and for the professional control and guidance of the territorial education departments. *Inter alia,* it prescribes all syllabuses, controls inspections, and administers examinations.

The Bantu Education Amendment Act, No. 44 of 1970, provided that, as from dates determined by the Minister, schools that are not government-controlled and are situated in the areas of

jurisdiction of territorial authorities or legislative councils will not have to be registered in terms of the principal Act. The bodies concerned will themselves be able to establish, register, and control schools. School boards may be abolished.

## B. COLOURED AND INDIAN PUPILS

### 1. Coloured Persons' Education Act, No. 47 of 1963

The control of schools for Coloured pupils was transferred from the provinces to a Division of Education within the Department of Coloured Affairs. This Division also took over vocational and special schools and part-time classes for adults that had previously been controlled by other Government departments.

No-one might manage a private school at which more than fourteen Coloured pupils were enrolled unless the school was registered with the Department and complied with prescribed requirements. Such registered schools were eligible for grants-in-aid. By mutual agreement, they might be transferred to Departmental control.

If the Minister was satisfied that adequate school accommodation was available he might declare that regular attendance was compulsory for every Coloured child in defined age groups, resident in a specified area.

Strict provisions were included for the control of teachers. Provision was made for an advisory council, consisting of appointed Coloured persons.

Unlike Bantu education, education for Coloured students would be financed from the Consolidated Revenue Fund.

### 2. Subsequent transfer of control, and other developments

As mentioned in an earlier chapter, in 1970 the control of education for Coloured people (other than that of the university) was transferred to the Coloured Persons' Representative Council.

From 1969, all school pupils have been supplied with text books, stationery, and basic equipment free of charge.

Since 1968 it has been compulsory for a Coloured child (unless specially exempted) who lives within three miles of a school, and who enrols in any class at the start of a school year, to attend regularly until the end of that year.

Officials estimate that, on a general average, 80 to 85 per cent of the children of school-going age are attending school at any one time. The drop-out rate is high, however. In 1969 there were only 1 446 successful matriculants.

Detailed information about finances is not available at the time of writing, but it is estimated that for every R100 spent on a White pupil in 1970, about R26 was spent on a Coloured pupil.[5]

[5] Estimate by the writer.

### 3. Indians Education Act, No. 61 of 1965

As from dates to be determined, the control of education for Indians was to be transferred to the Department of Indian Affairs. This transfer was effected in 1966 in Natal, 1967 in the Transvaal, and 1970 in the Cape. From these dates, free school books became available.

The other terms of this Act were similar to those of the Coloured Persons' Education Act of 1963. Indian education, too, is financed from the Consolidated Revenue Fund.

In 1969, 1 400 Indians passed matriculation or an equivalent examination. The writer estimates that, for every R100 spent on a White pupil in 1970, roughly R28 was spent on an Indian pupil.

## C. WHITE PUPILS

The provinces continue to control schools and teacher-training colleges for White students.

The National Education Policy Act, No. 39 of 1967, empowered the Minister of National Education to determine the general policy which is to be pursued in respect of the education of White pupils, and it set out various principles which are to apply.

## SYLLABUSES

During 1966, representatives of the various government and provincial education departments drew up "basic or core" syllabuses for the various subjects, to form an adequate preparation for the standard of work required by the Joint Matriculation Board. These were then adapted to the needs of the various departments. A certain degree of uniformity was, thus, obtained.

## TECHNICAL AND VOCATIONAL EDUCATION

The Vocational Education Amendment Act, No. 25 of 1958, the Special Education Amendment Act, No. 45 of 1960, and the Higher Education Amendment Act, No. 20 of 1963, placed Coloured education of the types mentioned under the control of the Minister of Coloured Affairs, Indian services under the Minister of Indian Affairs, and services for Africans under the Minister of Bantu Education.

For the time being all such services for Whites continued to fall under the Department of National Education; but the Educational Services Act, No. 41 of 1967, empowered the Minister of this Department to transfer to the provincial administrations the control of technical and vocational schools for White students.

In terms of the Advanced Technical Education Act, No. 40 of 1967, provision was made for colleges of advanced technical education. A further Act, No. 12 of 1968, declared the M. L.

Sultan Technical College in Durban, catering for Indians, to be such an advanced institution.

## UNIVERSITY EDUCATION

### 1. Extension of University Education Act, No. 45 of 1959

This Act provided for the establishment of separate university colleges for Africans, Coloured students, and Asians. The African colleges were to be financed from the Bantu Education Account and the rest from general revenue. As mentioned earlier, it was subsequently decided that the African colleges, too, would be subsidized from general revenue via the Bantu Education Account. Each college was to have a (white) Council and Senate and a (non-white) advisory Council and advisory Senate; but the latter bodies would gradually assume increased responsibility. The Minister was given wide powers of control of members of staff. The examinations, degrees, and diplomas were to be those of the University of South Africa (unless this institution provided no courses in the subjects concerned).

White students were prohibited from attending non-white university colleges. As from dates determined by the Government no new non-white students might enrol at the universities that previously accepted them. (The University of South Africa, which conducts correspondence classes only, was excluded, as was the Natal Medical School.) The Ministers concerned were empowered to make arrangements for the post-graduate training of non-white students at a place other than a university college.

In October 1959 the Government prohibited further non-white enrolment at a university without the consent of the responsible Minister. A year later the prohibition became absolute in large numbers of faculties and departments in which courses had been commenced at the non-white colleges.

Strict regulations were issued for the control of students.

### 2. University College of Fort Hare Transfer Act, No. 64 of 1959

In terms of this measure the control of the University College of Fort Hare was transferred from its multi-racial Governing Council to the Minister of Bantu Education.

The Minister was empowered to dismiss existing members of staff: he subsequently decided to dispense with the services of the principal and seven senior staff members. Others resigned, and there was for some time considerable unrest among the students. Coloured and Asian students were gradually eliminated.

### 3. Establishment of new colleges

The following new university colleges were established in 1959:

University College of the Western Cape, Athlone (Coloured students)
University College of Durban-Westville (Indians)
University College of the North, Turfloop (primarily for Sotho, Venda, and Tsonga people)
University College of Zululand, Ngoye (Zulu and Swazi students).

Fort Hare was required to confine admission, in the main, to students of Xhosa origin.

### 4. Attainment by these colleges of full university status

Five Acts passed in 1969 conferred full university status on these colleges. They were:

University of the Western Cape Act, No. 50 of 1969
University of Durban-Westville Act, No. 49 of 1969
University of Fort Hare Act, No. 40 of 1969
University of the North Act, No. 47 of 1969
University of Zululand Act, No. 43 of 1969.

The universities for Coloured and Indian students would be financed from the general Revenue or Loan Accounts. Those for Africans would be financed from the Bantu Education Account (but, as mentioned, in recent years the State has provided this Account with loans and grants towards the cost of the universities).

There would still be (non-white) Advisory Councils as well as (white) Councils. (Non-white) Advisory Senates as well as (white) Senates might be constituted.

The respective Ministers would still have wide powers of control over such matters as the appointment of the Rectors, of a majority of members of the Councils, and of members of Advisory Councils, and the determination of staff establishments. However, the Councils were now empowered themselves to control the appointment, dismissal, and conditions of service of the members of staff.

Until the Ministers otherwise determine, the services of external moderators and examiners will be used to assist the University Senates. Each university conducts its own examinations.

### 5. Universities Amendment Act, No. 67 of 1969

It was laid down that the term "university", as contained in the principal Act of 1955, would not include universities serving the Coloured, Indian, or African peoples in such matters as being represented on the Committee of University Principals or making joint representations to the Government.

Representatives of the non-white universities would, however, serve on the Joint Matriculation Board.

6. **Extension of University Education Amendment Act, No. 29 of 1971**

This measure widened the powers of the responsible Ministers to regulate the registration of non-white students at universities other than those catering for their own racial groups, or the University of South Africa, or the Natal Medical School. It was stipulated that consent would be granted only in respect of:

(a) a specified university; or

(b) a specified degree, diploma, or certificate.

The Minister may withdraw his consent if the student concerned takes a course of study or training other than that for the degree, disploma, or certificate in respect of which the consent was granted.

7. **National Study Loans and Bursaries Act, No. 89 of 1964**

Provision was made for the establishment of a national fund to assist matriculated students of any race who wish to study at a university, training college, technical college, or vocational school. The State contributed an initial amount of R500 000, and it was stated that companies making donations to the fund may deduct these from their taxable incomes up to a maximum amount of one per cent of these incomes.

## TAXATION OF AFRICANS

1. **Natives Taxation and Development Act, No. 38 of 1958**

This Act provided that as from 1 January 1959 every male African of the age of 18 and over must pay basic general tax at the rate of R3-50 a year, instead of R2 as previously. As from 1 January 1960 men earning more than R360 a year became liable to pay further amounts, on a sliding scale, and for the first time women became liable to taxation: they, too, were required to pay this "additional general tax" on a sliding scale.

If an African paid normal and provincial income taxes the amount due was deducted from the general tax payable by him, except that all men must in any case pay the basic general tax.

The general tax payable by Africans was substituted for the provincial personal tax paid by members of other racial groups; but Africans in the lowest income groups paid more than did Whites with the same incomes; no reduction was made for Africans with family responsibilities, as it is for persons of other racial groups; and Africans become liable to pay the general tax on reaching the age of 18, while others are exempt from personal tax until attaining the age of 21 years.

Furthermore, Africans pay further direct taxes which members of other racial groups (who on an average have higher incomes) are not called upon to pay, for example local tax and general or

tribal levies in many rural areas, and contributions to the cost of education.

2. **Bantu Taxation Act, No. 92 of 1969**

The basic general tax payable by male African adults was reduced from R3-50 to R2-50 a year.

Africans would no longer be required to pay normal and provincial income taxes. Instead, the rates of the additional general tax were altered, rising more steeply as incomes increase. As for members of other racial groups, these taxes are to be deducted by employers from salaries and wages, on the PAYE system. No rebates whatsoever (for wives, dependants, contributions to assurance, medical, and other funds) are allowed in the case of Africans.

Africans may still be called upon to produce proof of payment for the current year.

Africans in the lowest income groups still pay more than do persons of other groups with equivalent incomes. In the middle income groups Africans pay less than do single Whites and others, but more than do other married men of other races. At the higher levels, Whites and others pay more than Africans do unless they have several dependent children.

## HOUSING

1. **Native Building Workers' Act, No. 27 of 1951**

This Act was introduced with the object of speeding up the provision of housing for Africans in urban areas. Previously the skilled building work had been done by Whites, and the comparatively high level of their wages forced up the costs of housing projects, and, thus, of rentals payable and/or losses borne by State and local authorities.

The Act of 1951 provided for the training and employment of Africans as skilled building workers in African townships at lower rates of pay than those stipulated for builders of other races. It prohibited the employment of Africans on skilled building work in other parts of urban areas.

2. **Native Services Levy Act, No. 64 of 1952**

It was decided in 1952 that employers of adult male Africans in the larger towns who did not supply approved accommodation for them would be required to contribute a sum of up to 25 cents a week to a Services Levy Fund, which would be used for providing main water, sanitation, and lighting installations and roads to, and in approved cases within, African townships. Up to 5 cents out of every 25 cents might be used for subsidizing transport services. Employers were prohibited from deducting these contributions from the men's wages.

3. **Native Transport Services Act, No. 53 of 1957**

The Transport Services Levy Act supplemented the Native Services Levy Act. It transferred from the (then) Native Affairs Department to the Department of Transport control of the portion of the services levy which might be used for subsidizing transport services (up to 5 cents per employee per week), and provided that the compulsory contribution from employers might be increased to 10 cents per week.

4. **Housing Act, No. 10 of 1957**

The 1957 Housing Act was largely a consolidating measure, but made provision for a special Bantu Housing Board.

5. **Slums Amendment Act, No. 55 of 1963**

This measure increased the powers of the Government to ensure that the duties of local authorities under the Slum Clearance Act are carried out.

6. **Removal of Restrictions in Townships Amendment Act, No. 32 of 1963**

This Act widened the powers of the State and local authorities to have any restrictive conditions removed in cases where the authorities require the land for public purposes.

7. **Group Areas and Community Development Acts**

See page 30 *et seq*.

8. **Expropriation Act, No. 55 of 1965**

This measure amended a large number of previous Acts, and repealed certain others, so as to bring the provisions relating to expropriation into line in each. It dealt with cases in which property that is required for township development or for other public purposes may be expropriated by the Minister concerned, or officials to whom this power has been delegated, or Administrators, or local authorities to which an Administrator delegates the necessary power.

9. **Housing Amendment Act, No. 49 of 1965**

The definition of a local authority, as contained in the principal Act, was amended to include:

(a) a board of management of a rural Coloured area;

(b) a "specified" area, in terms of the Bantu Resettlement Act of 1954, which is controlled by the Bantu Resettlement Board (Meadowlands and Diepkloof in Johannesburg);

(c) a management board established in an African area as a local authority for the purposes of the Housing Act (there is such a board in respect of the Evaton area).

The National Housing Commission was, thus, empowered to lend money to these bodies as well as to other local authorities for the erection of housing schemes. Before making a loan to a Coloured board of management the Commission must consult the Secretary for Coloured Affairs, to ensure that the board is in a financially viable position.

The Housing Commission, like the Community Development Board, has been exempted from the provisions of restrictive by-laws and conditions relating to the establishment of a township.

Economic and sub-economic (subsidized) housing schemes are provided by the Commission, the Board, or by local authorities with the aid of loans, for people who cannot meet their own needs. (A few local authorities, notably Johannesburg, have themselves contributed further subsidies in respect of non-white sub-economic housing schemes.)

Nearly all the houses built for Africans since 1958 have been financed from economic loan funds: that is, the Africans must themselves, over a period of years, repay the interest on the loans plus the capital costs (except for capital costs of services financed from the Native Services Levy Fund).

In certain area sites were provided on which Africans who wanted to have houses of a better type might build for themselves.[1] These plots were on a leasehold basis only in townships in "white" areas, but might be purchased in townships in the Reserves. The Bantu Investment Corporation grants 90 per cent loans to approved owners of plots in the latter areas only.

Whites, Coloured, and Asians whose incomes are above the limits set for economic or sub-economic housing schemes may obtain individual loans through the Housing Commission.

### 10. **Housing Amendment Act, No. 4 of 1966**

This was a consolidating measure.

### 11. **Agricultural Credit Amendment Act, No. 45 of 1968**

A provision of this Act enabled white farmers to obtain loans for the erection of dwellings for non-white labourers.

### 12. **Bantu Laws Amendment Act, No. 19 of 1970**

Subject to the Administrator's approval, the S.A. Bantu Trust may, by agreement with a local authority, take over the latter's assets and liabilities in respect of an approved Bantu housing scheme.

The Act removed the necessity for a public enquiry to be held before the Minister of Bantu Administration and Development can order a local authority to remove, curtail, or abolish an African township or hostel. When such an order is given, the Minister will fix a date after which no compensation will be pay-

[1] But see page 42.

able for any building erected, and after which a Bantu Affairs Commissioner may instruct the police to remove any African who, in his opinion, has no permission to be there.

After notice has been given that a township or hostel has been abolished, it will be an offence for any African to be there unless special authority has been given.

If a dwelling is condemned on the recommendation of a Medical Officer of Health, the alternative accommodation to be offered to the inhabitants need not necessarily be in the urban area concerned.

### 13. African homes and amenities in urban townships

As mentioned on page 42, it was decided early in 1968 that Africans would no longer be allowed to build their own homes on leasehold plots in urban townships.

During the debate on the Bantu Laws Amendment Act of 1970, the Deputy Minister commented that social "luxuries" should be provided in the homelands, and not in urban areas.

## SEPARATE AMENITIES, ENTERTAINMENT, AND SPORT

### 1. Reservation of Separate Amenities Act, No. 49 of 1953

During 1952 several Africans appealed successfully against convictions for using facilities reserved for Whites: they had used those facilities in a protest against discrimination. Their appeals succeeded on the ground that if separate facilities were provided for various groups, these must be substantially equal.

The Government then introduced the Reservation of Separate Amenities Act, which empowered persons in charge of public premises or vehicles to reserve them, or portions thereof, for the use of persons belonging to a particular race or class. No such action can be ruled invalid on the ground that provision is not made for all races, or that the separate facilities provided for various races are not substantially equal.

### 2. Native Laws Amendment Act, No. 36 of 1957

#### (a) The "Church Clause"

An amendment made in 1937 to the Native (Urban Areas) Act provided that any institution to be established after the beginning of 1938 in the so-called white part of a town (i.e. outside non-white townships), and which would cater *mainly* for Africans, required the approval of the Minister of Native Affairs and of the local authority concerned. The word "institution" included churches, schools, places of entertainment, hospitals, and clubs.

This section was amended in 1957 (there was much controversy about the suggested Bill, which was redrafted twice). The new provision relating to churches stated that if the local authority concerned concurs, if the church concerned has been afforded reasonable time to make representations, and if the Minister has considered the availability or otherwise of alternative facilities, he may direct that the attendance of Africans at any church or religious service in the white part of a town shall cease as from a date specified. He may do so only if in his opinion the Africans are causing a nuisance or if he considers it undesirable for them to be present on the premises in the numbers in which they ordinarily attend.

### (b) Schools, hospitals, clubs, and similar institutions

If schools, hospitals, clubs and similar institutions which admit Africans were established in their present premises before 1938 they might continue to operate unless the number of Africans attending them had increased since that date. If so, or if such institutions were established after 1938, they might continue only with the approval of the Minister given with the concurrence of the local authority concerned. Conditions might be imposed.

In either case, provided the local authority concurred, the Minister might direct that no Africans (other than employees) should attend if he considered that they were causing a nuisance or that it was undesirable that they should be present in the numbers in which they ordinarily attended. The Minister might make a similar order without consulting the local authority if he was of the opinion that the institution was being conducted in a manner prejudicial to the public interest.

### (c) Places of entertainment

On grounds similar to those mentioned above, and again if the local authority concurred, the Minister might direct that no Africans should attend any place of entertainment in the white part of a town.

(The control of entertainments that are deemed undesirable is dealt with in the final chapter of this book.)

## 3. Motor Carrier Transportation Amendment Act, No. 44 of 1955

The principal Act, passed in 1930, authorized the Government-appointed National Transport Commission, or local boards, to stipulate that certain motor vehicles may be utilized for the conveyance of a stipulated class of person only. In terms of the amending measure, the board may require local authorities and others operating transport services to reserve vehicles or portions thereof for members of specified racial groups.

### 4. State-Aided Institutions Amendment Act, No. 46 of 1957

This measure conferred power on the boards of cultural institutions, such as art galleries, museums, public gardens, zoos, and libraries, subject to the approval of the Minister of Education, Arts, and Science (now, the Minister of National Education), to determine during what hours and subject to what conditions the public, or any group of persons, or persons belonging to a particular race or class, may visit the institution concerned.

### 5. Broadcasting Amendment Act, No. 49 of 1960

A separate Bantu Programme Control Board was set up, within the S.A. Broadcasting Corporation, to control the broadcasting of programmes especially designed for Africans. (Africans, can, of course, tune in to the general programmes too.)

### 6. Control of welfare organizations working on behalf of Africans

During April 1957 the (then) Native Affairs Department sent a circular[1] to local authorities and welfare organizations stating its policy that Africans should conduct their own voluntary social, social welfare, and recreational services. The control of such services by committees of whites, or by mixed white/non-white committees, could not be approved. Whites could serve on separate advisory or fund-raising committees; and white officials could, if asked, serve on the African committees in an advisory capacity.

As a result, considerable re-organization was necessary in numerous welfare organizations, and work which had involved fruitful inter-racial co-operation was hampered.

### 7. Racial separation in scientific and professional organizations

When opening a conference of the S.A. Library Association during November 1962 the Minister of Education, Arts, and Science announced that the Government expected scientific and professional organizations to fall in with its policy of having separate branches for the various racial groups. The Library Association decided to comply.

Some weeks later letters were sent by the Minister to scientific or professional bodies that receive Government subsidies informing them that they were expected to provide for separate non-white societies, amending their constitutions if necessary to make this possible. The non-white bodies could affiliate to the national societies and could send representatives to specific executive meetings. In this way channels could be created for the exchange of views, and for knowledge gained at congresses and conferences

[1] No. 1176/313 of 11 April 1957.

of white scientists to be transmitted to non-whites. Unless the organizations concerned complied with this policy they would not continue to qualify for financial assistance from the Government, the Minister said.[2]

According to various reports[3] the organizations concerned had about 14 000 white members at the time, but only about 15 non-whites from South Africa. The latter, whose fields of interest differed, were far too few in number to establish separate professional bodies.

Some of the organizations concerned decided to forgo their subsidies rather than comply with the Minister's requirements; but one or two agreed to exclude non-whites. Following representations made by delegations, the Minister agreed to a compromise: for the time being such scientific societies as wished to do so could continue to accept non-white members, but would try to help them eventually to form their own associations.

### 8. Proclamation R26 of 1965

(Racial separation in clubs, places of entertainment, etc.) See page 34.

### 9. Separation in sporting bodies: 1962 to 1970

On 9 February 1962 the Minister of the Interior said[4] that as far back as 1956 his predecessor had stated that whites and non-whites should organize their sporting activities separately; that there should be no inter-racial competitions within South Africa's borders; and that the mixing of races in teams to take part in competitions in South Africa or abroad should be avoided.

A few weeks later the Minister amplified his statement.[5] He said that mixed teams would not be allowed to compete in international competitions held outside the country's borders, but separate white and non-white teams might do so provided that the organizers were not trying thereby to make the Government abandon its policy of separate development.

It would be in accordance with the Government's policy, the Minister continued, if non-white associations were to exist and develop alongside the corresponding white associations. The latter could act as co-ordinating organizations between the two bodies at top level and send representatives to meetings of international organizations. One or two members of a white executive committee could attend meetings of the non-white committee when requested, to maintain liaison; or one or more members of the non-white body could attend meetings of the white committee in

[2] As reported by Minister of Justice. Assembly, 5 March, 1963. Hansard 7 cols. 2140-1.
[3] *Sunday Times*, 24 February, and *Rand Daily Mail*, 25 February 1963, and Assembly, 13 May, 1964. Hansard 16 cols. 5958-9, 5964.
[4] Assembly, Hansard 3 col. 839.
[5] *The Star*, 31 March 1962.

an advisory capacity when matters affecting non-whites were being discussed.

Early in 1963, the then Minister of the Interior added that if whites participated in overseas competitions they must do so as representatives of the whites in South Africa, and if non-whites took part, they must do this as representatives of the South African non-whites. Outside the country, South Africans might compete with sportsmen of racial groups different from their own who came from other countries.

During the next three years, the invitation to South Africa to participate in the Olympic Games in Tokyo was withdrawn, and the organizations representative of several types of sport in the Republic were suspended or expelled from the international controlling bodies.

The next Olympic Games were due in Mexico City in 1968. In April 1967 the new Prime Minister, Mr. B. J. Vorster,[6] repeated that, irrespective of the standard of proficiency of the participants, no mixed sport would be practised between white and non-white South Africans within the borders of the Republic. The attendance of members of one racial group at recreational events of another group would continue to take place by permit only.

But Mr. Vorster added that a clear distinction must be drawn between personal relations, on the one hand, and inter-State relations, on the other. So far as the Olympic Games were concerned, South Africa would have to comply with the international requirements that those selected to participate (whether white or non-white) would form one combined team, would travel and stay together, and would wear the same uniform. At the Games themselves, the white and non-white South Africans might compete against one another.

Each of the four population groups in South Africa would select its own representatives for various events. There would then be liaison between white and non-white administrators, under the aegis of the S.A. Olympic and National Games Association, to decide on the composition of the South African contingent.

In other international events, the Prime Minister continued, whether these were held in the Republic or outside, a white South African team would be allowed to play against a foreign Coloured team.

South Africa wished to maintain existing traditional ties, in sports such as rugby and cricket, with Commonwealth and Western states. Such countries would themselves decide upon the composition of their teams. But if politicians took a hand in the matter, this policy might be reviewed.

[6] Assembly, Hansard 11 of 1967, cols. 3959-67.

Despite this announcement, South Africa was excluded from the 1968 Olympic Games. Two years later, the International Olympic Committee withdrew its recognition of the Republic.

An M.C.C. tour of South Africa that was to have taken place in 1968 was cancelled after the South African Government had expressed the view that the inclusion in the team of the Coloured player, Mr. Basil D'Oliveira, was attributable to political pressure. The American Negro, Mr. Arthur Ashe, was twice refused a visa when he wished to participate in tennis championships in the Republic, the reason given being that he had expressed views antagonistic to South Africa.

A Springbok rugby tour of Britain in 1969 was curtailed because of widespread demonstrations there. However, an All Black rugby team which included three Maoris and a Samoan proved to be welcome visitors to South Africa.

In 1970, the M.C.C. announced that no further test matches would take place until cricket was played on a multi-racial basis in South Africa and teams were selected on merit alone. The Republic was suspended from several further bodies that controlled international sport.

In terms of Government decisions announced in 1968, mixed sport may not take place even between Coloured players, Indians, and Africans in South Africa unless special permits are obtained.

## 10. **Further enunciation of sports policy, 1971**

During April 1971, the Prime Minister reiterated that racially mixed sport at club, provincial, or national levels would not be permitted in South Africa. White and non-white South African sportsmen could, however, compete against one another at an "international" level within the country in individual contests such as the Olympic sports, for example athletics, boxing, and swimming, (and presumably in golf) as representatives of their own racial groups. (Mixed teams would, apparently, not be sent abroad except to the Olympic Games, if South Africa were again invited to participate.)

South African Coloured, Asian, and African tennis players who qualified could compete against Whites within the country in international tournaments only.

Springbok rugby and cricket teams touring abroad would consist of white players; but non-whites could establish their own international relationships. Multi-racial rugby and cricket teams from other countries could tour the Republic and could compete against separate white and non-white teams, at separate venues.

## 11. **Racial zoning of beaches**

In accordance with their own and/or the Government's wishes, and the recommendations of various commissions and committees,

many local authorities in coastal areas zoned beaches for members of the various racial groups. But some local authorities in the Cape, notably Cape Town and East London, were unwilling to enforce complete apartheid, preferring to retain the customary use of beaches.

Cape Provincial Ordinances of 1955 and 1964, however, empowered the Administrator to direct local authorities to implement racial zoning and to put up notice boards specifying by whom the various beaches might be used. If his instructions were not obeyed, he could have the necessary work carried out at the expense of the local authority concerned, should he so decide. All beaches near built-up centres have, in consequence, now been zoned.

In many cases, those allocated to non-white people are further away from the residential areas than are the "white" beaches, and initially lacked necessary amenities.

## OTHER MATTERS AFFECTING COLOURED, ASIAN AND AFRICAN PEOPLE

### COLOURED AREAS

1. **Coloured Development Corporation Act, No. 4 of 1962, and Amendment Act, No. 12 of 1963**

In terms of the principal Act a Coloured Development Corporation was established to encourage and promote the advancement of Coloured people in the fields of industry, trade, and finance in Coloured group areas, mission stations, and reserves. (All the directors, appointed by the Government, are white.)

The Amendment Act enabled the Corporation to promote the advancement of Coloured people in Coloured areas in the fields of mining, fishing, and any other activities which may be stipulated by proclamation.

The Corporation has, since, made loans to Coloured businessmen and light industrialists; and has itself established or taken over from whites a savings and finance bank, a supermarket, and various hotels and cinemas. Some of the hotels and cinemas have been resold to Coloured men. On behalf of Coloured fishermen, the Corporation has acquired an interest in the rock-lobster export market. It has undertaken considerable development work in Coloured rural areas (or has assisted the local boards of management to do so). The Corporation retains all prospecting and mining rights for precious metals and stones in these areas, contracting with private firms or individuals to carry out these activities. Royalties or fees are payable to the Corporation and/or to Coloured boards of management.

2. **Mining Rights Act, No. 20 of 1967**

Until 1967, Coloured persons could prospect for precious

minerals and stones in the Cape Province only. The Mining Rights Act of that year enabled them to do so on land owned or controlled by persons of their own racial group in any province.

### 3. Rural Coloured Areas Act, No. 24 of 1963

This Act repealed the Preservation of Coloured Areas Act of 1961, the Coloured Persons' Communal Reserves Act of 1961, and the Mission Stations and Communal Reserves Act of 1909. It dealt with existing Coloured reserves and with areas which may be proclaimed as reserves. State or other land on which Coloured settlements exist, and land which had been allocated to Coloured people before April 1961 or was then a recognized Coloured area, mainly occupied or owned by them, may be so proclaimed.

The Coloured reserves are about 1 669 000 hectares in extent. They are being replanned, and registered occupiers are able to purchase agricultural lots or residential stands, and to lease grazing areas. The title deeds or leases granted are subject to conditions relating to beneficial use.

Initially, occupiers elect advisory boards. At a later stage boards of management are established, initially with six elected and three appointed members under the chairmanship of a person designated by the Minister. Finally, the Minister may direct that all the members shall be elected. These boards have defined powers of local self-government; but the Minister may direct them to make or repeal regulations on matters within their competence, and he retains power to make regulations on various matters, including the control or prohibition of meetings, qualifications of voters, collection and utilization of rates, and conditions relating to land ownership.

If rates are in arrear the board of management may call upon the person concerned to pay the sum owing, plus interest on it, within one month. Should he fail to do so he will be guilty of an offence and liable to a fine not exceeding R25. If a convicted person still fails within the following six months to pay or to make suitable arrangements for payment the rates may be recovered by the seizure and sale of his movable property.

### 4. Meetings in Coloured rural areas

New regulations for rural Coloured areas, replacing earlier ones issued in 1960 and 1961, were promulgated in terms of Government Notice R1375 of 1965. They provide for the declaration of Coloured areas, certificates of occupation, the election of advisory boards and boards of management and the powers of these bodies, the levying of rates, etc.

Section 118 deals with meetings in Coloured rural areas. There are three differences from previous regulations in this regard.

(a) It is again provided that, with certain exceptions, it is

an offence to hold or address a gathering of more than five persons unless with permission. Previously the Coloured Affairs Department or a magistrate could grant permission. Now the written approval of the Secretary for Coloured Affairs must be obtained.

(b) There were previously restrictions on the types of religious services that were exempt from these provisions. Now any meeting held for the purpose of a bona fide religious service is exempt.

(c) The previous regulations exempted meetings presided over by a Senator, Member of Parliament or Member of a Provincial Council. Such meetings are no longer exempt.

**COLOURED CADETS**

The Training Centres for Coloured Cadets Act, No. 46 of 1967, empowered the Minister of Coloured Affairs to establish training centres for Coloured youths. It is compulsory for every Coloured man between the ages of 18 and 24 years to register for training, and to obtain a certificate of registration as a recruit. This must be produced within seven days of a demand by an authorized officer.

A board appointed by the Minister selects youths for training as cadets, for periods up to twelve months consecutively or in aggregate. In individual cases this period may be extended for another twelve months. Cadets receive pay, and free uniforms. After the initial three months, they may be placed with selected employers for the remainder of their period of training.

The Act contained strict disciplinary provisions.

A training centre was opened at Faure in the Western Cape in May 1969.

**INDIAN AFFAIRS**

An Indian Laws Amendment Act was passed in 1963 (Act No. 68 of that year). Distinctions previously made between "Indian immigrants" and "passenger Indians" were removed; and certain types of Indian marriages, the validity of which had been in doubt, were validated. Various provisions of earlier laws which had become anachronistic were repealed.

The main purposes of a further amendment Act, No. 43 of 1964, were to straighten out administrative difficulties in regard to the voluntary repatriation of Indians, the dissolution of Indian marriages, and the practice of not registering Indian child marriages.

**AFRICAN AFFAIRS**

1. **Native Laws Amendment Act, No. 46 of 1962**

The Native Laws Amendment Act of 1962 provided, *inter*

*alia*, that the State President may make regulations for the registration, annulment, or dissolution of African customary unions.

2. **Bantu Laws Amendment Act, No. 76 of 1963**

This Act made it possible for a partner to an African customary union to claim damages for loss of support in the event of his or her spouse's death as the result of negligence or an unlawful action by a third person.

## LIQUOR

1. **Liquor Amendment Acts, Nos. 72 of 1961 and 89 of 1962**

The Liquor Amendment Act of 1961 removed restrictions on the sale to non-whites of liquor from bottle-stores. Local authorities, Bantu Authorities, employers who provide housing for African workers, and private associations or persons may be granted licences to sell liquor in African townships. It was made an offence for non-whites to be in possession of liquor on private premises unless they had obtained the owner's consent. The penalties for contravention of the Act (e.g. for making concoctions or being drunk in a public place) were increased.

A further Amendment Act, passed the following year, made it possible, subject to various conditions, for Coloured persons and Asians to be licensed to sell liquor from premises in their group areas or in areas predominantly occupied by them.

Section 94 of the principal Act, passed in 1928, was not repealed. This rendered it an offence for anyone except a licensed dealer or employer to supply liquor to Africans.

In urban African townships liquor licences have been granted almost exclusively to the local authorities concerned: they must spend 20 per cent of the profits on social, social welfare, or recreational services for Africans and pay the remaining 80 per cent to the Government Department of Bantu Administration and Development for use in the general interests of Africans.

2. **Bantu Beer Act, No. 63 of 1962**

In terms of the Bantu Beer Act it is no longer an offence to be in possession of Bantu beer. Licensed liquor dealers may acquire supplies from local authorities for sale to the public; and employers who house 25 or more African workers may be authorized to brew beer for free supply to these employees, or may purchase supplies from the local authority for sale to them. Subject to these exceptions, local authorities may be granted the exclusive right to brew and sell Bantu beer in their areas. If local authorities so wish, home brewing may be allowed; but no one may sell beer unless he has been licensed to do so. Any profits made by local authorities must be utilized for services provided in the interests of Africans.

In terms of the principal Act, as amended, at least one third of the profits must be used for providing social and recreational amenities for Africans within the local authority's area. The remainder reverts to the municipal Bantu revenue account. From this remaining sum, the local authority may subsidize services which the Minister certifies are in the interests of Africans, in the homelands as well as in the urban area concerned.

The Bantu Laws Amendment Act, No. 19 of 1970, altered this provision. Services considered to be in the interests of Africans, whether in the homelands or in urban areas, may now be subsidized by local authorities from the entire amount of the profits reflected in the Bantu beer accounts.

3. **Bantu Laws Amendment Act, No. 42 of 1964**

It was rendered an offence to sell Bantu beer powder to anyone other than a local authority or those licensed or authorized to sell this powder (bottle-stores, authorized associations of persons, local authorities, etc.). A Bantu beer research fund was provided for.

4. **Liquor Amendment Act, No. 88 of 1963**

(a) This Act laid down that no person may supply liquor to any person in his employ as, or as supplementing, the employee's wages.

(b) Employers may supply liquor *gratis* to any African of the age of 18 years or over, bona fide employed by him and for personal consumption by the employee.

(c) It was rendered lawful for an African to supply liquor *gratis* for consumption by any other African who is a member of his household or his bona fide guest. (Except for employers, Whites, Coloured, or Asians are still not entitled to offer drinks to Africans.)

(d) Restrictions on the sale of methylated spirits to Coloured people and Africans were removed in terms of Government Notice R1510 of 1962. The 1963 Act abolished all restrictions on the purchase and possession by Africans of methylated spirits and yeast.

5. **Aviation Amendment Act, No. 12 of 1965**

In terms of this Act, it became lawful for non-whites to be served with liquor in the transit lounge of the Jan Smuts International Airport.

6. **General Law Amendment Act, No. 70 of 1968**

The Minister of Justice was empowered to control the sale of liquor for on-consumption by Coloured or Asian people in a White group area.

Unless with permission from the police, no-one other than a person who is authorized to sell liquor may bring liquor in excess of two gallons (nine litres) a time into an African township.

## LEGAL AID

### 1. Legal Aid Act, No. 22 of 1969

Provision was made for the establishment of a corporate body, the Legal Aid Board, to render or make available aid to persons who cannot afford to pay for this. The board's funds consist of moneys appropriated by Parliament, or received from any other source.

It is empowered to obtain the services of legal practitioners, and to determine the conditions subject to which legal aid is to be rendered.

After lengthy negotiations with the Bar and Side-Bar, the scheme commenced operating in a limited way during 1971. By then, Parliament had allocated R250 000 to the board.

### 2. Legal Aid Amendment Act of 1971

The scheme described above was extended to South West Africa.

## DEVELOPMENT OF RESERVES IN SOUTH WEST AFRICA

### Rehoboth Investment and Development Corporation Act, No. 84 of 1969

This Act provided for the establishment of a corporation to promote the advancement of the Rehoboth Gebiet and its inhabitants. The corporation is managed by a Board of Directors (all whites) appointed by the State President. The State is the sole share-holder. Committees, which may include Rehoboth citizens, may be appointed for various purposes.

## FOREIGN AFFAIRS

### Economic Co-operation Promotion Loan Fund Act, No. 68 of 1968

A special fund was established from which loans or financial assistance may be given to other countries for development projects.

## DEFENCE, AND MEASURES FOR THE CONTROL OF ACTIVITIES DEEMED UNDESIRABLE

### 1. Suppression of Communism Act, No. 44 of 1950

When the National Party Government came into power it

determined to control the activities of persons whom it considered were fomenting unrest, mainly among non-whites. Its first action to this end was to pass the Suppression of Communism Act.

In this Act the term "communism" was very widely defined, to include not only the doctrine of Marxian socialism, but also any doctrine or scheme which aims at bringing about any political, industrial, social, or economic change within South Africa by the promotion of disturbance or disorder, or by unlawful acts or omissions, or which aims at the encouragement of feelings of hostility between black and white, the consequences of which are calculated to further the achievement of doctrines or schemes such as those mentioned.

The Communist Party of S.A. was declared unlawful, and the Governor-General was empowered to declare any other organization unlawful if he was satisfied that it was furthering the achievement of any of the aims of communism as described above.

The Minister of Justice was given power to direct that a list be prepared of the members of any organization declared unlawful; persons concerned would be given reasonable opportunity of showing why their names should not be included. Persons so listed, those deemed by the Minister to be promoting the aims of communism, or those found guilty by the courts of contravening the terms of the Act, could be prohibited by the Minister from holding public office or belonging to specified organizations, from attending gatherings, or from leaving defined areas. Such persons who were not South African citizens could be deported.

The Minister was empowered to ban organizations and publications and to prohibit gatherings if he considered that these were furthering or were likely to further the aims of communism.

## 2. Control of meetings in African rural areas

Unrest among non-whites mounted in 1952 and 1953 leading, on the one hand, to the Defiance Campaign (directed against laws considered to be unjust) and, on the other, to tragic rioting in Port Elizabeth, Johannesburg, Kimberley, and East London. The Government introduced measures to bring the Defiance Campaign to an end and to suppress political action considered to be undesirable.

Proclamations R276 of 1952 and R198 of 1953 provided that any person who, without the permission of the chief or headman and the written approval of the local Native Commissioner or Magistrate, holds, presides at, or addresses any meeting in an African rural area at which more than ten Africans are present, or who permits such a meeting to be held on premises under his control, is guilty of an offence and liable to maximum penalties of R600 or three years. Certain gatherings are excluded, for example bona fide religious services, sports gatherings, entertainments, weddings, funerals, and administrative meetings of kraals or statutory bodies.

Government Notice R2753 of 1952, applying to all other areas, contained similar provisions but empowered the Governor-General to bring them into force in specific areas and thereafter to suspend them.

These measures were later replaced by Government Notice R2017 of 1953, which provided that the Governor-General may by proclamation impose control in any area over the holding of meetings or gatherings of Africans. Action subsequently taken is described on page 94 *et seq*.

### 3. **Public Safety Act, No. 3 of 1953**

The Public Safety Act provided that if in the opinion of the Governor-General any action or threatened action by any persons is endangering public safety or the maintenance of public order, or if any circumstances have arisen that constitute such a danger, he may, should the ordinary law of the land be inadequate to deal with the situation, proclaim a state of emergency either in the country as a whole or within a specified area. Such a proclamation will not remain in force for longer than twelve months, but a further proclamation may then be issued.

If a state of emergency is proclaimed, emergency regulations may be issued which may suspend the provisions of any laws except those concerning defence, the operation of legislatures, and industrial conciliation. The maximum penalties for contraventions of such regulations are R1 000 or five years.

### 4. **Criminal Law Amendment Act, No. 8 of 1953**

Firstly, this measure increased the maximum penalties for persons convicted of offences committed by way of protest, or in support of any campaign against any law, or in support of any campaign for the repeal or modification of any law. These new penalties were R600, or three years, or ten lashes, or a combination of any two of these.

Secondly, it was rendered an offence to advise, encourage, or incite anyone to commit an offence by way of protest against a law or in support of any campaign against any law. Maximum penalties for such incitement are R1 000, or five years, or ten lashes, or a combination of any two of these. The penalty imposed for a second or subsequent conviction must include whipping or imprisonment.

And, thirdly, the Act rendered it an offence to solicit or accept any financial or other assistance for organized protests or resistance against the laws of the country. The penalties for such offences are as laid down for incitement, and the money or other articles received may be confiscated. Further, any postal matter containing or suspected of containing money or other articles to assist protest campaigns may be opened and the contents seized if the Minister

of Posts and Telegraphs considers the suspicion to be justified, unless the addressee or sender, who will be notified, proves within 90 days that the suspicion is unwarranted.

Convicted persons who are not South African citizens may be deported. Others may be prohibited from being within defined areas. Maximum penalties for infringements of such prohibition orders are R400, or twelve months, or both.

### 5. Riotous Assemblies and Suppression of Communism Amendment Act, No. 15 of 1954

During 1953 and early 1954 certain persons appealed successfully against orders issued under the Suppression of Communism Act which prohibited them from attending gatherings. The Appellate Division held, in one case,[1] that before the Minister issued such an order the person concerned should be notified and permitted to show why the order should not be issued.

The Government then amended the Act. The Minister was empowered to prohibit listed persons or those convicted under the Suppression of Communism Act from being members of specified organizations or from attending gatherings of any description without giving them the opportunity of making representations in their defence and without furnishing his reasons. He was given similar powers in respect of persons deemed by him to be furthering the aims of communism except that, in these cases, if asked to do so he would furnish the person concerned with a statement setting out such of the reasons for his action as, in his opinion, could be disclosed without detriment to public policy.

It was rendered an offence for recordings of speeches made by persons banned from attending meetings to be played at such meetings. Listed persons and those convicted under the Act were prohibited from standing for election to Parliament or to a Provincial Council unless with the Minister's permission.

Under the Riotous Assemblies Act of 1914 the Minister was empowered to prohibit public gatherings in places to which the public had access in specified areas and for specified periods. The new measure enabled him also to prohibit any particular gathering, or all gatherings, in any public place for specified periods.

### 6. Criminal Procedure and Evidence Amendment Act, No. 29 of 1955, and Criminal Procedure Act, No. 56 of 1955

After the Defiance Campaign ended, non-white leaders, assisted by certain groups of whites, began planning a Congress of the People, which was held in 1955. During this period the Government introduced further security legislation.

[1] That of Johnson Ngwevela.

The Criminal Procedure Act increased the Government's powers of control of activities deemed undesirable. The new laws increased the powers of judges, magistrates, or justices of the peace to issue search warrants authorizing the police to enter premises, to attend private as well as public meetings, and to conduct searches, if there are grounds considered reasonable for believing that an offence is being or is likely to be committed on the premises, or that in consequence of the meeting security or the maintenance of law and order are likely to be endangered. Members of the police were empowered to proceed without a warrant if they considered that a delay in obtaining one would defeat the objects of the search. Penalties were laid down for wrongful, malicious, or unreasonable search.

7. **General Law Amendment Act, No. 62 of 1955**

This Act provided, *inter alia,* that no court shall issue any rule *nisi* operating as an interim interdict against the Government or a provincial administration or an official thereof acting in his official capacity unless notice of the intention and of any supporting affidavits have been served on the Government, provincial administration or official concerned.

8. **Native Administration Amendment Act, No. 42 of 1956**

During this period the Government took greater powers, too, to control the activities of Africans in the Reserves.

Early in 1956 Mr. J. H. Saliwa was issued with a banishment order under Section 5 (1) (b) of the Native Administration Act of 1927. He was required to move from Glen Grey to the Pietersburg district. This order was set aside with costs by the Appellate Division on the ground that prior notice should have been given, on the principle of *audi alteram partem,* before Mr. Saliwa was required to move.

The Native Administration Act of 1956, introduced shortly afterwards, gave the Government power to serve banishment orders without prior notice. If an African, after obeying such an order, so requests, the Minister will furnish him with reasons for its issue.

9. **Control of entry to African rural areas**

Proclamation R52 of 1958, as amended, enabled the Minister of Bantu Administration and Development to impose control by permit over the entry of persons to, or their departure from, African areas where there has been unrest.

In areas to which Parts I and III of the proclamation have been applied it is an offence for an African not resident there to enter without a permit; for an African to fail to report the unlawful presence of any other African; to make a verbal or

written statement likely to interfere with the authority of the State or a chief; or to threaten anyone on account of his loyalty to the State or to any of its officials or to any chief or headman. If Part II of the proclamation is applied it becomes an offence to leave that area without a permit.

Parts I and III have, since, been applied for various periods in Sekhukhuneland, Metz, Peddie, and in Reserves near Zeerust, Pietersburg, Letaba, and Potgietersrus. For a time Part II was applied in the Metz area, after the Mamathola tribe had objected to their removal there.

### 10. **Possession of dangerous weapons**

Proclamation R135 of 1958 may be applied to any African area determined by the Minister of Bantu Administration and Development. It was immediately applied in Sekhukhuneland, where there had been serious disturbances.

It provides that, unless required by law or authorized in writing by a senior official, no African may, outside the boundary of the plot where he resides, carry or use any firearm, spear, assegai, axe, kierie, loaded or spiked stick, or dagger or knife with a blade longer than 3½ inches. Walking sticks used by old or infirm persons are excluded, and axes used for bona fide domestic purposes.

### 11. **Native Laws Amendment Act, No. 36 of 1957**

Various boycotts and stoppages of work were organized in the period 1957 to 1959. Again the Government introduced new restrictive laws.

One section of the Native Laws Amendment Act of 1957 provided that if, in the opinion of the Minister of Bantu Administration and Development, the holding of any meeting, assembly or gathering (including a social function) to be held in the white part of a town and to be attended by an African is likely to cause a nuisance, or is undesirable in view of the situation of the premises or the number of Africans likely to attend, the Minister may (provided the local authority concerned does not object) prohibit the holding of such a meeting in the urban area generally or in specified premises or parts of the town, or he may prohibit any person from arranging such a meeting.

### 12. **Criminal Procedure Amendment Act, No. 9 of 1958**

*Inter alia,* the 1958 Criminal Procedure Amendment Act contained a retrospective provision enabling certain presumptions to be made when a document seized by the police is produced in any criminal proceedings and the court is satisfied that it was found on the premises of a stated association or in the possession of one of its members. If, for example, the name of an accused

person appears on the document as a member of the association concerned, it will be presumed that he is a member unless the contrary is proved.

13. **Prisons Act No. 8 of 1959**

Certain progressive measures were included in the revised Prisons Act of 1959; but a section that caused concern rendered it an offence without the consent of the Director of Prisons to sketch or photograph a prison or prisoner; or to publish or divulge any false information about the behaviour or experience in prison of any prisoner or ex-prisoner, or about the administration of any prison, knowing this information to be false, or without taking reasonable steps to verify it.

14. **Emergency Regulations, 1960**

Early in 1960 the African National Congress planned a series of organized demonstrations against the pass laws, to commence on 15 April 1960. The Pan-African Congress anticipated this by arranging for its followers to take more drastic action on 21 March, presenting themselves at police stations without their passes and inviting arrest.

In the atmosphere of extreme emotionalism and tension that resulted outbreaks of violence were inevitable, and these occurred throughout the country. The tragedies at Sharpeville and Langa took place at this time.

On 30 March[2] the Governor-General invoked the provisions of the Public Safety Act and proclaimed a state of emergency throughout most of the country, including all the large towns. This state of emergency was not brought to an end until 31 August.

Far-reaching emergency regulations were promulgated. The following were among the main provisions:

(a) Wide powers were given to magistrates and commissioned officers in the forces to prohibit gatherings, to search persons or premises, to seize documents, and to take action considered necessary (including the use of force) to prevent danger to the public safety or to maintain order. Non-commissioned officers, too, were given the last-mentioned powers.

(b) Magistrates and commissioned officers were empowered to arrest anyone without warrant, and to hold this person in detention, if this was considered desirable in the interests of public order or of the person concerned; or if the person was committing or suspected of intending to commit an offence with intent to disturb the public

[2] In terms of Proclamations R90 and R91 of 1960.

order; or if the person was thought to have information relating to such an offence. Any peace officer might without warrant arrest anyone who committed an offence against the emergency regulations. Persons so detained were not allowed to consult with their legal advisers unless special permission was given. It was rendered an offence to disclose the names of detained persons without the Minister's consent.

(c) Africans found without reference books, or illegally in an urban area, or in an urban area without fixed places of employment or adequate means of livelihood, could be arrested without warrant and tried in the gaols.

(d) It was made an offence to utter, issue, or distribute any subversive statement, which was defined as a statement likely to subvert the Government's authority; to incite others to resist or oppose measures taken under the emergency regulations; to cause feelings of hostility towards others; or to cause alarm.

(e) It was also made an offence to threaten anyone with harm unless he took a certain course of action; and to incite anyone to stay away from or retard his work, or to protest against any law with intent to exact concessions or to achieve any political or economic aim.

(f) The Minister of the Interior was empowered to order any newspaper or periodical to cease publication if he considered that it had systematically published matter of a subversive nature. He could order any association considered by him to be subversive to discontinue its activities.

Questioned in the Assembly during February 1961,[3] the Minister of Justice said that 98 Whites, 36 Coloured persons, 90 Asians, and 11 503 Africans had thus far been detained under the emergency regulations.

## 15. Unlawful Organizations Act, No. 34 of 1960

The Unlawful Organizations Act provided that if the Governor-General was satisfied that the safety of the public or the maintenance of public order was seriously threatened or likely to be threatened in consequence of the activities of the Pan-African Congress or the African National Congress, he might declare such bodies, including all their subsidiary branches and committees, to be unlawful organizations. Immediately after the Act was promulgated the A.N.C. and P.A.C. were declared to be unlawful organizations.

[3] Hansard 2 cols. 698-9, Hansard 4 col. 1346.

The Act provided, further, that if the Governor-General is satisfied that the public peace or order is likely to be threatened by the activities of any organization which in his opinion has been established for the purpose of carrying on, directly or indirectly, any of the activities of any body declared unlawful under the Act, he may declare this new organization to be unlawful.

The Congress of Democrats was banned in September 1962, and, as described later, other bodies were banned subsequently.

Anyone who performs any act calculated to further the aims of an organization declared unlawful or who continues as a member is guilty of an offence, and liable upon conviction to a term of imprisonment not exceeding ten years.

### 16. **Defence Amendment Act, No. 12 of 1961**

This measure conferred power on the Minister of Defence to order persons to evacuate or to assemble in any specified buildings or area in time of war or during operations for the prevention or suppression of internal disorder.

The Governor-General previously possessed powers to authorize certain officials to commandeer vehicles or materials in times of war or internal disorder. The 1961 Act enabled him to take such action during operations for the prevention or suppression of internal disorder.

### 17. **Police Amendment Act, No. 53 of 1961**

The Police Amendment Act provided, *inter alia,* for the establishment of a reserve police force—a citizen unit to assist in performing ordinary police duties when regular members are required for more urgent tasks.

### 18. **General Law Amendment Act, No. 39 of 1961**

At the beginning of 1961, various non-white groups planned demonstrations and a "stay-at-home" to take place unless the Prime Minister called a national convention by 31 May.

The Government again took increased powers. The 1961 General Law Amendment Act introduced the twelve-day detention clause. This empowered the Attorney-General, if he considered it necessary in the interests of public safety or the maintenance of public order, to direct that a person who had been arrested should not be released on bail or otherwise for twelve days. (As mentioned on page 105, this provision was amended in 1965.)

New offences were specified in connection with meetings banned under the Riotous Assemblies Act (originally passed in 1914, and, after various amendments, consolidated as Act 17 of 1956.) It was rendered an offence to encourage the holding

of such a meeting (as well as to convene or address it, as formerly).

### 19. **Indemnity Act, No. 61 of 1961**

Numbers of those who had been detained under the emergency regulations instituted actions against the Government for unlawful detention. The Indemnity Act was then introduced. It provided that no civil or criminal proceedings shall be brought in any court of law against the Government or persons acting under its authority in respect of acts or statements committed, ordered, or issued in good faith on or after 21 March 1960 (the date of Sharpeville) with intent to prevent or suppress disorder, to restore order or public safety, to preserve life or property, or to terminate a state of emergency.

### 20. **Emergency regulations for the Transkei**

In 1960 and 1961, and to a lesser extent after that, there was much unrest in the Transkei. Numerous outbreaks of violence took place. It appeared that the main reasons for the unrest which led to these troubles were the opposition of very many Africans to the Bantu Authorities and land rehabilitation systems.

Special regulations for the administration of the Transkei were gazetted towards the end of 1960.[4] Many of these remain in force at the time of writing, in 1971, the most important being those described below.

(a) The Minister of Bantu Administration and Development may prohibit any person from entering or being in the Transkei, or from leaving it.

(b) With certain exceptions (e.g. church services, etc.) no meeting or gathering of more than ten Africans may be held unless official permission is given. Conditions may be imposed. Officials, members of the Police and Defence Forces, and chiefs and headmen may order persons present at an unlawful meeting to disperse, and, if this order is not obeyed forthwith, may use force to exact compliance.

(c) Persons suspected of committing an offence under the regulations or any law, or of intending to do so, or of possessing information about an offence, may be arrested without warrant and held in custody until the authorities are satisfied that they have fully and truthfully answered all relevant questions put to them. They may not consult with a legal adviser unless with the Minister's consent.

(d) Any chief so authorized by the Minister may order any African to move, with his household and property, from

[4] Proclamations R400 and R413 of 1960.

one place to another within the chief's area of jurisdiction, and force may be used to compel compliance. Appeal lies only to the Bantu Affairs Commissioner.

(e) It is an offence to be present at an unlawful meeting; to make any statement or perform any action likely to have the effect of interfering with the authority of the State, one of its officials, or a chief or headman; to threaten anyone with loss or violence; to boycott official meetings or to boycott persons with the object of causing them loss; and for an African to disobey a lawful order given by a chief or headman or to treat a chief or headman with disrespect.

(f) No interdict may be issued for the stay of any order under the regulations, nor may any civil action be instituted arising out of the operation of the regulations.

Further regulations, applied for some seven months to the eastern districts of the Transkei, rendered it an offence for persons not resident there to enter without permits.

## 21. Welfare Organizations Amendment Act, No. 75 of 1961

It was laid down in the principal Act of 1957, as amended, that the registration of a welfare organization (without which it cannot collect money from the public) may be cancelled by the National Welfare Board on various grounds, for example if it has not functioned for two consecutive years. The Amendment Act of 1961 empowered the Minister of Social Welfare to cancel a certificate of registration on any other ground besides those specified in the Act.

When explaining this clause in the Assembly[5] the Deputy Minister said the Government was concerned that welfare organizations should not be used as a cover for activities which had quite a different object. Certain "communist organizations", he added, would like to exploit welfare organizations for their own purposes.

## 22. General Law Amendment Act, No. 76 of 1962

After the disturbances of 1960 order was restored for a time through use of powers contained in legislation described above. But then, after the A.N.C., P.A.C. and Congress of Democrats had been forced underground, new organizations were formed to plan campaigns against the *status quo* in South Africa: they included *Umkonto we Sizwe* (the Spear of the Nation), composed in the main of extremist ex-A.N.C. leaders; Poqo, related to the

[5] 13 June 1961, Hansard 20 col. 7943.

P.A.C., the Yu Chi Chan Club, which appeared to have mainly Coloured members; the African Resistance Movement, whose members were largely young White people; and the National Committee for Liberation. Acts of sabotage were carried out, the Paarl riots took place, and there was violence in the Transkei. Once more the Government introduced a series of new laws to contain the situation.

Various provisions of the General Law Amendment Act of 1962 have been dealt with earlier.

Further provisions were as described below.

(a) The Act created the offence of sabotage, providing that penalties on conviction would be those laid down for the offence of treason, which may include the death penalty. If a sentence of imprisonment is imposed this must be for at least five years. (Section 21 of the Act.)

(b) It extended the Government's powers to issue special regulations when a state of emergency is proclaimed.

(c) It widened the State President's powers to declare unlawful any organization which he considers is carrying on, directly or indirectly, the activities of any organization declared unlawful under the Suppression of Communism or Unlawful Organizations Acts, or any like activities.

(d) The Act empowered the Minister of Justice to include numbers of new restrictions in banning orders served on persons, under the Suppression of Communism Act, e.g. they can be prohibited from attending social as well as political or business gatherings, and required to report regularly to the police, or to resign from specified organizations. It was rendered an offence for banned or listed persons to change their places of residence or employment without informing the police.

(e) It was rendered an offence, too, without the Minister's consent or except for the purpose of proceedings in a court of law, to record, reproduce, or disseminate any speech or writing, or recording thereof, made anywhere, at any time, by a person who has been prohibited from attending gatherings.

(f) The Act introduced the system of house arrest, empowering the Minister to order persons not to leave specified premises or areas at all, or during specified hours (e.g. from 6 p.m. to 7 a.m. during the week, at week-ends, and on public holidays). Such persons may also be prohibited from performing any specified act, or from communicating with anyone or receiving any visitor except a lawyer or doctor—unless these persons have been banned.

(g) The Minister's powers to prohibit gatherings, or to prohibit persons from attending gatherings, were extended

and set out more expressly. In terms of these powers, he banned the holding of public gatherings other than religious services on the Johannesburg City Hall steps and on the Grand Parade, Cape Town.

(h) Certain presumptions were introduced relating to documents produced in court which indicate that someone has been absent from the Republic.

(i) The maximum penalties for various offences under the Suppression of Communism Act were increased.

### 23. General Law Further Amendment Act, No. 93 of 1962

The General Law Further Amendment Act provided that anyone who commits an offence by placing any placard, poster, writing, sign, drawing, or any other mark on the property of any other person or of the State, thereby defacing such property, shall be liable on conviction to imprisonment for a period not exceeding six months in lieu of or in addition to any other penalty which may be imposed. Besides this he may be required to pay the cost of restoring the property.

### 24. General Law Amendment Act, No. 37 of 1963

The main provisions of the Amendment Act of 1963 were as follows:

(a) The State President was empowered to declare that any organization or group of persons which has been in existence since 7 April 1960 is or was in fact an organization which has been declared unlawful. Any act or omission proved in court with reference to the stated organization will be deemed to have been proved with reference to the unlawful organization concerned.

(This enabled the Government to equate Poqo with the banned P.A.C. and the Spear of the Nation with the banned A.N.C. These organizations, and the Yu Chi Chan Club and African Resistance Movement, were banned. Subsequently, in 1966, the Defence and Aid Fund was declared unlawful.)

(b) Additional presumptions were included with reference to absence from the Republic.

(c) Persons convicted of certain offences of a political nature may be held in continued detention after the completion of their prison sentences should the Minister of Justice consider that they are likely, if released, to further the achievement of any of the statutory objects of communism. (This provision remained in force for twelve months at a time, but until 1969, was extended annually by resolution of Parliament.)

(Mr. Robert Sobukwe, former leader of the P.A.C., was the only person detained under this clause. He was held in special quarters on Robben Island from 1963, when he completed a three-year sentence for inciting others to support a campaign for the repeal of the pass laws, until 1969.)

(d) Section 17 of the 1963 Act introduced the system of 90-day arrest, empowering commissioned police officers to arrest without warrant and detain for up to 90 days on any particular occasion persons suspected of committing, intending to commit, or having information about specified types of political offences. On the expiration of 90 days such persons could immediately be re-arrested, and this process could be repeated. Detained persons would be visited weekly by a magistrate, but otherwise no visitors were allowed except with special permission. No court of law had the power to order the release of detained persons, and such persons were denied access to courts of law.

The Act provided that Section 17 would be in operation for such periods, not exceeding twelve months at a time, as the State President might determine. It was in force from 1 May 1963 to 11 January 1965, but may be invoked again should the Government so decide.

It would appear that most of those detained were held in solitary confinement, and were denied reading matter (except Bibles) and writing materials.

(e) A further provision of the 1963 Act was that bail may be refused when court records are transmitted for review, or conditions may be imposed.

(f) Preparatory examinations may be dispensed with should an attorney-general so decide.

(g) Provisions of the law relating to the seizure of postal articles were tightened.

(h) The Minister may declare any place or area to be a protected place, and unauthorized persons will then commit an offence if they enter without permission.

25. **Explosives Amendment Act, No. 21 of 1963**

The maximum penalties for certain offences under the principal Act were increased. A minimum penalty of not less than three years was introduced for persons found guilty of wilfully causing an explosion resulting in injury to others.

26. **Defence Amendment Act No. 77 of 1963**

The Defence Amendment Act widened the Government's

powers to use members of the Defence Force to assist the police in the prevention or suppression of internal disorder.

In recent years, and particularly since 1962, very greatly increased amounts have been spent on the Defence Vote. The Minister of Finance said on 21 March 1962[6] that South Africa should look to its defences, against aggression from outside, but also against lawlessness and subversion from within.

## 27. General Law Amendment Act, No. 80 of 1964

(a) Provisions of this Act dealing with recalcitrant witnesses amended those of the Criminal Procedure Act, No. 56 of 1955. It was now laid down that if a person present in court is required to given evidence in any criminal proceedings and refuses to do so, he may be sentenced by the court to imprisonment for a period not exceeding twelve months at a time.

(b) The Criminal Procedure Act previously provided that if any person, known to the prosecution to be an accomplice in criminal proceedings, *voluntarily* submits to being sworn as a witness for the prosecution and answers all lawful questions to the satisfaction of the court, he will be freed and discharged from liability to prosecution, even though in his evidence he may have incriminated himself.

In terms of the 1964 amendment, a person produced as a witness for the prosecution who in the opinion of the prosecutor is an accomplice will be *compelled* to be sworn and to give evidence, even though it might tend to incriminate him. As before, if his evidence satisfies the court he will be discharged from liability to prosecution.

(c) The Act tightened the provisions of the law relating to the offences of having obtained training in sabotage, or information which could be of use in furthering the aims of communism or of an unlawful organization, or having taken steps to these ends, or having advised or assisted others to do so.

(d) It laid down that persons under 90-day detention will not be entitled to copies of statements made by them while being detained.

The provisions outlined in sub-paragraphs (a) and (b) above were invoked in various trials during 1964 and subsequently, of alleged saboteurs, communists, and members of unlawful organizations. Most of the witnesses

[6] Assembly, Hansard 9 cols. 2933, 2944.

concerned had been under 90-day (or, as described on page 104, 180-day) detention.

28. **Police Amendment Act, No. 74 of 1965**

This measure added a Sub-Section 6 (4) to the Police Act of 1958, empowering any policeman, at any place within a mile of the border between the Republic and another state, to search without warrant any person, premises, vehicle, aircraft or receptacle of any nature, and to seize anything found. If a woman is to be searched, the search must be made by a woman.

The Minister of Justice said in the Assembly on 7 June 1965 that it was essential for the police to have these powers in order to combat the infiltration of trained saboteurs into the Republic.

29. **Railways and Harbours Amendment Act, No. 6 of 1965**

Section 12 of this Act empowered the Railways Administration to deny access to a harbour to any ship—

(a) which has the nationality of any state which the Minister of Transport has declared, by notice in the *Gazette*, to be denying South African ships access to its harbours;

(b) which is owned by or on charter to nationals of any such state;

(c) if any present or past member of the crew has been convicted of any offence under South African or South West African law while the ship was in the Republic's territorial waters (i.e. within six nautical miles of low-water mark) or its fishing zone (within twelve miles);

(d) if the official in charge of the harbour is satisfied that the ship has at any time, within the twelve mile limit, been engaged in activities constituting an offence under South African or South West African law.

30. **Sea Fisheries Amendment Act, No. 27 of 1965**

Similar provisions to those described above, but relating to fishing harbours, were contained in the Sea Fisheries Amendment Act.

31. **Official Secrets Amendment Act, No. 65 of 1965**

In terms of this measure the words in italics were added to Section 3 (2) of the principal Act:

"Any person who has in his possession or under his control any sketch, plan, model, article, note, document or information which relates to munitions of war *or any military or police matter* and who *publishes it or directly or indirectly*" communicates it to any person in any manner for any purpose prejudicial to the safety or interests of the State, shall be guilty of an offence and liable on conviction to a fine not

exceeding R1 500 or to imprisonment for a period not exceeding seven years or to both such fine and such imprisonment.

32. **Prisons Amendment Act, No. 75 of 1965**

This extended the restrictions contained in the principal Act of 1959 (see page 94, *inter alia*, to render it an offence to sketch or photograph fugitives who have escaped from lawful custody, or to publish sketches or photographs of persons which were made before their arrest, or of fugitives, or of persons who died or were executed while in custody.

The definition of a prison (which may not be sketched or photographed, or about which false information may not knowingly be published or divulged) was extended to include the seashore adjacent to a prison and the sea beyond this to a distance of one nautical mile from the low-water mark.

33. **Suppression of Communism Amendment Act, No. 97 of 1965**

(a) The prohibition on recording, publishing, or disseminating the writings or speeches of persons who have been prohibited from attending gatherings, except with the Minister's consent or for the purposes of proceedings in a court of law (see page 112), was extended to include writings or speeches made anywhere, at any time, by former residents of South Africa who were under banning orders when they left.

(b) In terms of previous legislation it was an offence to carry or display anything whatsoever indicating that the person doing so had in any way been associated with an unlawful organization. The new measure rendered it an offence to be in possession of anything of this nature.

34. **Criminal Procedure Amendment Act, No. 96 of 1965**

(a) This Act included the "180-day detention clause". It provided that whenever in the opinion of the Attorney-General there is any danger of tampering with or the intimidation of any person likely to be able to give material evidence for the State in criminal proceedings of a serious nature,[7] or that any such person may abscond, or whenever the Attorney-General deems it to be in the interests of such person or of the administration of justice, he may issue a warrant for the arrest and detention of such person at a stated place.

The witness will be detained, in accordance with regulations made by the Minister, until the conclusion of

[7] As listed in the amended Second Schedule to the Act, Part II *bis*.

the criminal proceedings concerned, or for six months, whichever may be the shorter period.

The Act provided that a detained person will be visited by a magistrate in private at least once a week. Otherwise, no one other than a State official acting in the performance of his duties will have access to him, except with the consent of and subject to conditions determined by the Attorney-General or a State official to whom this power has been delegated.

No court will have jurisdiction to order the release of a detained person, or to pronounce upon the validity of regulations made by the Minister or any decisions made in regard to visitors.

Should a person detained refuse to give evidence, when called before the court, he may be dealt with as a recalcitrant witness, liable to be sentenced to successive terms of up to twelve months' imprisonment. Regulations for the detention of State witnesses were gazetted in terms of Government Notice R1396 of 1965.

(b) The "twelve-day detention" clause was repealed (see page 96). Instead, the Amendment Act provided that whenever any person has been arrested on a serious charge[8] the Attorney-General may, if he considers it to be necessary in the interest of the safety of the public or the maintenance of public order, issue an order that such person shall not be released on bail or otherwise before sentence has been passed or the person concerned has been discharged.

If, however, no evidence has, within 90 days, been led in court against a person who has been refused bail, the latter may apply to a judge in chambers to be released on bail. The judge, who will hear the application in private, will have the discretion to grant or refuse it.

## 35. Civil Defence Act, No. 39 of 1966

This Act gave the Minister of Justice wider powers than those contained in the Public Safety Act to declare a state of emergency in the whole country or in parts of it, and power to protect the country against a state of emergency.

*Inter alia,* the Minister may direct any person to furnish him with information about anything in that person's possession or under his control, and may direct the management of any industry or organization he considers to be rendering an essential service to take any specified steps.

[8] See note 7.

During a state of emergency, the Minister may direct the owner or custodian of any land, building, or article to surrender it to a stated person, any compensation due being determined by the Minister. Anyone acting in the execution of his duty under the Act may enter or break into any premises if he believes on reasonable grounds that this is necessary for the preservation of life, the prevention of injury to persons, the removal of injured persons, or the protection of property.

With certain exceptions, anyone over the age of 17 but under 65 years may be called upon to undergo training in fire-fighting, rescue work, or first aid.

A Directorate of Civil Defence was established.

**36. General Law Amendment Act, No. 62 of 1966**

The provisions of the law relating to sabotage (Section 21 of the General Law Amendment Act of 1962) were extended to South West Africa, and it was made clear that the Suppression of Communism Act applied in that territory with retrospective effect to 1950.

If a person is accused of undergoing training outside the Republic (or of having attempted to do so) which could be of use in committing sabotage or in furthering the aims of communism or of an organization declared unlawful, and if it is proved that he left the Republic without proper travel documents, then the onus is on him to prove beyond reasonable doubt that he did not receive or attempt to receive such training.

Any commissioned officer of the police of or above the rank of Lieutenant-Colonel may arrest any person without warrant if he has reason to believe that this person is a terrorist, favours terrorist activities, has undergone training of the type described above or has encouraged others to do so, has obtained information which could be of use in furthering the objects of communism or of an organization declared unlawful, has committed sabotage or conspired with others to do so, is found in the illegal possession of explosives, or intends to commit any of these offences.

Persons so arrested may be detained for interrogation for a period not exceeding fourteen days. The Commissioner of Police may, however, apply to a judge of the Supreme Court for an extension of this period until such date as the judge may decide. The judge may afford the detainee an opportunity of submitting to him in writing reasons why he should not be detained. If the detainee does so, the Commissioner of Police must be given the opportunity of replying. The judge may order that the conditions of detention be altered.

Otherwise, the conditions of detention are not subject to review or appeal, and no court of law shall be competent to order the release of a detainee.

This Act widened the provisions of the 1964 amendment to the Criminal Procedure Act. Any person called by the prosecutor in a criminal case (not only an alleged accomplice) may be compelled to answer questions which might incriminate him. As previously, if he replies to all lawful questions to the satisfaction of the court, he will be discharged from liability to prosecution for the offence concerned. But should he refuse to answer the questions, he may be dealt with as a recalcitrant witness, liable to a sentence of imprisonment for up to a year. If after this period he again refuses, he may once more be imprisoned.

### 37. **Defence Amendment Act, No. 85 of 1967**

This measure tightened restrictions on the publications of information relating to defence matters, and made these restrictions applicable at all times, and not only in time of war.

### 38. **Suppression of Communism Amendment Act, No. 24 of 1967**

Persons who are listed or banned, or who are former office bearers, officers, members, or active supporters of an organization that has been declared unlawful, may be prohibited by notice in the *Gazette* from making or receiving contributions to, or participating in the activities of, any particular organization, or any organization of a nature specified in the notice, unless with official permission.

The Act widened the presumptions that may be made in court cases where inter-communication between banned and/or listed persons is alleged.

Listed persons, and those who at any time have been convicted of certain offences under the Suppression of Communism Act, were forbidden to practise as advocates, attorneys, notaries, or conveyancers.

The Act added to the list of offences for which persons may be deported.

### 39. **Terrorism Act, No. 83 of 1967**

The Terrorism Act applies in South Africa and South West Africa. Its main provisions were made retrospective to 27 June 1962 (when some people first began leaving the country for military training abroad).

A new offence was created: of participation in terrorist activities. Such activities were widely defined. If an accused is found guilty of having committed any act included in the list, the onus is on him to prove that his intention was not to commit terrorism. If the court convicts him of participation in terrorist activities, the sentence imposed must be a minimum of five years' imprisonment, and may be the death penalty.

It was made an offence for anyone to assist in any way a person whom he has reason to believe is a terrorist.

No trial for an offence under the Act may be instituted unless with the written authority of the Attorney-General. The trial must be a summary one, and may take place outside the area in which the alleged offence was committed. An accused may not be released on bail.

An officer of the police of or above the rank of Lieutenant-Colonel may order the arrest without warrant and the detention for interrogation of any person whom he has reason to believe is a terrorist, or is withholding information relating to terrorists or to offences under the Act. A person detained will be held, subject to such conditions as the Commissioner of Police and the Minister of Justice may determine, until the Commissioner is satisfied that he has replied adequately to all questions asked at his interrogation, or that no useful purpose will be served by his further detention, or until the Minister orders his release.

No court of law may pronounce upon the validity of any action taken under the provisions relating to detention, or order the release of a detainee. No one shall have access to a detained person or be entitled to information about him except the Minister or an officer of the State acting in his official capacity. If circumstances so permit, however, a detainee will be visited in private by a magistrate at least once a fortnight.

### 40. **Armaments Development and Production Act, No. 57 of 1968**

Provision was made for the establishment of an Armaments Development and Production Corporation.

### 41. **Dangerous Weapons Act, No. 71 of 1968**

Anyone who is found in possession of a weapon which could cause bodily injury if used in an assault, or of an object liable to be mistaken for a firearm, is guilty of an offence unless he can prove that he at no time intended to use it for an unlawful purpose.

The Minister of Justice may prohibit any person or classes of persons from being in possession of any object which in his opinion is a dangerous weapon, and may prohibit the manufacture or supply of such objects.

Minimum sentences of imprisonment and/or whipping were laid down for adults who, in any area that may be prescribed by the Minister, are found guilty of an offence involving violence committed by the use of a dangerous weapon.

### 42. **Proclamation R268 of 1968**

It was rendered an offence, throughout the country,[9] except

[9] These provisions previously applied in the Transkei only.

with official permission, to hold, preside at, or address any gathering in a Bantu area at which more than ten Africans are present, or to permit such a gathering to be held on one's premises. Certain types of gatherings were excluded: religious, sporting, social, and others.

### 43. **Public Service Amendment Act, No. 86 of 1969**

A Bureau for State Security was set up, under a former head of the Security Branch. He was made directly responsible to the Prime Minister. (The term BOSS was coined for this organization.) The Bureau was not made subject to the authority of the Public Service Commission, and, except during the annual Budget debate, Parliament is unable to question its activities.

### 44. **Security Services Special Account Act, No. 81 of 1969**

An account was established to finance the activities of the Bureau for State Security, to be used for such services of a confidential nature as the Prime Minister may, from time to time, approve as being in the national interest. This account is subject to audit by the Controller and Auditor-General only to the extent determined by the Minister of Finance in consultation with the Prime Minister.

### 45. **General Law Amendment Act, No. 101 of 1969**

Section 29 of this Act provided that no one shall be compelled to give evidence or to furnish any information in a court of law, or before any body established under any law, if a certificate purporting to have been signed by the Prime Minister, or any person authorized thereto by him, or by any other Cabinet Minister, is produced to the effect that the matter concerned affects the interests of the State or public security, and that the disclosure of it will be prejudicial to such interests.

(See page 113 for Section 10 of the Act.)

### 46. **Prohibition of Disguises Act, No. 16 of 1969**

It was made an offence for anyone to be found disguised in any manner whatsoever in circumstances in which it may reasonably be inferred that the person concerned has the intention of committing an offence, or of inciting, encouraging, or aiding any other person to do so, unless he proves that he had no such intention.

### 47. **General Law Further Amendment Act, No. 92 of 1970**

Whenever the holding or organizing of any procession is prohibited by law without the permission of a statutory body (for example, a local authority) it shall be deemed that permission has not been granted by this body unless the application is also

approved by the magistrate of the district concerned. The latter will refuse only if he has reason to believe that the proposed procession will endanger the maintenance of law and order.

### 48. National Supplies Procurement Fund, No. 89 of 1970

A National Supplies Procurement Fund was created (in effect, this was a new name for a previously-existing fund).

The further provisions of the Act will not become operative unless they are brought into effect by proclamation, when the Minister of Economic Affairs deems this to be necessary or expedient for the security of the Republic. They will empower the Minister to control and direct the manufacture, acquisition, and supply of any goods and services which he deems to be necessary or expedient for the country's security.

### 49. Railways and Harbours Amendment Act, No. 57 of 1970

This Act empowered a member of the Railway police force to search any person whom he has reason to suspect is engaged in any subversive activity, and to open and search any package or receptacle which he has reason to believe contains documents or objects pertaining to such activities. Before a person is searched by a junior policeman, he must be informed of his right to be taken to an officer of or above the rank of Sergeant for a decision. (Legislation already provided that if a woman is searched, this must be done by a woman.)

## CONTROL OF PUBLICATIONS, FILMS AND ENTERTAINMENTS

### 1. Early control

Various Acts, for example the Riotous Assemblies Act of 1930 as amended and the Post Office Act of 1958, prohibited the publication of material likely to undermine the security of the State or to engender feelings of hostility between black and white persons, and material which constitutes contempt of court or of Parliament, or is defamatory. No indecent, obscene, or blasphemous literature may be sent through the post.

Various provincial ordinances rendered it an offence to distribute literature which is profane, indecent or offensive.

The Customs Act of 1955 prohibited the importation of goods which are indecent, obscene, or on any ground objectionable. A Board of Censors was appointed to decide whether or not publications produced overseas fall into these categories.

## 2. Suppression of Communism Act, No. 44 of 1950, as amended by Act 76 of 1962 and Act 97 of 1965

It was mentioned earlier that the Suppression of Communism Act empowered the Minister of the Interior to ban any periodical (including a newspaper) if he considers that it promotes the spread of communism, is published by an unlawful organization, or serves mainly as a means for expressing the views of such an organization or views calculated to further the achievement of any of the objects of communism.

A periodical named the *Guardian* was banned, but it had been registered under various names and was able to re-appear without delay under another of these. This process took place several times as the new papers were, in turn, banned.

An amendment to the Act made in 1962 prevented a newspaper from registering under more than one name by providing that, unless special exemption is given, any registration will lapse unless the paper concerned is published at least once a month.

No new newspaper may be registered unless the proprietor deposits with the Minister of the Interior such amount, not exceeding R20 000, as the Minister may determine, or unless the Minister certifies that he has no reason to believe that it will at any time be necessary for him to prohibit the paper.

The 1965 amendment empowered the State President to ban a periodical or other publication which is deemed by the authorities to be a continuation or substitution, whether or not under another name, of one that has been prohibited.

## 3. Press code of the S.A. Newspaper Press Union

In 1960 the Government introduced a Publications and Entertainments Bill. This, in amended form, finally became law in 1963; but in the meanwhile, during 1962, the S.A. Newspaper Press Union (the association of newspaper proprietors) drew up its own code of conduct. Individual employers may decide whether or not to accept it. A Board of Reference is provided for, composed of two managerial nominees under the chairmanship of a retired judge. Its function is to try to ensure that newspaper reports are accurate and not offensive to decency. Editors or journalists who are considered to have infringed the code may be reprimanded by the Board, and such reprimand will be published in other papers.

The final clause of the code states, "While the Press retains its traditional right of criticism, comment should take cognisance of the complex racial problems of South Africa, the general good and the safety of the country and its peoples".

## 4. Publications and Entertainments Act, No. 26 of 1963

Provision was made in this measure for the establishment of

a Publications Control Board, appointed by the Minister of the Interior, to examine any publication or film submitted to it under the Act, and to make enquiries about any entertainment which the Board has reason to believe may be undesirable.

A "publication" is defined to include any documents made public, illustrations, sound recordings, etc., but to exclude newspapers published by members of the Newspaper Press Union, and articles in technical or scientific journals that are bona fide intended for the advancement of knowledge. Wide grounds are set out on which the Board may declare a publication to be undesirable.

It was rendered an offence to publish, distribute, or import a publication that has been declared undesirable, or, except under permit, to import a publication with a paper-back in cases where the net selling price to the importer is 50 cents or less.

The provisions of the Act are not applicable to proceedings in courts of law. Publications deemed undesirable may be used, on permit, for bona fide research and study purposes.

The Board reaches its decision in private and need not hear evidence, and although there is an appeal to the courts, such procedure is expensive and lengthy and the courts are expressly forbidden to consider "the work as a whole", as they do in Britain.

No one may publicly show a film which has not been approved by the Board; but the Board may exempt any particular film or class thereof. It may approve a film subject to the condition that it be shown only to persons of a specified group, race, or class, or only after specified portions have been cut.

The Board may prohibit any public entertainment if it is satisfied that it may have the effect of giving offence to religious convictions or bringing any section of the population into ridicule, or is contrary to the public interest or harmful to morals. An entertainment is regarded as being "public" if admission is obtained by virtue of membership of any association of persons, or for any consideration, or any contribution to any fund.

### 5. General Law Amendment Act, No. 76 of 1962, as amended by Suppression of Communism Amendment Act, No. 97 of 1965

These Acts render it an offence, without the Minister's consent or except for the purposes of proceedings in a court of law, to publish any speech or writing made anywhere, at any time, by a person who has been prohibited from attending gatherings or by former residents of South Africa who were under banning orders when they left.

A similar prohibition may be placed on the reproduction of statements by former residents of the Republic whose names are listed in the *Gazette*.

(It would appear that these prohibitions possibly lapse after the death of the persons concerned.)

6. **Official Secrets Amendment Act, No. 65 of 1965, Prisons Amendment Act, No. 75 of 1965, and Defence Amendment Act, No. 85 of 1967**

See pages 103, 104, and 107.

7. **Copyright Act, No. 63 of 1965**

The Copyright Act empowered the State President to make regulations authorizing, or prohibiting, the circulation, presentation, or exhibition of any work or production.

Section 50 (3) states: "The circulation, presentation, or exhibition of any work or production in pursuance of authority granted in terms of such regulations shall not constitute an infringement of copyright in such work or production, but the author shall not thereby be deprived of his right to a reasonable remuneration, which shall, in default of agreement, be determined by arbitration."

The object was to prevent overseas authors from prohibiting the performance of their works in South Africa on ideological grounds.

8. **General Law Amendment Act, No. 101 of 1969**

The provisions of the Official Secrets Act of 1956 as amended in 1965, dealing with the observance of secrecy in the publication or dissemination of information about military or police matters in a manner prejudicial to public safety or the interests of the Republic, were made applicable, too, to any matter relating to the security of the Republic, including any matter dealt with by or relating to the Bureau for State Security, or to the relationship between this Bureau and any person. (Section 10 of the Act.)

9. **Publications and Entertainments Amendment Act, No. 85 of 1969**

If the Publications Control Board considers that every subsequent edition of a publication which has been deemed undesirable is also likely to be undesirable, it may prohibit all further editions of the publication concerned.

10. **Publications and Entertainments Amendment Act, No. 32 of 1971**

It is made clear that a film intended for public exhibition must be submitted to the Board before it is shown in private, or before any particulars relating to it may be published. No particulars may be released about a film that is rejected (other than its title), or about portions that the Board has decided should be excised.

The Board was empowered to lay down conditions if it decides to impose control over the holding of a public entertainment.

Members of the Board, or persons authorized thereto by it, may enter any place if they have reasonable grounds for suspecting that undesirable publications or other objects are produced or exhibited there. They may seize any publication or object which appears to afford evidence of a contravention of the Act.

# INDEX

N.B.—Early laws dealing with African affairs were generally prefixed by the words "Native" or "Natives". Subsequently, the term "Bantu" was officially adopted, instead. In this index, this term has been used for all such legislation.

## A


Admission of Persons to and Departure from the Republic Regulation Amendment Act, 1969—57
Advanced Technical Education Act, 1967—70
Advanced Technical Education Act: Indians, 1968—70
Agricultural Credit Amendment Act, 1968—76
Aliens Control Act, 1963—55
Aliwal North—Kat/Fish line—29
Apartheid policy—9
Appellate Division Bill, 1953—15
Appellate Division Quorum Act, 1955—15
Apprenticeship Act, 1922 and 1944—7
Armaments Development and Corporation Act, 1968—108
Asiatic Land Tenure and Indian Representation Act, 1946—2, 6, 14, 16, 30
Aviation Amendment Act, 1965—87


## B


Banishment of Africans—4, 92, 97
Banning of:
  Organizations—89, 95, 99, 100
  Persons—89, 91, 99, 104, 107, 112
  Publications—89, 110 *et seq*
Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952—35
Bantu Administration Act, 1927—4
" " Amendment Act, 1956—92
Bantu Affairs Act, 1920—3
" " Administration Act, 1971—44
Bantu Authorities Act, 1951—22
" " Service Pensions Act, 1971—64
Bantu Beer Act, 1962—86
*(Also see Bantu Laws Amendment Acts, 1964 and 1970)*
Bantu Building Workers' Act, 1951—39, 74 *ff*
Bantu Education Act, 1953—64
" " Amendment Act, 1970—68
" " Finance Act, 1945—5
*(Also see Finance Acts of 1968 and 1970)*
Bantu Homelands Citizenship Act, 1970—12
" " Constitution Act, 1971—25
" " Development Corporation Act, 1965—49
Bantu Investment Corporation Act, 1959—48, 50
Bantu Labour Act, 1964—41, 44
*(Also see Bantu Laws Amendment Acts, 1964 and 1970)*
Bantu Labour Regulation Act, 1911—6, 39
" " Regulations, 1959—37
" " " 1966—41
" " " 1968—43
" " (Settlement of Disputes) Act, 1953—57, 60
Bantu Land Act, 1913—3, 30
Bantu Laws Amendment Act, 1937—3
" " " " 1952—35, 36
" " " " 1957—36, 77, 93
" " " " 1962—85
" " " " 1963—28, 38, 55, 86

Bantu Laws Amendment Act, 1964—39, 47, 62, 87
" " " " 1966—51
" " " " 1968—42
" " " " 1970—44, 48, 63, 76
" " " " 1970 (Second)—25
" " " " 1970 (Third)—28
Bantu (Prohibition of Interdicts) Act, 1956—36, 46
Bantu Resettlement Act, 1954—29
Bantu Services Levy Act, 1952—39, 74 *ff*
Bantu Special Education Act, 1964—66
Bantu Taxation Act, 1969—74
" " and Development Act, 1925—4
" " " " 1958—73
Bantu Transport Services Act, 1957—75
Bantu Trust and Land Act, 1936—4, 30
" " " " Amendment Act, 1954—46
Bantu (Urban Areas) Acts, 1923 and 1930—2, 30, 39
" " " Amendment Act, 1956—36
" " " Consolidation Act, 1945—36
*(Also see Bantu Labour, Bantu Laws)*
" " " Home Ownership—42, 77
" " " Professional men and women—37, 44 *ff*, 62
" " " Removal of townships, 1970 decision—76
" " " White collar workers—63
" " " Women cannot be householders—42
Beaches, racial zoning of—82
Better Administration of Designated Areas Act, 1963—39
Births, Marriages, and Deaths Registration Amendment Act, 1968—11
Border Control Act, 1967—56
Border industries—49
Broadcasting Amendment Act, 1960—79
Bureau for State Security:
General Law Amendment Act, 1969—109, 113
Public Service Amendment Act, 1969—109
Security Services Special Account Act, 1969—109

## C

"Church clause", 1937 and 1957—3, 36, 77 *ff*
Civil Defence Act, 1966—105
Civilized labour policy—7, 57
Class Areas Bill, 1924—5
Clubs, segregation in—34
Coloured Council, 1943 and 1959—2, 16, 19
Coloured Development Corporation Acts, 1962 and 1963—83
Coloured municipal voters in the Cape, 1970 decision—27
Coloured Persons' Education Act, 1963—69
Coloured Persons' Representative Council Act, 1964—19
" " " " " 1968—19
" " " " Amendment Act, 1970—21
*(Also see Powers and Privileges)*
Community Development Act, 1966—32
" " Amendment Act, 1965—31
" " " " 1967—33
" " " " 1968—33
" " " " 1969—33
Constitution Amendment Act, 1963—23
" " " 1965—16
" " " 1971—25
Copyright Act, 1965—113
Criminal Law Amendment Act, 1953—90

Criminal Procedure Act, 1955—91, 102
" " Amendment Act, 1958—93
" " " " 1965—104
" " " " 1968—42
" " and Evidence Amendment Act, 1955—91
Customs Act, 1955—110

## D

Dangerous Weapons Act, 1968—108
*(Also see page 93: dangerous weapons in African Reserves)*
Defence Amendment Act, 1961—96
" " " 1963—101
" " " 1967—107
Detention without trial:
12 days—96
14 days (may be extended)—106
90 days—101, 102, 105
180 days—104
after completing prison sentence—100
indefinite—108
in Transkei—97
under Emergency Regulations, 1960—95, 97
Development of Self-Government for Native Nations of South West Africa Act, 1968—26

## E

Economic Co-operation Promotion Loan Fund Act, 1968—88
Educational Services Act, 1967—70
Eiselen Line policy, 1955 and 1966—28, 41
Electoral Laws Amendment Act, 1969—18
Emergency regulations—94, 105
" " for Transkei, 1960—97
Entertainment, apartheid in—78
Exchequer and Audit Amendment Act, 1955—64
Explosives Amendment Act, 1963—101
Expropriation Act, 1965—75
Extension of University Education Act, 1959—71
" " " " Amendment Act, 1971—73

## F

Factories, Machinery, and Building Works Act, 1941—8
" " " " " Amendment Act, 1960—61
Farm employment for petty offenders—37
Finance Act, 1968—67
" " (Second), 1970—67
Foreign Africans—55, 56

## G

Gatherings—*see Meetings*
General Law Amendment Act, 1955—92
" " " " 1961—96
" " " " 1962—98, 112
" " " " 1963—100
" " " " 1964—10, 102
" " " " 1966—106
" " " " 1968—52, 87
" " " " 1969—18, 113
" " Further Amendment Act, 1962—100
" " " " " 1970—109
Government Non-White Employees' Pensions Act, 1966—64

Group Areas Acts, 1950 and 1957—30
„ „ Amendment Act, 1957—34
„ „ „ „ 1962—27
„ „ „ „ 1965—31
„ „ Act, 1966—32
„ „ Amendment Act, 1969—33, 34
„ „ Development Act 1955—31
*(Also see Community Development)*

**H**

Health Services in African Reserves, 1970 decision—54
High Court of Parliament Act, 1952—15
Higher Education Amendment Act, 1963—70
House Arrest—99
Housing Acts, pre-1948—8
„ Act, 1957—75
„ Amendment Act, 1965—75
„ Act, 1966—76

**I**

Identity Documents in South West Africa Act, 1970—12
Immigration Act, 1913—5
„ Amendment Act, 1960—55
„ Regulation Act, 1953—54
Immorality Act, 1927—8
„ Amendment Act, 1950—13
Indemnity Act, 1961—97
Indian Laws Amendment Acts, 1963 and 1964—85
Indian Relief Act, 1914—5
Indians Education Act, 1965—70
Industrial Conciliation Acts, 1924, 1937, and 1956—7, 58, 59
„ „ Amendment Act, 1959—58
„ „ „ „ 1966—58
„ „ Further Amendment Act, 1966—58
„ „ Amendment Act, 1970—61

**J**

Job reservation, from 1956—60

**L**

Legal Aid Act, 1969—88
„ „ „ 1971—88
Liquor Amendment Acts, 1961 and 1962—86
„ „ Act, 1963—87
*(Also see Bantu Laws Amendment Acts, 1964 and 1970, General Law Amendment Act, 1970)*

**M**

Masters and Servants Acts—6
Meetings, control of—17, 47, 84, 89, 91, 93, 94, 96, 98, 99, 109
Mines and Works Act, 1911—7
„ „ „ Amendment Act, 1926—7
Mining Rights Act, 1967—53, 83
Motor Carrier Transportation Act, 1930, and Amendment Act, 1955—78

**N**

National Education Policy Act, 1967—70
National Study Loans and Bursaries Act, 1964—73
National Supplies Procurement Act, 1970—110
Nursing Act, 1957—61

## O

Official Secrets Amendment Act, 1965—103

## P

Pass Laws—35 *et seq*, 46
Pension Laws Amendment Act, 1965—56, 64
Physical Planning and Utilization of Resources Act, 1967—62
Police Amendment Act, 1961—96
" " " 1965—103
Population Registration Act, 1950—9
" " Amendment Act, 1962—10
" " " " 1967—10
" " " " 1969—11
" " " " 1970—12
Post Office Act, 1958—110
Powers and Privileges of Coloured Persons' Representative Council Act, 1970—21
Press Code—111
Prevention of Illegal Squatting Act, 1951—35
Prisons Acts, 1959 and 1965—94, 104
Processions, holding of: 1970 decision—109
Proclamation 26 of 1965 (clubs, recreation, etc.)—34
Professional organizations, racial segregation, 1962—79
Prohibition of Disguises Act, 1969—109
Prohibition of Mixed Marriages Act, 1949—13
" " " " Amendment, Act, 1968—13
Prohibition of Political Interference Act, 1968—17
Promotion of Bantu Self-Government Act, 1959—14, 15, 16, 23 *ff*, 28
Promotion of Economic Development of Homelands Act, 1968—52
Protest, offences committed by way of—90
Public Safety Act, 1953—90
Public Service Amendment Act, 1969—109
Publications and Entertainments Act, 1963—111
" " " Amendment Act, 1969—113
" " " " " 1971—113

## R

Railways and Harbours Amendment Act, 1965—56, 64, 103
" " " " " 1970—110
Rehoboth Investment and Development Corporation Act, 1969—88
Removal of Restrictions in Townships Amendment Act, 1963—75
Representation of Natives Act, 1936—1, 13, 14
Reservation of Separate Amenities Act, 1953—77
Reserves, African—48 *et seq*.
" " Control of entry, 1958—92
" " " " gatherings—89, 109
Riotous Assemblies Acts, 1914, 1930, and 1956—91, 110
Riotous Assemblies and Suppression of Communism Amendment Act, 1954—91
Rural Coloured Areas Act, 1963—84

## S

Sabotage, 1962—99
Sabotage: General Law Amendment Acts, 1962, 1964, and 1966—99, 102, 106
Scientific organizations, racial segregation, 1962—79
Sea Fisheries Amendment Act, 1965—103
Security Services Special Account Act, 1969—109
Senate Act, 1955—14, 15
" " 1960—14

Separate Representation of Voters Acts, 1951 and 1956—14, 15, 16
" " " " Amendment Act, 1965—17
" " " " " " 1966—17
" " " " " " 1968—18
Slums Amendment Act, 1963—75
South Africa Act, 1909—1, 13, 14
" " " Amendment Act, 1956—15
" " " " Bill, 1953—15
South African Indian Council Act, 1968—22
South West Africa Affairs Act, 1969—18
" " " Constitution Act, 1968—18
" " African Affairs Amendment Act, 1949—13, 14
Special Education Amendment Act, 1960—70
Sport, segregation in—80
State-aided Institutions Amendment Act, 1957—79
Suppression of Communism Act, 1950—88, 111
" " " " Amendment Act, 1954—91
" " " " " 1962—111
" " " " " 1965—104, 111, 112
" " " " " 1967—107

## T

Terrorism Act, 1967—107
Townships in African Reserves—53
Trade unions—57 *et seq*, 58 *ff*
Trading and Occupation of Land (Transvaal and Natal) Restriction Act, 1943—6
Training Centres for Coloured Cadets Act, 1967—85
Transkei Authorities Act, 1965—24
Transkei Constitution Act, 1963—24
" " Amendment Act, 1967—24
Transkei Education Act, 1964—68
Transkei Emergency Regulations, 1960—97
Transkei Townships Amendment Act, 1969—53
Transkei, zoning of towns, 1965—51
Transkeian Development and Reserve Fund Act, 1964—50
Transkeian Trading Amendment Act, 1964—50
Transvaal Asiatic Land Tenure Act, 1932—6
" " " " Amendment Act, 1936—6

## U

Unemployment Insurance Amendment Acts, 1946, 1949, 1957, and 1965—63
Universities Amendment Act, 1969—72
University College of Fort Hare Transfer Act, 1959—71
University of Durban-Westville Act, 1969—72
University of Fort Hare Act, 1969—72
University of the North Act, 1969—72
University of the Western Cape Act, 1969—72
University of Zululand Act, 1969—72
Unlawful Organizations Act, 1960—95
Urban Bantu Councils Act, 1961—28, 39

## V

Vocational Education Amendment Act, 1958—70

## W

War Measures 9 and 145 of 1942—8
Weapons, dangerous—93, 108
Welfare Organizations Amendment Act, 1961—98
Welfare organizations working for Africans: segregation in administration, 1957—79
Witnesses detention of—104
„ recalcitrant--102, 105, 107