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Yes, I think some provision will have to be made to protect him in that respect.

DR. ROBERTS: I want to get away from what my colleague says about the danger of altering the Native law. He might be better off under European law, but do you not think that, under Native law, where every woman gets married and becomes, in a way, the property of her husband, she immediately looks to her husband to bring in property for her and, if you are going to give that possession to women, which this proposal seems to mean, - it would lead to altering completely the position of women under Native law?- Yes, that is so.

That might lead to dangers in another direction?- Yes, it is a dangerous thing to tamper with.

I would not tamper with a law like that?- No, there is something in that.

By. LUCAS: By law you want to stereotype it ---?-
(No answer).

CHAIRMAN: Is not this rather a case on the borderline between European law and Native law, rather than a case of purely Native law? Here you have a certain number of Natives who have skipped across the border and who now have picked up certain ideas of land tenure and they have then skipped back and apply it under Native tenure?- Yes, I do think that some special provision will have to be made. These people have progressed and many of them have become more like Europeans. There is a Native location here where lands are bought and sold every day and these people have got accustomed to this type of tenure. But I think what you have in mind is some kind of special provision which has been made by the Department. There

are certain provisions laid down. The law^x as regards Native estates is briefly as follows:- (a) Movable property allotted by a Native, or accruing under Native law and custom, to any woman to whom he was married under Native Custom or to any house cannot be bequeathed by will, but must devolve ~~as~~ according to Native law and custom.

(b) Land in a location held in individual tenure upon quit-rent conditions by a Native, that is ordinary allotments held under title in a surveyed location, cannot be bequeathed by will, but upon the death of the owner must devolve upon one male person to be determined in accordance with the prescribed tables of succession.

(c) All other property belonging to a Native can be devised by will. In the event of there being no will such property is to be dealt with as follows:-

(i) If at the time of his death the deceased was exempted from Native law under Natal Law No. 28 of 1865, the property must devolve as if he had been a European.

(ii) If during his lifetime the deceased had contracted a marriage in community of property or under ante-nuptial contract, the property must devolve as if he had been a European.

(iii) When any deceased native resident at the time of his death in an urban or industrial area is not survived by any wife, partner or child under a marriage or customary union and was at the time of his death living with any woman as his putative wife under such circumstances as in the opinion of the Minister to render the application of Native law and custom to the devolution of his property inequitable or inappropriate, such property shall devolve as if the deceased and such putative wife had been married by Christian or civil rites.

(iv) if the deceased does not fall under any of the classes described in paragraphs (1), (ii) and (iii), the property shall be distributed according to Native law and custom.

There is a special concession put in there for special purposes--where it would otherwise have been a hardship. The time will come when we shall have to consider some provision for deviation from a hard and fast rule of only native custom applying in native areas.

CHAIRMAN: Have you not got at the same time an exception in regard to rights derived in marriages by community of property?-- The Act protects the rights of a marriage in community.

There are a certain amount of European ideas there?-- Yes, but there is a difference of opinion between my office and the head office. I am inclined to think that it means that the children are also protected in their productive rights.

If your view were correct, if that were the correct legal view, it would protect the cases of these people who have bought quitrent titles?-- If they were married in community of property.

That would probably not cover all cases?-- No.

MR. LUCAS: Take the case of a man who for years has been living as an European and has acquired European habits and who has acquired a quitrent title and spent a lot of money on it. Can you, even after hearing what Dr. Roberts has suggested, see any difficulty in allowing a man like that to will his quitrent title. Why should he, who has broken right away from Native custom, as many Natives have done, now be compelled to have his estate administered according to Native custom?-- Once you give him the free right to make a will, you must put him

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under the ordinary laws of the Colony, and that means that he must go to an attorney and to the Master's office.

Not necessarily. He could make a will, he could make over his property by will? - Yes, but the estate has to be administered.

MR. MOSTERT: The only thing is that none of these titles are absolute freehold titles? - There are a few of them, perhaps between 100 and 200 altogether.

Well that is only a few? - Yes.

And, therefore, if we were to advocate that, as far as wills are concerned, you are still treading on thin ice because that title is not a freehold title and, therefore, it is not the same as it is in the case of an European who has his freehold title and can sell it as he wishes. You are interfering with their own Native laws? - I think all the members of the Commission are trying to meet hard cases - the cases of men who only have daughters.

SENATOR VAN NIEKERK: No. We have had the case of a Native who says, "I live as an European, why should my land go according to Native custom, why cannot I will it as I like?" - Well, one cannot provide for all cases. We know the old saying that "Hard cases make bad laws".

CHAIRMAN: There is quite a well defined group among the Natives now, and that group contains men who are regarded as being amongst the most intelligent Natives, men who want to devise their property by will. Now, should not one consider their interests? - Could not one apply special conditions to certain areas, where the people as a community are more advanced than others?

But you find these people scattered throughout the Native areas? - Yes, that is so.

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MR. MOSTERT: Can you differentiate?- It would be very difficult.

MR. LUCAS: Take the case of an attorney practising in this court, who at the same time has a quitrent title; that man does not live according to Native custom, but he has concentrated his savings on developing that quitrent title, with the idea of providing for his daughters. Is it not wrong that, under those circumstances, a man should be compelled to be governed by Native custom?- I think he buys his land under certain conditions which are laid down in the title deeds. He need not buy there, he can go elsewhere and buy in European areas.

There are parts where there is no land available?- It is easier to buy in an European area than in a Native area. He knows what the law of the land is. Still, I admit that there is a certain amount of hardship there.

CHAIRMAN: But buying in an European area would not help him if he bought under the provisions which are laid down. The Land Act would stop him?- Yes, that is so. That applies ----

I mean, if he bought in the Northern Provinces, - the Land Act would stop him?- Yes. You have no individual titles for Natives in the Transvaa, I believe.

MR. LUCAS: Yes, there are some individuals who have title?- Is that so.

CHAIRMAN: Quite a lot of land was bought by syndicates?- Yes, but that land is not subject to such conditions of title as we have here.

Now, you refer to Natives and Coloured people who hold freehold lots in the Stockenstroom district. Could you tell us something about the history of these holdings and

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how they passed out of the hands of the original holders? - It is a very sad history, so far as the Native population are concerned, because, originally, this was a very beautiful district. It was very like the Keiskama Hoek district, full of mountains and streams. It was a beautiful district, the whole of it, with the exception of a very small part. It was entirely owned by Natives and Hottentots with the exception of the European villages. These Natives and Hottentots were given this land in 1837. Later on, when they went into rebellion, they lost it, but in 1857 it was re-issued to the Natives and Hottentots for services rendered in that war. They lived perfectly happily there under conditions very similar to what we have here. It is true that the land was not made much use of, but they were quite comfortable there and no one ever thought of taking transfer until it was too late. Suddenly the land became valuable, because they found that they could grow tobacco and oranges there, and the Europeans began to cast longing glances on the district. So an Act was passed in 1905 which allowed the determination of ownership, omitting the intermediate stages, and admitting of transfer from the original owner -- who might have died many years ago and whose sons might have died many years ago -- even on to the third generation. Of course, the original number of owners or grantees was considerably smaller, but by that time there were perhaps 100 descendants. It was my duty to go there and try and clear up the matter. Well, eventually we managed to get the number of descendants down to 300. This is how it happened. Supposing there were seven sons. They would hand over their rights to one of them and, although there were seven of them on

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the land, they would get their transfer in that way in the name of one of them. But then the trouble started. The moment they got it they went to a shop or to an attorney and they borrowed £25 here and there and, in a very few years, there were only very few Native owners left. Today there are only just fifty Native owners left out of the 300 who owned the land, and 50 Coloured people.

And the 50 were both Native and Coloured?- Yes, both Native and Coloured.

Have you any idea what the proportion was of Coloured to Natives?- I think about 60 Coloured to 40 Natives, roughly.

MR. MOSTERT: What was the size of the holdings?- Well, it varies from half a morgen up to about seven or eight morgen. With commonage rights over a very large commonage, and the Act gave them the right to divide the commonage among the lotholders. It is now divided for the purposes of growing oranges among the Europeans.

CHAIRMAN: Did any subdivision take place after the Europeans had bought from the original owners?- Yes.

MR. MOSTERT: What were the titles which they had?- I think they were quitrent titles.

Not subject to any reservations?- No, there were no reservations.

Now, these were very small lots, did the Europeans gain possession of a number of contiguous lots and then amalgamate them?- Yes, the Europeans would try and get hold of three or four of these lots and then get a correspondingly large share of the commonage.

Have you got anything similar in the Ciskei, where land that was originally held by Natives without any protection has passed to Europeans?- Yes. The Keiskama Hoek area is

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perhaps the only illustration which I can think of where they have a large number of small sections. The Native owners have granted quite a number of these to others and there has been a good deal of transfer of these allotments, but perhaps equally they may have acquired others from Europeans who were there originally.

You do not know which was the predominant movement, - from Native to European or from European to Native? - I made some enquiries from the Magistrate at Keiskama Hoek and he thinks it is about equal. There may have been a good deal of transfer going on from one to the other, but the proportionate number is still about the same as it was.

What is the size of these holdings? - They vary from about three morgen to about 30 to 40. My interpreter holds one of these - he has 100 acres. He has one lot in King William's Town district.

Taking the whole position, I suppose you would consider that the protective clauses in the Native Land Act are very much required by the Natives? - I say that they are absolutely essential if they are to keep their lands. It is remarkable that there has been no greater amount of the Natives losing their lands to Europeans. Actually, in the Peelton location today, there are two European owners, yet that is a purely Native area, and in Queenstown, too, there are two European owners. How they got there I do not know. Although they are protected, those transfers have still gone through.

MR. LUCAS Can you tell us whether they took place recently? - No, they did not. They must be at least 16 or 20 years old.

And are these lands occupied by Europeans? - Yes. One European can come in and run 1,000 sheep on the commonage itself. He can do so at sweet will and he is actually

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doing so in Lesseyton. How all that happened I do not know.

CHAIRMAN:

I suppose he has as much right to the commonage as anyone else?— Yes, he has, and if he wants to he can squeeze the whole lot out.

Native witnesses who have appeared before us and several Native speakers at the 1930 Union Conference, urged very strongly that the Native Lands Act should be repealed. We should like to have your opinion. Do you think that it would be in their interests to do so?— Where did you get these representations from?

They were made by various Natives from the Transkei, and by others ~~xxx~~ as well. The speakers at the Union Conference held in Pretoria in December last, actually asked for and urged the repeal of the Native Land Act?— Well, I do think that they would lose considerably more than they would gain if it were repealed. When they asked for that, I take it that they do not want ~~x~~ ^{the} new amending Native Lands Act to be put into operation. It is not in operation today. That is to say, the provisions of that Act are not in operation in the Cape today, but the Department of Native Affairs protects them.

MR. LUCAS: Supposing an European went into the Transkei today, have you any power to prevent him from getting transfer of land in the Transkei?— He could not, of course, go into an unsurveyed commonage or into an occupied location. But there is nothing in law to prevent him from going into a surveyed area, except the goodwill of the Government and it is the goodwill of the Government which prevents transfer from a Native to an European being effected. That is all we have.

Under what power could the Government stop such a

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transfer taking place? - It could do so by a clause in the title deed.

DR. ROBERTS: The Government could always deal with that? - Yes. As a matter of fact they have so far done so by not allowing transfer from a Native to an European, but there is nothing actually in law.

They could always implement that? - Yes.

MR. LUCAS: Is the position the same in the Ciskei as it is in the Transkei - except where there is provision in the title deed that it shall not be transferred to anyone but a Native - has the Government got any powers in this area? - In nearly all the title deeds there is that provision. So far as I can remember, there are only two which have not.

Take Peelton and Lesseyton. Can the Government today prevent transfer? - Yes, they can, and how these European transfer went through, I do not know.

They actually went through? - Yes.

How could they prevent it today? - Because there is a clause that lays it down that nobody shall get transfer without the approval of the Government. The Government can say, "No, it must go to a Native". Without that protection clause the Government could not do anything and the Natives would lose their land within a very few years, in the same way as they have done in other parts of the country.

DR. ROBERTS: With regard to the Stockenstroom district, do you think the position there is due possibly to the evil influence of having the Coloured and the Natives together. Would it not have been better if the Coloured people had been taken out of the Katberg Valley and out of the Stockenstroom Valley and if they had all been kept

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together in some other district and if the Natives had been kept together in the Stockenstroom district? The parts now held by the Coloured people and in Fort Beaufort should all have been held by the Natives only?-- I put that very question to a meeting of Natives and Coloured and they said that they did not want to leave the district of Stockenstroom. They had been born and bred there and their fathers and grandfathers ~~xx~~ had been there and lived there and they were not prepared to go away from there although it was quite true that they were in a very miserable. There was no doubt about it that they were in a miserable condition. They are all farm servants now.

And most of the manual work is done by them?-- Yes.

But do you not think that to have these Coloured people and these Natives together there, must have pernicious influences on the Natives?-- I do not know. The Coloured people there are very much worse than the Natives.

Exactly, that is what I say. They must have a bad influence on the Native?-- Well, they seem to be perfectly happy among themselves. They have lived together for many years, as they do in Herschel, where you may have noticed that Coloured and Native people also live together.

Do you think that the Coloured people would be very much against being transferred from what, after all, is purely Native Territory?-- Yes, they would be very much against it. The Minister of Native Affairs, when he was here, put the same question to the Coloured people at Herschel. They asked him for a piece of land, and he said, "What about giving you land in Gordonia", but they said, "No, we would rather die than go away from here".

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And that is what one finds everywhere, that is what one is up against.

MR. LUCAS: With regard to residential plots, have many of these residential plots been taken up in this district? You will find that referred to on the first page of my memorandum. There are 7,108 what we call building lots. The number of arable lots is ~~1~~6327.

Have you had any difficulty in regard to the allocation of these building plots?— As a rule, a building lot goes with an arable lot. The two are always given jointly, sometimes under the same title, and sometimes under a different title.

Now, in regard to the survey?— As I say in my memorandum, there are thousands of allotments which have been surveyed to no purpose at all and have never been taken up. For instance, the whole of the Peddie district was surveyed, and less than 100 lots have been taken up. The survey of the building lots was done in two small a way. 32 square roods is the size in the Peddie district. Well, that is too small, It is not as big as this room, — ten to an acre. On that they were supposed to keep their cattle, their wife or their wives, their store huts, their living huts and everything. It was too small altogether and the result there is that you have hopeless confusion about the beacons. But still, there are some villages which have been well laid out but they do not know where the beacons are. None of those lots know where they are.

CHAIRMAN: And I suppose it is not possible to confine these people there to their right parts?— No. They came to me and they asked me what they should do and my advice was that they should surrender all their rights

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to the building lots and simply have them registered in the office, and they have agreed to that. They paid 2/6d for these building lots but they paid large amounts for the survey. The work had to be done by a surveyor, the beacons had to be put down and it cost a matter of £200. The surveyor found the beacons and went home. In Glen Grey we have no building lots surveyed at all and they get on quite well there.

Demarcation is quite enough? - Yes.

With regard to school and church plots, do you have them surveyed here? - Yes. At one time we did not have that, but now all new applications have to be accompanied by survey. That, of course, is in the surveyed locations, not in the others.

It has been represented to us that that constitutes a considerable hardship on the Natives? - That may be so, but you get so many applications of this nature from mushroom societies and organizations that it is desirable to keep them down and ^{if} the people are keen enough on having a church or a school, then I think they can afford to pay for it.

The object is to keep these mushroom societies in check? - Yes, it has that effect, and also it meets the desire of the Surveyor General to avoid having encroachment on the commonage.

CHAIRMAN: Where a church or school building is put down, is this heavy cost of survey to Natives really necessary? - I do not think it is so expensive, especially if it is done in conjunction with another/^(training?) trading station. The amount is £15 generally.

DR. ROBERTS: For five morgen? - No, even for half a morgen. That is for an isolated survey.

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MR. LUCAS: Is not that very heavy?- Yes, it is very heavy.

Is it necessary to have that procedure?- Well, they do not want any outside body to have greater rights than the Natives have. The Natives have survey and these people elsewhere also want survey.

CHAIRMAN: I understand that in unsurveyed locations, only demarcation is insisted upon?- Yes, they hold the land on the same tenure as the Natives do.

But if you insist upon a substantial building as an alternative to survey, would not that be a step towards helping the Natives? It has been represented to us that the Natives have been served very fairly and that before they paid for this ---- I do not think it would make any difference. They are supposed to deposit the £15 when they apply for the land - before they think of building even.

The Magistrate of Lady Frere seems to think that it was a distinct hardship on these people putting up churches and schools that they should have to pay this heavy fee for survey?- I do not think it is a serious hardship. At anyrate, I have never had it represented to me. As a rule, the Natives are only too pleased to get a title deed and pay whatever it costs.

MR. LUCAS: What is the origin of quitrent?- I take it that it is a recognition of the overlordship of the Government.

Is it not more for the purpose of getting in extra funds?- No, I do not think so.

Because it makes it very expensive for the Natives in the end?- Yes, they pay it in perpetuity, but it is a well known principle among the Europeans. There are

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thousands of quitrent farms here.

That is not so in any other province, it is only so here?— There are other parts where you find it, too.

DR. ROBERTS: You do not think that, in the early days, it was looked upon as a means of getting money?— No. I think that, if they wanted the money, they would rather have sold the land to them outright and given them the freehold. It would have been much quicker money then. As a matter of fact, I do not think that the word "quitrent" is correct. It is more or less of a misnomer and it is in reality a land tax.

MR. LUCAS: I notice you give us a table for private locations?— Yes.

What is meant by "Private locations" in this area?— It is really an organized system of squatting. Partly squatting, partly labour servants under the Cape Act of 1909, which divides Natives on farms into three classes, namely, servants, labour tenants and ordinary tenants. A servant, of course, pays no special tax for being on an European farm. A labour tenant pays a tax of 10/- and works part of his time for the farmer and an ordinary tenant pays a tax of £2 and he pays certain fees to the landlord for the privilege of living there.

To whom does the £2 go?— To the Government.

You spoke of European farmers. Does that apply to Native farmers, too?— In some cases it does.

On Saturday, I heard a complaint about the hardship which this imposes on a Native and there was no means of giving an exemption?— Well, the Government holds that a Native farmer, because he is a Native, is in no better or in no worse position than an European and that he should

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not be encouraged to turn his land into a location and that he should regulate the number of Native on his farm as well as an European has to do.

Are there any of these allowed free?- Only servants are free. If you can prove that five Natives are bona fide servants and are required for the work of the farm, then you are quite safe from any interference, but you have to get various sanctions and approvals from the Provincial Council and the Government.

The labour tenant is also covered under the Act?- The labour tenant is a part-time servant. I have put in a return, which you have before you, and from that you will notice that the numbers of these people are decreasing very rapidly - they have decreased by almost forty percent in the last five or six years.

Does that mean that they are being replaced by full time servants?- It means either that or that the farms are being subdivided or that the sons of the farmers are taking possession of part of the farm and that not so many Natives are needed.

It means that, in many cases, they are working the land with fewer servants?- Yes, there are probably more European owners or managers than before. The case of a labour tenant is that he is not an ordinary servant, but that he is in the service and is bona fide required by the farmer for service. I have here the definitions of the three classes under the Act 32 of 1909:-

"Labour Tenant" shall mean any Native male adult resident in a private location who is not a servant, but is bona fide required by the location proprietor for the

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"due working of his private property in or about the farming operations, trade, business, or handicraft by him carried on upon such private property.

"Ordinary Tenant" shall mean any Native male adult residing on private property who is not the owner of such private property or a labour tenant or a servant.

"Servant" shall mean and include any Native male adult residing on private property who is bona fide and continuously employed by the location proprietor in his domestic service or in or about the farming operations, trade, business or handicraft by him carried on upon such private property."

What is the usual form of contract with the labour tenant in these areas?- I think they usually have a written agreement.

Does it include the right to farm a certain portion of land?- Yes. It may be a portion of land and perhaps so many head of cattle may graze.

And what has the labour tenant to give the owner in return?- He must give such services as are agreed upon. Generally three or four months' work in the year, planting, scoffling and other work.

Are these services specified in a written contract?- Yes, they are.

Can we take it that, in any area, say, for instance, in Alexandria, the contracts will be pretty well uniform with those in other parts?- I suppose that a good deal depends on the requirements of the farmer.

Do these contracts have to be registered with anyone?- No.

Is there anywhere where we could get particularly of these contracts?- This district has no such case. Komgha

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is the district where the bulk of these things are and if you go to Komgha you will get all that information there. But these agreements are recorded with the inspector of locations, who nowadays is the local sergeant of police in each district and not the magistrate's office any more. It used to be the superintendent of Natives, but that work now has been handed over to the police.

Do you know anything about the squatting system in the Transvaal and the conditions there?— Only very superficially.

Do you know them sufficiently to make a comparison between the labour conditions there and conditions here?— No. I have had no district experience of that sort in the Transvaal.

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Did understand you to say that all the contracts are written in this area?— The form of application contains all these particulars and that form has to be approved of by the Divisional Council and by the Government. That form contains all the conditions of service and when these are approved of they go back to the person supervising and then they are recorded. Of course, the number of stock the labour tenant shall be allowed to keep differ and have to be entered.

Do you know whether these labour tenants are paid any wage during the time they have to serve the landowner?— I think not. I believe that he gives his service for the privileges which he receives from the farmer.

MR. MOSTERT: Do you know what the farmer gives him in kind?— A small piece of land, very seldom more than one morgen, so far as I know. That is for the ordinary labour tenant, and the right to graze 3 or 4 head of cattle

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and that is about all. And then he gets free dipping of stock, but that is a small item.

MR. LUCAS: Take the Komgha district. Could you get us the particulars of the general run of conditions for that district? - Yes, I think that could be obtained.

And then the ordinary tenant - are they people who hire land and pay rent? - Yes, they have a defined piece of ground.

CHAIRMAN: Are there any other points on which you have anything to bring before us? - I have another small return here of the districts where there are locations, giving the extent of the schedules areas in morgen, the number of large stock, the number of small stock and the number of head per morgen on a small stock basis. It shews the percentage per head per morgen and the return indicates that the average number of small stock per morgen in the Ciskeian area is ^{2.03}~~2.12~~. According to Mr. Thornton's estimate, that is exactly double the amount which you should graze on these areas. He says we should have about one beast per morgen. This also includes horses, mules and donkeys.

The carrying capacity, you say, is estimated by Mr. Thornton at one head of small stock per morgen? - Yes, that is what we regard as safe.

And the actual number is two? - Yes, 2.03.

MR. LUCAS: In this table, you give the census of Native agriculture and I notice that the only area with a Native population is greater than the number of morgen in the scheduled area, - Keiskama Hoek. Why is that? There is a very big disparity in comparison with the others? - That is due to the peculiar fact, I suppose, that seven eighths of the Native locations have not been scheduled

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as Native areas.

Do you know why that is?— No, I cannot tell, and I have not been able to find it out.

They are definitely Native locations?— Yes.

And they are not scheduled as such?— They have not been scheduled as Native areas. The great bulk of the people are Natives.

The great bulk of that area is Native owned and Native occupied land?— Yes.

CHAIRMAN: Has anything been done in this area to see whether it is possible to reduce the stock by selling to this meat extract company at East London, which I understand is prepared to take quite a lot of Transkeian beef if it can be got out?— There is a local agent in King William's Town, who is the agent both for the Transkei and the Ciskei. If he finds that he can get the animals more cheaply or more easily in the Ciskei, I have no doubt that he will get them here. I understand that they can take about 100 per day from the Transkei and the Ciskei and that, undoubtedly, would be of enormous assistance to these areas.

MR. MOSTERT: What is the full capacity that they can take?— I understand that that is the full capacity.

MAJOR ANDERSON: Are they actually working now?— Yes.

CHAIRMAN: I understand there is difficulty in getting the animals out on account of the East Coast fever regulations?— That is so.

Have you any difficulties here?— No, we have no such regulations here.

So that probably the greater part of the supply would come from the Ciskei?— I hope so.

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SENATOR VAN NIEKERK: Are your Natives here prepared to sell?— No more readily than they are in the Transkei. I do not think it is coming so much from the Natives as from the traders. They all lease and probably half the cattle in all the locations belong to them. What I mean is that they have a lease on probably half the cattle in the locations.

A Native who owns a quitrent piece of land, has he got to pay a Divisional Council tax in the same way as an European does?— In the Native Council areas, these assessments on the land used to be paid by the individual landowner, but since the Councils have been established, we have worked out a lumpsum rate and, for the last five years, that has been paid by the local Council to the Divisional Councils as their quid pro quo for what they used to get from the Natives.

MR. LUCAS: Is that accepted by the Divisional Councils as a final settlement?— It is agreed to for three years, and then it will be reconsidered.

SENATOR VAN NIEKERK: In unscheduled areas, they pay individually?— Yes.

What is the system as regards the exemption of Natives from the payment of poll tax. When do you exempt a Native?— Each application is dealt with on its ~~merits~~ merits and the Receiver of Revenue has full discretion.

I want to know the basis on which you go, when would a Native be exempt?— If he is old, if he too old to work, if he is poor, too poor, if he has no stock, if he has no children and if he has no one to work for him or anyone to bring in an income, then he is exempt. But if he is able to work then he is not exempted.

You do not take age into consideration?— Yes,

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if he is too old, then he is exempt.

What is too old?- Well, each man is seen personally by the Receiver. No one passes without a personal interview with the Receiver.

If a man had cattle, would you exempt him?- Yes, if he were an old man and not a young man who was able to work, he would be exempt. A man with 50 or 60 sheep would not get exemption.

MR. MOSTERT: But you have not got an actual age exemption, have you?- No, that is left to the discretion of the Receiver of Revenue.

DR. ROBERTS: Can we get the position in regard to the Councils in the Oiskel and what the possible future is?- Do you mean as to the extension of the system?

No, I mean the actual position, how many Councils are in operation and how many do you hope to put into operation?- First of all, we have the Glen Grey Council which was established in 1905. And that has worked exceedingly well. The people are most enthusiastic about it. Sometimes you will see that 50 or 60 people will come and attend the meetings. There is a big gap between the Glen Grey and the newer councils under the 1920 Act. In Glen Grey the Council has its estimate approved of by the Government and so has the Council here. The Magistrate has a veto there and also has a casting vote, but here the Magistrate has no vote at all. He is the convener of the meeting and he takes no part in the discussions. The functions are the same. We have councils now in Tamara, in Keiskama Hoek and Middeldrift, which are three subdivisions of King William's Town, at Victoria East, at Alice, at Peddie and, recently, at Herschel, and there they

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take a great interest in the matter. I have held meetings with a view to establishing councils in East London and Wittlesea and Oukraal. I think I can establish a Council in East London tomorrow if the Government will give its approval, but they have not done so although the Native Affairs Commission have given approval. I can get no answer from the Department of Native Affairs, except that they are considering the financial position. In Queenstown, unfortunately, we have met with a good deal of opposition on the part of one or two of the intellectual Natives, who claim to lead the people, but in a year or two, I am sure, we shall get it there too. There only remains Fort Beaufort, which is rather small to have a council, and then the Stutterheim locations also have asked for a council, but they have not been given it because they are rather small. But I am glad to say that the councils are working very well indeed and the sooner we get them established in Queenstown and East London, the better it will be.

SENATOR VAN NIEKERK: When you get these at Keiskama Hoek and Queenstown and East London, you have them practically all over?— Yes.

DR. ROBERTS: What about Komgha?— Yes, we discussed that, but these parts express a desire not to come in with King William's Town.

And Hylton will not go in with Peddie?— No, they will not go in with Peddie.

DR. ROBERTS: There is a difference of opinion there, is there?— Yes.

CHAIRMAN: Taking your councils and the Transkeian system with the General Council, which of these two systems do you think is preferable?— I would much prefer to see a

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General Council system established here and I hope some day to get it here, but you must remember that these councils are very young still and there is no one who is able, at the present moment, to provide a staff for a General Council. You must not forget, too, that after a few years' working, they are loath to hand over part of their revenue to form a General Council.

SENATOR VAN NIEKERK: Do you think that a General Council will work well here. The area is so far apart and so different in character?— Yes, I think so. After all, you have these far outlying parts too in the Transkei. We are no more different here than, for instance, Matatiele and Pondoland and other parts. There they have different tribes and far outlying parts meeting in the same council and it has been a very great success there.

You have one stretch of country belonging to the Natives and you can say, "Well, what applies here, may not apply at the other end". In the Transkei, you can say, "What applies here will also apply at the other end". But here, you have, for instance, the Herschel district and East London and Peddie?— Yes, but the Native interests are the same. There is a community of interests in our council areas to very much the same extent as in the Transkei, only we have the disadvantage of not all being in one block.

DR. ROBERTS: And that may come at some future date?— Yes, I feel quite sure that it will come.

When you get the Natives more consolidated?— Yes, I have had resolutions from one or two asking for a general council.

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CHAIRMAN: I want to put to you whether any of these councils are sufficiently advanced to carry on local administration without European officials?- You mean, at the meetings, or the administration, or both?

In the administration?- I do not think so yet.

DR. ROBERTS: That is to say, you could not carry out the 1920 Act in its entirety?- I do not think they would be able to carry out the financial part yet, and, as a matter of fact, I do not think they wish to do it. I do not think that they wish to do without the magistrate as chairman. I have frequently had to ask the council to carry on without me, when I had to be away, but they have always refused to do so.

So you do not think that, even in the near future, the 1920 Act could be brought into being, giving them power to deal with their own finances?- They have that power today, except for the estimate. They have sole control, subject to the approval of the Government. No, I do not think that the time has come yet. In the Transkei, now, they have Native road overseers, men in responsible positions drawing £200 and £300 a year. They have Native dipping supervisors and they manage all their own sections quite successfully, but I do not know whether they could carry out the whole of the machinery of a council, although I am sure that the time will come.

SENATOR VAN NIEKERK: Have you an organized body here in the Ciskei to take up matters on behalf of the Natives?- We have a joint welfare association.

I mean for the Natives only?- There is a farmers' association which deals only with farming matters.

DR. ROBERTS: And a teachers' association?- Yes,

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and both exercise a great deal of influence.

Have they not got a political association of some kind?- There is a Native Voters' association and there is a vigilance association.

SENATOR VAN NIEKERK: Can you tell us how the Native in the Ciskei compares economically with the Native in the Transkei. Would you say that they are on a par?- I do not think he is so well off in the Ciskei as he is in the Transkei, because he is more overcrowded here.

CHAIRMAN: You have seen the surveyed and the unsurveyed locations. Could you say whether there was any marked difference in the quality of agriculture and stock running carried on as between surveyed and unsurveyed areas?- I must confess that I can see no difference as between the two, and I have served in both classes of districts. I have served in what was supposed to be a highly developed district like Glen Grey and what was supposed to be a very backward district like Kentani and I should say that the cultivation in Kentani is just as good as it is in Glen Grey.

So, up to the present, one of the main incentives which was supposed to be held out for survey has not produced anything commensurate with the cost?- I think not.

DR. ROBERTS: You have always been in favour of a modified survey?- When I was at Head Office, I was a most enthusiastic supporter of individual tenure, but when I got into the districts, I very soon changed my views.

CHAIRMAN: Will you tell us on what grounds?- Yes, I found absolute chaos. The land had reverted to a communal location. I had to cancel over 2,500 abandoned

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allotments because the people had gone away.

Was that in a surveyed district?— Yes, in a surveyed district.

MR. LUCAS: Can you tell us why these allotments had been abandoned?— The people simply went away and left them. In some cases, those allotments were being cultivated but by persons who had no right whatever to them. They had simply gone there and worked them.

I was trying to get at this, why, with the prevailing land shortage which appears to exist, these lands if they are worth anything, should be abandoned?— I would not say that all of them were not cultivated. Some person who had no connection at all with the registered owner had taken up the land in many cases, without any authority.

On the subject of surveyed and unsurveyed districts, could you give us some idea of the relative cost of administering an unsurveyed and surveyed district?— We reckoned in the Transkei that it needed one additional European clerk in a surveyed district, due to the extra work entailed under the survey.

Due to the registration of title?— Yes, due to the registration of lands and to the registration of titles. Then there has to be an occasional inspection of beacons, looking after transfers, keeping records in connection with surveys, keeping the transfers up-to-date, and so on.

Would not that be balanced in unsurveyed districts by the work that has to be done in connection with allocation of lands?— No, I think not, because the work of allocation by no means calls for the actual appointment of an extra clerk. There is not much extra work entailed. In

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an ordinary straightforward case, the allocation is done by the headman and the constable together. As soon as the magistrate has given the order that so-and-so shall have land, the work is done by the headman and the constable and all the particulars are taken and brought to the office.

Is that not additional work which has not to be done in a surveyed district?— No, because in a surveyed district far more work has to be done, for instance, by a person having to see that all the beacons are still there.

Is there additional expense in connection with the maintenance of beacons?— That is almost recurring expenditure over a period of at least ten years and the beacons have to be revised by the location surveyor. There is one man, and he has been at work for seven months doing half of one location. That work is paid for by the Government.

DR. ROBERTS: Is it not paid for by the Natives?— No, the Natives put in the stones, but that is all.

MR. LUCAS: Under this big table which you have given us, there are a number of questions which I want to put to you. I see, with regard to Aliwal and Komgha, and Woodhouse, there is a reduction now from the figures of 1921 as compared with your estimated figures for 1929/1930. Could you tell us how you arrive at these estimated figures and then why these districts have gone back. Will you first of all take this double column for Aliwal North, 1921, 9653; and then you take your corresponding figure - estimated for 1920. You find that it comes down to 7,000. I am looking at the totals only. And then Komgha is down from 13,000 to 10,000 and Woodhouse has come down from 12,000 to 9,500.?— I shall explain the last one first, in regard to

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Woodhouse. The difference there is due to a boundary adjustment. Certain locations in Woodhouse have been transferred to Glen Grey and that accounts for the difference. Then I shall explain Komgha. There the difference is from 13,000 to 10,000. Well, that probably is largely due to the decrease in private locations, it is due to the number of people leaving private farms, which I have referred to elsewhere.

Where would these Natives have gone to?— They would mostly have gone to East London and King William's Town, and generally to the larger towns. The difference in the Komgha district is 3,500 and five years ago it was 5,700. That accounts for most of the difference. I think as they have left the private locations, they have either gone to the towns to look for work or otherwise they obtain a footing in some other location. We sent a batch of 200 to the Peddie district, to a new settlement, by the name of Woodlands. That, of course, accounts for a number of them, and then there are others, too, who are always moving from one place to the other.

As regards Aliwal, I do not know of any explanation in regard to that. There is a difference of about 2,600 there. There is no report of any migration or anything of that nature. As you know, Aliwal North is very much overcrowded - the larger locations in the township proper are overcrowded, but people there have been going away as they have not been able to get work. I take it that that would give an explanation.

Yes, but this applies, not only to the towns but to the district?— Probably the same explanation would apply there.

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To come back to Komgha, why are the private locations being reduced?- Because the European farmers are doing more farming themselves, either through themselves or through their sons.

And what happens to the Natives then?- They go out and look for land and very often they find it in the locations. I know that quite a number of them go to the Transkei. They have relations on the other side of the Kei and they go to them.

Is it generally because the farmer is developing in the way you suggest, or is it because the Natives find that they cannot put up with the conditions on the farm?- I think that the conditions, so far as the Natives are concerned, are good. They are very well looked after on the farms and they are the best class of Natives we have now in the whole of the Ciskei. They are the most lawabiding and they would not move unless they had to. I am quite sure that the farmers are farming more themselves than they used to do. Twenty years ago conditions were different.

You mean that they farm with cattle now?- Yes, they now dip their cattle. They got rid of the diseases and sheep also can live today through the prevention of disease by dipping. Today, the European can make a good living on his farm, where twenty years ago he could not do so.

And the European is now taking the place of the Native?- Yes.

Take Middeldrift, there is a big increase there, from 23,000 to 39,000. What is that attributable too?- I think that is probably attributable to a bad census in 1921.

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The present estimate may be somewhat exaggerated, but it would be very interesting to get the real figures next May, when I see that there is a census coming off.

How do you arrive at this figure of 39,000 in your estimate today?— I sent out for returns to each Native Commissioner, asking him to go carefully into the matter, and these returns were rendered. I do not know what methods they adopted, but I take it that they used their knowledge of the lands and made enquiries from the headmen.

SENATOR VAN NIEKERK: Is there not a registration?— For tax purposes there is a registration, but it does not give the number of men, women and children.

MR. LUCAS: And then, in Port Elizabeth, there is an enormous increase from 13,000 to 35,000. Of course, Port Elizabeth has developed industrially. Is there any other explanation?— Yes, there was this industrial expansion, but it is also due to a portion of Uitenhage having been added to Port Elizabeth.

Was that thickly populated?— I think the greater part is due to industrial expansion.

I see that Uitenhage has also gone up by about ten percent?— Well, they have had an extension of the Railway Workshops there.

Does that affect the Natives?— They have a very large urban area.

Of course, the urban area has gone up very much, from 3,000 to 8,000?— Yes.

I see, on this table, that you give a wage table at the end of the list. I notice you give the average wage, urban first and then rural. How are these averages arrived at?— They also, of course, are rendered by district officers

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who have made enquiries from locations or from farmers or from farm Natives, and, after due enquiry, they framed their estimates. Some will go to more trouble than others, but, on the whole, they are probably correct.

I happen to know something about the wages in Port Elizabeth, and a £5 average for ~~xxxxx~~ urban wages is much too high? - Have you taken into account the so-called recent voluntary agreement?

Yes, but that is not being observed and even that is only £5 and this is an average? - They are all supposed to have adopted it.

DR. ROBERTS: How do you account for the disparity between the lowest wage and the highest? - Well, of course, the cost of living differs enormously; between Cathcart and Port Elizabeth the difference would be very considerable.

MR. LUCAS: Now, could you express any opinion as to whether the economic position of the Native in your area is better or worse than it was when you took over? - Do you mean both in the towns and in the country?

Take them separately, the towns first and the rural? - I have only been here $2\frac{1}{2}$ years and I cannot say that I have noticed any difference in that time, but, in the country, I should say that the conditions are slightly better than they used to be. When I arrived here, it was at the end of a long drought and the conditions of both the Natives and the farmers were very poor, and that must most certainly have reacted on the Natives. Things are considerably brighter now, after at least one good season and the promise of another.

What is called 'the depression', has that affected

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the position?--It certainly has, so far as the price of wool is concerned; that has affected the natives very much indeed. Glen Grey has 250,000 sheep and when one loses £30 or more on sheep makes a tremendous difference to the Natives.

This morning, Mr. Grant made a point that the Natives are very much upset at not getting what they expected out of the increased taxation that they have to pay. Now, can you tell us anything about that?-- I have had representations made to me, and representations were made at the Minister's meetings at the same way that they could never get any information as to what was being obtained from the tax or how it was spent. The Minister promised to publish a statement and he did so recently and this is the first time it has come out since the Act came into operation in 1926. I do not know that they have had time to grumble as to how the money has been spent, because they have only just learned how it was spent.

Mr. Grant said that the tax was raised by 10/-, the amount spent on education in the Cape was raised very little, so little that they are not even getting that one fifth or 4/- against the 10/- which they have to pay, and he said that that caused a lot of dissatisfaction?-- Yes, I do think that there is dissatisfaction. We do hear from time to time that they say that they do not know what becomes of their money.

SENATOR VAN NIEKERK: Was any promise ever made to these Natives that this extra 10/- would be used solely for their own benefit?-- No, I do not know that any definite promise was ever made, not to my knowledge. There was a general levering up of taxation or a levering down throughout South Africa. In the Transvaal they

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paid £2 and that was brought down and in the rest of the country it was levelled up. I do not know of any definite promise that was made.

Were they given to understand ----?- No, I do not know of any promise that was made.

MR. LUCAS: You know Professor McMillan's survey of conditions in Herschel, I think it was in 1925. Are you prepared to express an opinion as to the correctness of that today, or even as to its correctness then?- My opinion would only be pure impression gained from looking round the districts perhaps a dozen times in the last two years and from conversations which I have had, but I must say that I do not think the people of the Herschel area are as badly off as they were at that time. Very likely Professor McMillan was right at that moment. They had had one serious drought after the other, and the same with Glen Grey. When you were there last week, everything was green probably, but I have been there when they had not reaped one mealie. After a few good seasons, things recover in an extraordinary way and the number of cattle increase. I have known of 25,000 head of cattle being lost in one season and then I have known that number of stock to be actually recovered in eight months. And the same thing will happen in Herschel, but I do think that things are not as bad in Herschel today as they were. One has to bear in mind that there is a tremendous reserve strength in that district.

What does it consist of?- Good veld, sweet veld, splendid wheat country and given a good season those people in that area will all do well.

Have you any figures to shew approximately the

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number of landless Natives in your area? - I can tell you exactly what the number is for the Glen Grey area -- I can tell you what it was in my time and what it is in the present time. I was there 12 years ago and, in those days, there were 4,000 heads of families who were without land. Things are somewhat different now, although the numbers may be just about the same.

That is 4,000 out of 12,000? - Yes. I believe the figure is the same today, in spite of the fact that some 30,000 morgen has been bought as an annex to the location there. That has happened since those times when I was there. Of course, you are only talking about the surveyed districts now.

No, I was not, but I was wondering whether you had any information? - That is the case in the surveyed districts of Glen Grey, but in the unsurveyed districts there are very few people without land of some kind.

Would you call that one of the benefits of the unsurveyed districts? - Yes, I call that one of the benefits of the unsurveyed districts. A man may get married and he will get a little land, even as big as this room, and he will be able to make a living there, but in surveyed districts, he is in a very difficult position as he cannot so easily get land.

The limit is reached sooner in a surveyed district than in an unsurveyed district? - Yes, you will not find a surveyed district carry so large a population. In fact, the population seems to be steadily decreasing.

In unsurveyed districts or in surveyed districts? - In surveyed districts.

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CHAIRMAN: The point is really that the system is not elastic enough so far as the surveyed districts are concerned?— Yes, that is so, and that is the experience which we are having in these areas. It is too rigid.

There are many handicaps?— Yes.

MAJOR ANDERSON: Can you tell us, is there a greater tendency for the unsurveyed districts to become overcrowded with people?— Yes, that is so.

And there is also a tendency for them to become overstocked?— We do find that. You may say that, in the surveyed districts the land is cultivated more and perhaps you find less cattle there.

What is the position in the unsurveyed districts?— Of course, there is a good deal of overstocking everywhere. In the unsurveyed districts there is more land cultivated than there used to be in the past, and that is not a bad thing because it may have the effect of less cattle being carried, although there is not much evidence of that.

CHAIRMAN: We must thank you, Mr. Apthorp, for the very clear statement which you have put before us. Are there any other points which you would like to deal with now?— No, I do not think so. You have these various annexures of mine and if there is any further information which you require, I shall be pleased to let you have it.

You have made a note in regard to the other figures and details which we should like to have?— Yes. I have dealt with a number of points in my statement and in the annexures thereto.

THE COMMISSION ADJOURNED AT 5 p.m. UNTIL
9.30 A.M. ON TUESDAY, JANUARY 27th.
