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man came in ?- Yes, that is so.

But the position now is that the Code is being brought into line with the changes brought in by the White man ?- To a certain extent, yes. May I refer to the chief point. Under Native law, a woman is subject to the tutelage of her husband and the kraal head. She has no right to property but we have made a provision in the Code to emancipate women in deserving cases so that she can hold the status of a kraal head and acquire property in her own name. We have many cases of that description, especially in urban areas and among the educated classes. Then we have also suggested that a Native of the age of 21 years should be regarded as a major. Hitherto, unless a Native was a married man or unless he was a kraal head in his own right, he was not regarded as a ^{major} ~~minor~~, but he continued to be a minor.

MR. MOSTERT: He is only regarded as a major when he is married ?- Yes, or if he is in charge of a kraal or sufficiently old to look after himself.

CHAIRMAN: Now, you expressed the view in your statement that tribal government is not in any way retarding the development of the Natives. The view has been expressed to us frequently that, owing to the fact that so many of the chiefs are uneducated men, tribal government tends to be reactionary. Will you express an opinion on that ?- I should say that it all depends on the number of factors. Personally, I do not see why tribal government should in any way deter a man from progressing. Today, tribal government and ordinary Native law does tend to a certain amount of confusion. Tribal government, I take it, is government by a chief, and a Native is subject to the jurisdiction of his chief and the supreme

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chief. The chief, of course, sometimes acts in a way which would deter a man, but I think we should not allow ourselves to be confused by the two terms "tribal government" and "Native law". When I made that statement, I think I had this in mind, that Native law does not deter the progress of a man. Unless you could illustrate to me in what way tribal government could prevent a man from progressing, I would have some difficulty in answering your question.

DR. ROBERTS: Does it not at once set up a state of unequilibrium? Take Basutoland, for instance, where you have a number of educated Natives who are all up against the tribal system. Now, my point is, does it not set up that condition of affairs where your educated man is up against the power of the chief who may be an uneducated man? - I take it that tribal government is subject to reform. We can educate our chiefs and our headmen and you can do away with whatever difficulties you may have. The present system may be a hindrance to the educated Native, but, on the other hand, I can quote you cases where you have educated chiefs with large numbers of educated Natives under them, and they have no difficulty whatever in progressing. In fact, in one case which I had in mind, in one particular area, there is the greatest satisfaction and, if it can apply to the mission reserve, then I see no reason why it should not apply to a Native location as well.

CHAIRMAN: The objection largely takes this form, that, as so many chiefs are as a matter of fact uneducated, they are not the most advanced people and, owing to the power which they have they are retarding the more advanced Natives from going forward? - I do not think that the powers

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of the chiefs are exercised in such a way, or in as arbitrary manner as people think. After all, a chief acts with the advice of his councillors and he does not act independently.

MR. LUCAS: Is that general in Natal? - Yes, as a rule. But in some instances it is not so? - Well, in some instances a man may be a despot, but that is not general.

CHAIRMAN: Are not the councillors the old and uneducated man and are they not as a rule more averse to education than the more progressive section? - Well, that may be, but you must bear in mind that the old generation is fast disappearing. I am looking at the system, not as it is at the moment, but what it may be in 20 years time.

I put it this way, that you consider that the tribal system of government which the Natives understand and are accustomed to, could be used as a weapon of very great profit and progress, provided it was properly handled, for instance, by the education of the chief? - Yes. I think it does contain the structure of progress --- it does contain the basis for building up an excellent institution.

MR. LUCAS: That aspect appeals strongly to me. Building on what we have. But what other changes, apart from the education of the chief, are necessary to give the opportunity for progress under the tribal system? - Well, at the present time, the chief functions with the advice of his councillors. You might stipulate that no chief would be competent to exercise his powers unless he has the majority of his councillors with him in the particular matter he was dealing with.

MR. MOSTERT: But even if the chief is not educated,

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the Native, as a Native, still abides by the chief ?- Yes.

Now, do you find that the chief is unable to rule because he is not educated ?- No. He will rule whether he is educated or not. You see, there is another aspect of the case. Religion largely enters into the case. The Natives today are still very jealous of their customs and they hold on to them and the chief is, as it were, the person on whom the ancestral spirits radiate and he exercises a tremendous power. He is the medium between the people and those who have gone before him. The spirits of his forefathers are the most powerful and that is why you will find that an insignificant looking chief may have such a tremendous power over his people. And that is one of the factors which we must not lose sight of.

CHAIRMAN: You expressed the view that any progress which is not rooted in the essential sentiment of the people would be bound to disappear or to spend itself without a great deal of vitality ?- Yes.

We must start with what they have, otherwise there can be no development ?- Yes, that is so.

MAJOR ANDERSON: How would you deal with a bad chief ?- Well, the supreme chief has absolute power to remove a bad chief.

If he removes one chief and he puts in another one, is he accepted ?- Yes, sometimes he is accepted, but more often than not, he is not accepted.

CHAIRMAN:

What do you mean by that ?- However bad a chief may be, they seem to tolerate him so long as he is the right man by birth. They would prefer even a bad chief over a man who may be put there by the Government.

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Supposing a man put there by the Government belongs to the chief's blood, too ?- That would be more acceptable than if the Government were to appoint an outsider. The appointment of outsiders has been an absolute failure, so far as my experience goes. We had experience of that in the Native Rebellion of 1906. You will remember that, after the Rebellion, a large number of chiefs were deposed and tribes were amalgamated and it ended in absolute failure and the Government had to revert to the position as it was before the Rebellion.

DR. ROBERTS: You have brought forward the spiritual side and also the desire of the people. Now, do you not think that the power of the chiefs is against the ideas of progress in the world today and that the chiefs must go and that, therefore, it would be unwise to bolster it up too much? I have suggested certain changes in the other sub-heads of your questionnaire, which I think will rectify many of the difficulties which we may find to prevail under the tribal system.

But you are bound to go on changing until the whole thing passes, is that not so ?- It will gradually pass away - it will gradually assume a different aspect in the long run.

DR. FOURIE: It will evolve into something better?-- Yes, that is my idea; I think it will. It will evolve into a system under which you will have chairmen of committees.

CHAIRMAN: Of course you are speaking of conditions so far as the Zulus are concerned?--Yes, I am confining my remarks solely to the Zulus.

MR. LUCAS: You have a system now in South Africa now which is driving the great bulk of the natives to live

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away from the Territories; they have to leave their homes to go and work in the towns?--Yes, that is so to-day.

They go away for a shorter or a longer period?--Yes.

And a number of these natives find the towns more attractive than their own areas and the result is that they remain in the towns?--Yes;

Do you visualise any control for the natives who remain in the towns?--No chief has any jurisdiction whatever over the natives who go to live in the urban areas; although I suggest that they should be allowed to remain under native law, I would suggest some form of local control.

Under their chiefs?--No, apart, independent of their chiefs; local control in the towns.

DR. ROBERTS: Is not that the beginning of the breakdown?-- I do not think so; you will still be preserving the Native law as it is in existence.....

MR.LUCAS: Ons point which you suggest is the substitution of individual tenure?--Yes.

Is not that inconsistent with the tribal system?--It is a part-- it certainly is taking away a good deal of the power of the Chief; I am not absolutely wedded to this idea of individual tenure, but what I want to get at is an improvement in the present system of this tenure in the locations. It may be possible to give them individual tenure by the Transkei system, or you may find it necessary to adopt the system which I suggested and that was that natives should be allowed to purchase land in the locations and should be allowed to acquire title under certain conditions. That, of course, would take away a good deal of the power of the chiefs; because at present he has a great say in

in the administration of the location; he has to settle all garden disputes and all agricultural site disputes and all matters of that kind are dealt with by him. Take those powers away from him and his power is reduced to one of small civil jurisdiction; but if he could be retained as a sort of chairman over his headmen and Committee, to assist in the administration, it would mean that you would still preserve the tribal system to that extent.

CHAI RMAN: If the native is to progress at all, there is to be an evolution of the chieftainship?--Yes.

And the first change in that evolution which seems to be essential, judging from your statement, is in land tenure?-- That is so.

Because the settlement of land tenure is retarding the whole thing at present?--Undoubtedly it is that which is retarding matters to-day to a large extent.

And now there is another very important aspect, another very important side of the chief's functions, and that is the maintenance of the moral sanctions of the tribe?-- That is a very important aspect....

If we are to maintain these, does not that inevitably mean that we shall have to carry the moral ideas of the tribe into the urban areas, where the breakdown of the moral sanctions is creating the most difficult problems of all?-- What do you mean by the "moral functions" of the tribe?

Well, take the penalties for certain happenings as created by marriage-- take the penalties for seduction and so on?-- I cannot see that that will in any way be affected by this land tenure.....

I am leaving land tenure aside for the moment, but I am taking another side of the chief's authority; the

insistence upon the moral ideas of the tribe. I think we must all admit that the breakdown in that respect is doing an enormous amount of harm in urban areas?--Yes, it is. But that would occur under any system of government applying to the natives of to-day, however acceptable it may be.

Could we not maintain what the native has in his own custom and system of Government in that respect, even in the urban areas?--Yes, I think you could.

Will you make some practical suggestions as to how that could be done; say you have a chief of a tribe somewhere in Zululand; he has a thousand of his followers living in Durban; he has to apply the moral laws of his tribe to these people; will you tell us how that is to be done?--As regards natives permanently domiciled in Durban, I would suggest some other form of Government, but as regards those who are only there temporarily, I would not disturb them at all. They are merely visitors to Durban and they will eventually return to their kraal and still be the subjects of their old chief. I would leave them alone.

You mean they do not present any very serious difficulties so far as the chief and his rule are concerned?--No.

But the people who present the difficulty are the people who have cut themselves away?--Yes, and are domiciled in the urban area; you have a more or less mixed population in the big towns; I should say that you would get a few hundred from each tribe in a big town like Durban. If you had in your urban area a location under the Urban Areas Act, I would make those people there appoint a chairman and they should have a local committee there to assist in the administration of their local affairs. That would tend to help in the solution of a lot of the difficulties which are experienced.

MR.LUCAS: When you speak of a chairman, do you mean a chairman according to tribes?--No, according to the

district. I would mix them all up and let them have their own form of government.

CHAIRMAN: You have got right away from the native form of government and you are introducing purely European ideas?--Yes, but you could still apply the native law in spite of that; I think it would be beneficial under such circumstances.

Instead of the native law being applied by the Chief, who belongs to the blood of the Chiefs, it would be applied by an elected man?--That is so.

Would not it be better to keep to the tribes as much as possible and let them select a man who would be a man of the blood of the Chief?--Yes, that might be best, but in most of these towns you have a small sprinkling from all parts; but where you have a large section of one tribe, there I would say "let them preserve their chief".

You would have certain nuclei, following certain chiefs and the "Hoi Polloi" ~~etc~~ of the others would attach themselves to these nuclei?--Yes.

Now you object to the sons of chiefs being sent to the national training institution at Nongoma?--Yes.

Is your objection based merely on the long distances which those people have to come?--Yes, that is all.

What you really want is smaller institutions of the same kind and different points?--Yes.

You are not opposed to the idea of having a special school for the special training of a future chief?--No, I am not by any means opposed to that; I favour that.

Would you segregate their education in this way also for ordinary elementary education or would you give them only the special education which only the sons of chiefs would get?--I would be inclined to let them have both kinds of education--the ordinary elementary education and the education specially intended for future chiefs.

This segregation of chiefs' sons in these schools, would that start right at the bottom with ordinary education, reading and writing?-- If the chief's son were very young, I would require him to start at the very bottom, but where you have a boy of say 16 or 17 years of age, you would simply have to educate him in matters of government; he would be too old to start with ordinary elementary matters of education such as you could start the very young boys on.

In the elementary education, would you mix up chiefs and commoners, and only later on take the chiefs' sons to the special college?--I think that would be a better plan, because if you mixed them up, there might be undesirable features, but I would rather not express any definite opinion on that particular aspect.

MR.LUCAS: Would you express an opinion whether education should be compulsory for chiefs' sons. Now would you make a recommendation that, so far as chiefs' sons are concerned, education should be compulsory ?- Yes, I would.

MAJOR ANDERSON: Would you make it that they could not enter a chiefs school until they had passed a certain standard ?- One could do that.

DR. ROBERTS: Would you say whether it should be general education which they should receive, common to all people, or specialised education ?- No, I would rather not say anything on that point.

CHAIRMAN: I want to come back to the subject of land ownership. The introduction of individual land tenure would, in order to make for progress, require the division of the pasturage? - You would require to have a commonage.

That is to say, you would require to have a common pasturage ?- Yes.

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Is not the difficulty that your pasturage is communal and noone can do anything to improve his cattle ?- Yes, the cattle graze anywhere and everywhere over anyone's lands and I think you made a suggestion yourself that, if some system were introduced in respect to the fencing of these plots, it would go a long way towards solving the difficulty of overstocking. I certainly think that it would have that effect. In fact, I do not think that individual tenure in the locations would really be of any considerable benefit without the plots being fenced. That

That means an enormous capital expenditure ?- Yes, but the Native, if he were compelled to fence and buy his piece of land, he could dispose of some of his cattle and that would have the effect of reducing the number of cattle in the location at the moment.

You think that, if the Natives could have individual tenure of both arable and grazing grounds, that they would be inclined to go in for that, they would be inclined to go in for fencing their lands ?- Well, I could not say that, but I believe that, in the Transkei, the arable land is separate from the kraal site. They are granted tenure in regard to their arable land there.

Not in regard to their grazing ?- They should have common grazing ground, but I do feel that that common grazing ground should be fenced off from the arable ground.

You mean, that there should be a boundary fence round each location ?- In our locations here I think the policy should be to recognise certain pieces of ground as grazing grounds, particularly those on the high plateaux. That was the policy in the past and no Natives were allowed to erect

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their kraals there but, owing to the congestion in Natal, many of these grazing grounds have been encroached upon with the result that the position has been rendered even more aggravated.

They had been encroached upon for garden lots ?- Yes, and they are used for grazing as well.

Do you not think that it is a step in the right direction to have garden lots there ?- We always kept those grounds for grazing, pure and simple.

Would you not expect to get more wealth out of the land by having it cultivated than by merely running the cattle on it ?- Yes, I would.

And, therefore, the encroachment is definitely a step in the right direction ?- Yes, from that point of view. It will necessitate the reduction of cattle. If you have individual tenure, you must have some provision for the grazing of your cattle and you cannot have both in the same area. That is to say, you cannot have agricultural and grazing land together. I think that is a generally recognised principle throughout the country.

And the division of the communal land into small grazing plots would be much too expensive ?- Yes, I think it would.

It would be too expensive from the point of view of the fencing ?- Yes, it would.

Therefore, you would have to have the grazing on a particular location boundary fenced ?- Yes.

So as to make it possible for those individuals who want to limit their cattle to the carrying capacity of the land, to carry out their intentions ?- Yes. We have an instance where a large area was fenced off exclusively for

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grazing and nothing else.

MR. MOSTERT: You are today overstocked in the reserves ?- Yes, I think we are.

What remedy will there be as far as this overstocking is concerned. You will understand it cannot go on ?- Well, there are several courses which suggest themselves, but I am afraid that they are all somewhat difficult to apply. You know the Native's attitude towards his cattle and I need not tell you anything about that, but the first suggestion that occurs to my mind is that all Natives should be compelled to have only one bull in a kraal and to castrate all the other animals. The effect of that would be to prevent in-breeding and the deterioration of the stock. Another suggestion which occurs to me is the imposition of a levy on cattle - but at the same time I am afraid that that would not be at all practicable --- it certainly would be most unpopular. Another idea which was suggested, in fact it came from you, Mr. Mostert, was this, that we should allow a Native to have so many head of cattle, so many to each hut. On private lands you have that to a certain extent today, that is on land owned by farmers. The usual thing is to allow a man six head of cattle to a hut on a European farm, but of course the idea should be to ascertain the carrying capacity of a location and according to that allocate the number of cattle to be permitted in that particular location and then to lay down that so many head of cattle and no more shall be allowed per hut. I say per hut and not per kraal. In that way, it would be possible to have some check on the number of cattle that is being run by the Natives today.

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It would be in the interest of the Natives to do so? -
Yes, it would.

Because nowadays he is breeding but losing all the time ? - Yes.

And, under the other system, he would have so many head of cattle which would, at anyrate, bring him in some cash ? - Yes.

Does he realise that the land can only carry a certain number of stock and no more ? - I think he is beginning to realise it.

CHAIRMAN: Do the rural Natives as a rule realise that their old ideas in regard to cattle are getting out of date and are dragging them down ? - I think, to a certain extent, they are realising that, because quite a number of Natives nowadays are beginning to sell their cattle.

MR. MOSTERT: They are beginning to realise that they are overstocked ? - I do not know whether they are realising that they are overstocked, but they are beginning to realise that, under present conditions, they are losing large numbers of their cattle in winter.

MR. LUCAS: Can you point to any advantages which have occurred through fencing of that Native mission reserve ? - Yes, the Natives are able to give more time to the cultivation of their lands. They put the animals into the paddocks and the children can now go to school and they are not called upon today to herd the cattle and so on.

Is that reserve paddocked as well as fenced ? - It is one big paddock about 500 acres in extent.

DR. ROBERTS: With regard to this second suggestion which you made, do you think there would be a strong opposition to have a tax on cattle ? - Do you mean to have a

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levy on cattle - yes, I am afraid there would be very strong opposition to it and it would not meet the case at all. As a matter of fact, there was an attempt to impose a dipping levy in Natal, and it met with tremendous opposition. And it is too difficult to collect, too.

You said that the introduction of wattles and sugar cane has greatly diminished the grazing lands of the Natives, - that is what you say in your statement ?- That is so.

Now, in what way has it reduced the grazing lands of the Natives ?- By the Europeans coming in and putting land under wattle and sugar cane. The Europeans have put their farms under wattle or under sugar cane and, naturally, they have taken up a great deal of the land which was used for grazing by the Natives. The result has been that, in many cases, the Natives have been obliged to leave the farms and to go elsewhere.

You are referring to Natives who formerly had places on European farms and they have now been squeezed off those farms ?- Yes, that is so. There is a very good illustration. In one of these districts, all the cane lands were formerly occupied by Natives, but today the Natives have all been driven out. A good many of them have found homes in the Native reserves and a good many others have been driven into the urban areas round about Durban.

It comes to this, that they are feeling the economic pressure through an increase in European population ?- Yes. I would like to say that the Natives in the reserves are shewing a strong opposition to Natives coming in from outside, owing to the internal congestion which they are feeling today. I had that experience at Richmond, where a man found it necessary to eject some twentyone people from his farm.

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Rather let me say, twentyone kraals had to be ejected. These people, then, tried to get places in the adjoining location which belonged to their own tribe, but they were not admitted and they had to go elsewhere. What became of them eventually I could not tell you.

Now, in your statement, you express the opinion that the Land Act had pushed many Natives off European farms. Could you indicate to us on what grounds you base that statement ?- Well, in this particular instance to which I am referring, this happened at Richmond, where a European had acquired a farm which had been occupied by a number of Natives who had some 300 head of cattle. This European, under the Act, was unable to charge rent and he had no use for the Natives as labourers, with the result that he had to get rid of them. These people had to go. Had he been allowed to charge rent, he could have kept them on, but he could have ordered them to reduce their cattle. Still, they could have remained on the farm. That is only one instance, but there are other cases of a like nature which have also occurred in other parts.

I take it that you are aware of the fact that certain sections of the Natives are clamouring for the repeal of the Land Act, or for its amendment in several respects ?- Yes, I know.

Now, supposing that the Land Act were to be repealed entirely, do you think it would make a great deal of opening for Natives on European farms ?- Yes, I think it would make many openings. I think that a good many Natives would drift back, provided they were allowed to enter without any conditions whatever, without restriction, on the farms. I have

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made a suggestion that each magisterial district might decide the destiny of its own fate in that local committees representative of the leading farmers of the district, with the magistrate as chairman, should go into the question of all tenants, or application for residents on farms and, as far as possible, do away with the abuses which at present exist on farms.

Would you explain that a little more clearly ?- My idea of an ideal tenancy would be this, that a landlord should be compelled to charge rent, getting from, say, £3 to £5 per year, and that the Natives should be compelled to work for him for six months in the year at the current rate of wages prevailing in that district, and that, during the course of that employment, the landlord be compelled to pay that Native at least one half of his wages so that the Native will have something to live on. Under present circumstances, there are all sorts of conditions of tenancy, but the Natives generally have to work three or four months in every year. Until he has worked off that particular time, he has nothing to live on and the result is that he works or from someone else borrows from his landlord/and he gets hopelessly into debt and that is one of the difficult circumstances of the present conditions.

DR. ROBERTS: Do you know that a sort of arrangement of that kind actually exists in Scotland today ?- No, I did not know that.

And do you know that it works well ?- I did not know it.

CHAIRMAN: In view of the reasons which you indicated, that a good deal of the grazing was limited, namely, the

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extension of the cane and the wattle plantations, would there be much room left in such areas on which you could put the Natives again ?- No; in those areas, of course, there would not be much room left.

So, in such areas where you have the wattle and the sugar plantations today, the Land Act has nothing to do with the removal of the Natives. That is the normal economic development which has been responsible for the Natives leaving there ?- Yes, quite so.

Well, take some of the other areas where cane and wattle has not been grown, would there still be room for Natives which there was in 1913 when the Act came into operation ?- I am not acquainted with the conditions in the other Provinces, but I should say no ----.

I am thinking particularly of Natal ?- Taking the Uplands of Natal, it is more or less pastoral country where they go in for cattle and sheep breeding and I think that there there would be scope for the Natives to go back onto the land, but whether the same applies to other areas, that is a different question.

Is it not the case that the farmer has realised that he can do better out of that ground himself by keeping good animals on it, for instance, than by allowing Natives with scrub animals there ?- Yes, but I do not see why the Native himself should not run as good animals as the Europeans.

No, but the fact remains that at present he does not ?- If the European landlord were to insist upon a better class of animal, I think that that would be the result - that the Native himself would go in for a better class of animal.

I do not know that it is so much a case of what the

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European landlord would insist upon --- it is question of what money he can make out of it ?- Yes, I suppose so.

If he runs good animals, he can make a good deal more money out of it than what the Native can pay him ?- Yes, that is so and, for that reason, I say that it was not necessary to apply the Native Land Act to Natal. You must bear in mind, after all, that in Natal kaffer farming was not indulged in to any extent. It was a thing which never paid and the Native was gradually being eliminated from these farms.

MR. LUCAS: The elimination of the Native was a gradual process, instead of a sudden one as it became under the Land Act? - Yes.

CHAIRMAN: What do you mean by kaffer farming ?- Just paying rent without the Native having to do any labour.

And you say there was very little of that in Natal ?- It was never indulged in to any extent, but there were a few farms where the farmers did draw rent from the Natives --- there were some companies which went in for that sort of thing. The Natal Colonisation Company was one instance where that sort of thing was done.

MR. MOSTERT: What does the Native pay the farmer per month per head for cattle ?- The general rate is about 6/- to 8/- per year per beast and that includes the dipping. In some cases it was even more. As a matter of fact, some of these farms raised the prices as they wanted to get rid of the cattle. Of course, that was one way of doing it.

CHAIRMAN: According to your definition of kaffer farming, quite a number of these farmers must have been kaffer farming. A farmer only retained the labour he wanted and

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I do not suppose that he will now want more labour than he wanted in the past. Quite a number of these Natives who were pressed off the farms, were living on the farms where the system of kaffer farming was in vogue, I take it ?- Yes, I think so.

Do you think that the farmer today wants more labour than he wanted before ?- No, I do not think so.

And, therefore, all these other people must have been kaffer farming ?- There were cases where the farmer had Natives who paid rent only, but on other farms they gave their labour as well. The effect really has been that, owing to the change of ownership in many cases, all these old conditions have had to go by the board. The rent-paying Native in very many cases has had to go, or he has had to change his contract into one of labour, so that, instead of paying rent, he had to give his labour for a certain number of months.

The position really was that a number of new men came along with new ideas -- with the idea of exploiting the farm commercially ?- Yes, that is so.

Under the Land Act, no man was allowed to have kaffer farming on his land and that also had the effect of squeezing the Native off the land ?- Yes, that was one of the effects.

But it was not the Land Act by itself which was solely responsible for Natives having to leave the farms ?- That is so.

Coming to your statement that there was very little kaffer farming in Natal, I am inclined to query that ?- I do not think that you will find very much of it in Natal now at any time.

In any case, the Land Act would have finished it

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completely ?- Yes, that is so.

But before the Land Act came into force, you will admit that there was kaffer farming ?- Yes, but not to any aggravated extent, because, even twenty years ago, conditions were such in Natal that it was not a profitable thing for a farmer to have Natives on his farm and to charge rent only.

You think that the farmers in Natal realised that many years ago and that, for that reason, the system was not practised to any extent ?- That is so.

So one cannot blame the Land Act for very much in Natal ?- No, I suppose not.

MR. MOSTERT: The farmers in Natal realised that kaffer farming was not profitable ?- Yes, they realised that and, in addition, many of these large farms have been cut up now and have changed hands. One will realise that, as a farm decreases in size and as there are a number of owners where there was at one time only one owner, so kaffer farming must disappear.

X

At 1 p.m. the Commission adjourned for lunch until 2.30 p.m., Mr. Lugg not having concluded his evidence.

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On resuming at 2.30 p.m.

CHAIRMAN: You make the point that a number of Natives from other provinces are settling in Natal - in what way ?- Mostly in urban areas. We have found they are settling especially in the Inanda district, where we have industries such as the cultivation of sugar cane and wattles in the Midlands, where there are a large number of Natives. East Griqualand and Pondoland and different places were originally recruited for labour for settlers in these areas.

Have they brought their families along , or created new families ?- The unfortunate aspect is they are living with women whom they have picked up in Natal to most of whom they are not married.

Is it that they have worked on a particular farm or sugar estate and continue having work there and pick up a woman there ?- Yes.

Have you instances where this has gone on for a considerable time ?- Yes, I can cite cases in the Richmond district and the urban area of Greenwood Park, where there are a large number. As a matter of fact, most of the Natives living in the Greenwood Park area are Natives who do not belong to Natal; they are mostly from the Transkei and are living with women from the adjacent areas.

Zulu women ?- Yes.

Now, coming to the question of land tenure in the proposed change that you suggest, you put forward a condition that sales should be limited to people belonging to the same tribal ward. Do you not think that would be limiting the right of transferring property far too much ?- I put that condition in because I realised there would be a tremendous lot of opposition to any individuals from outside acquiring

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land within a Native area. If you eliminated that condition it would make no difference to my mind. The feeling within the area would be so strong that no Native would come in and buy land.

When you create a servitude of land it is apt to have rather unexpected results in the long run ?- I am not riveted to these ideas, I merely suggested those conditions as something to work on.

In regard to labour tenants; you refer to the unsatisfactory way in which many Natives carry out their side of the contract ?- Yes.

What particularly have you in mind ?- Natives, instead of working for their six months, or whatever it may be, default by leaving the farm and going elsewhere to work and so on, or working badly.

Many farmers in the Northern districts of Natal have complained of that to us. Do you think that that is a legitimate complaint ?- I have found that these complaints generally emanate from the poorer class of farmer - the man who is not able to pay his Natives well and who is forced by circumstances to squeeze as much as he can out of his Native tenants. In the Richmond district, which I think is quite a good district for an example of this kind, I found that the more well-to-do man hardly had any occasion to complain about his Natives; whereas there were one or two of the poorer class there who were everlasting before me complaining about their Native tenants; which is largely a matter of temperament, I think. Some men do not seem to have the knack of managing their Natives, while others do not have any difficulty at all. I think it is largely a question of inadequate wages.

Putting your classification with the conditions of

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tenancy, you mention, as a very common one, the place where a Native pays a rent of £2 ?- Yes, £2 to £3.

Is the rent actually paid by the Native by cash ~~or~~ or is it a way of calculating the amount of service he has to render ?- It is a way of calculating the amount of service. He does not often pay in cash; he generally works it off.

They simply reckon this is the amount he ought to pay, and he is paid so much a month ?- Yes; and that is what I had in mind this morning when I suggested that a farmer should be compelled to impose a rent and then pay the Native the current rate of wages and allow him to work off the rent - to pay him but lose half his rent.

DR. ROBERTS: With regard to the disadvantages you mention with regard to the tenancy of farms, you say, as a rule, the Native gets the worst of the bargain ?- Yes.

Do you think that would be the case if you had what you suggested yourself, namely, a committee to deal with this ?- The committee's functions would secure a certain amount of uniformity in the district and to do away with the more objectionable form of contract which does exist in some districts; but there is an objection to this suggestion of mine, that you would probably often be having a change of magistrate in the district and the policy would not be altogether uniform, but against that, the conditions in the district vary. For instance, you have different conditions in a district where wattles and cane were cultivated to a purely pastoral district.

But supposing you had a committee or commission dealing with the whole question of tenancy farming - the wages and other matters concerned with wages; do you not think

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that that would take away this objection that you have, that he gets the worst of the bargain ?- I think it would, if you could have a committee, say, for the Province.

That is what I mean ?- Yes, that would meet the case, I think.

That this committee would have supreme power to decide whether the rent and other conditions were equitable ?- Yes.

They would have the powers of a court ?- Yes, I think that would meet my idea.

MR. LUCAS: Would the court consist entirely of Europeans, or would you have a Native on it ?- Yes, I think that would be a matter for administrative detail; I have not thought of that aspect of it.

DR. ROBERTS: You might have Native assessors ?- Yes. And three Europeans ?- I think it would be a good idea to have Native assessors.

MR. LUCAS: Take the point the Chairman was on about the conditions of tenancy. I do not see here what seems to be a prevailing condition in Northern Natal - six months' work without any pay at all in lieu of rent ?- Have I not mentioned that? I have mentioned that over the page; I think I mentioned it is a form of contract, but it is very rare.

It is not rare in Northern Natal. You say, to work at a nominal wage, but there is no wage paid there at all. Of course, some pay 10/- a month, but generally it is six months work just for the right to occupy ?- I do not like that form of contract. I have come across it, but not often. I have not had any experience of the Northern District.

MR. MOSTERT: Do you know what the Native gets over that; how much ground he is allowed to plough and so on ?- It all depends on the size of the farm. On large farms you

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will find that a man's privileges are greater than on a smaller farm, and that applies to both stock and to arable land; I should say, about two to three acres of land to a hut and six to eight to ten head of cattle to a hut.

And for that the Native has got to work six months free in the year ?- Yes, apparently in the Northern districts, but here he pays rent and works six months at a fixed wage. They generally pay their boys about £1 a month. They do not get the current rate of wage; they have to work at a reduced rate.

It is a matter of agreement between the master and servant ?- Yes; many of the farmers simply pay their Natives at current rates of wages and I find that the most satisfactory way.

If you had a committee to adjudicate - to make that the law - that the farmer has got to pay, on the contrary, would you make it a law that the Native has got to work; who is going to make the Native work ?- Yes, well, if he does not, he goes off the farm.

What about the farmer ?- He will get someone else who will work.

Do you not think there would be a difficulty there ?- No.

Do you not see; there are two men in the contract; if you force the farmer that he must pay a certain wage - have a certain condition - you will then have to force the Native to do the same. Can you force the Native to do the same? You can force the farmer, but can you force the Native ?- Well, I think you would find that the Native would bow to the inevitable.

Well, it is a question of supply and demand every time.

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Let me put to you a case here. I agree as a farmer that I am willing to pay that wage; you cannot force the boy to work. Is the law going to provide me now with labour on those conditions; is the law going to be the recruiter of the Native labour ?- No.

You see the difficulty ?- Yes.

CHAIRMAN: With regard to the Rev. Shembe's people; I take it these are adherents of a certain religious sect ?- Yes.

Do you know what size those farms are ?- I have two hundred in the Inanda district about five/acres in extent each; I know of two others in the southern part of Natal, of about hundred five/acres in extent.

Five hundred acres each ?- They are all tenanted by his own adherents; they have to pay rent to him. These lands were acquired according to a settlement made to him by contributions made by these followers of his. The farms are registered in his own name. It is an undesirable feature and one might suggest that a board of trustees might be appointed and he be induced to have the farms registered in the names of the trustees in the event of his death. Otherwise there is bound to be trouble. These people who have contributed towards the purchase price, naturally consider they have a vested interest in these lands.

DR. ROBERTS: Would you have the same condition as the Salvation Army has ? It would have to go through a definition by law afterwards, as to whom the land belongs ?- It is registered in his name at present; all these farms are registered in his name.

Not in how own name definitely; but as the head of the Sect ?- No, in his own personal name.

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MR. MOSTERT: Freehold title ?- Yes; he holds title.

CHAIRMAN: You think that his followers all consider that they have a right to some of the land? - Unless I am under the wrong impression, I certainly think they do.

They are not aware that legally they have no claim whatever ?- No.

So that it may create a very difficult situation on his death ?- Yes.

When they claim these lands ?- Yes.

Which are legally vested in another ?- Yes.

There would be a tendency to consider that the Government do not look after their interests ?- Yes.

DR. ROBERTS: I was always under the impression - I am guided by you, sir, entirely, and the Chairman - that he had these farms not only in his own name, but in that of his Sect, the Shembeites and that he was simply the sole trustee for them ?- No, that is not what he told me; he informed me he was registering these farms in his own name, because, he said, when you register the farms in the name of several people it always led to complications and that, in order to avoid this, he had registered them in his own name. Possibly the Rev. Dube will be able to give you some information.

Yes; but a man can always register in the name of a Church ?- Yes; I am only going on the information that he gave me himself. I questioned him rather closely on it one day when he was in my office.

MR. MOSTERT: In other words, registration has not taken place for and on behalf of his sect in his own name ?- No

CHAIRMAN: With regard to the Native Taxation and Development Act, you say there is no penalty for not paying? -

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No. The present position is this; a Native has not paid his tax for the last year, say, is brought up and all the court can do is to pass a sentence, order him to pay his tax, or pass an alternative sentence of imprisonment not exceeding 3 months. The Native, as a rule, immediately he is faced with this, pays his £1. Others again have the practise of carrying the £1 about with them until arrested by the Police. In some cases, I have known of men being in arrear for three or four years with £1 in their pockets and they are no sooner arrested after a good deal of trouble in tracing them, than they produce the money and pay it.

They consider, if the police do not get them, they have got the money, and if they do catch them, they are no worse off? - That is the position. Then I have another comment to make on that; the onus as to whether a man has paid or not should be on the accused... At the present time, the onus is on the Crown and that is going to present a most difficult problem. Many of us at the moment are acting

illegally in that we are throwing the onus upon the accused to prove that he has paid his tax. I will illustrate what I mean; a Native is brought before me from Umtata; he says, "I have lost my receipt for last year". He is asked, "Where did you pay?" "I paid in Johannesburg". We communicate with Umtata, they in the meantime have been advised by Johannesburg and they write back and say, "There is no trace of any payment". What is the position of the magistrate? On what evidence can be punish that man? It is possible he may have paid and that the records are incomplete. I say that the onus should be on him to prove that he paid, so that we can/punish him; let him prove that he has paid; do

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not throw it upon the Crown to prove a man has paid, otherwise you are creating an impossible position. I have to send for the clerks at Johannesburg and Umtata to produce the records to prove he has not paid his tax.

Do you not think that would be rather difficult for the Native, assuming he has lost his pass. - to have to go to some lawyer to try and find out; he may be back in the Territories? - As soon as a Native loses his tax receipt, it is his duty to report the loss and to get a duplicate. If he neglects to do that, then he will suffer for it. On the other hand, you create an impossible position for the Crown; how can you expect the Crown to send for the Clerk to Johannesburg and for another one at Umtata to prove the Native has paid his tax?

DR. ROBERTS: Are you not trenching there upon a question of justice - that it is your duty as the Crown to prove that he is guilty? When the matter came up, I was one of those that took strongly the other side, that whenever a man is guilty of a fault, it is the duty of the Crown to prove that he is guilty? That principle is followed; but where the circumstances are particularly within or should be within the knowledge of an accused person, then I think the accused should discharge the onus.

Do you think there are any circumstances that could get you outside that, that it is the duty of the Crown to prove the case against a man they arrest? - You see, under the ordinary license law, the onus falls upon the individual to prove that he has paid his tax; it is not on the Crown. In some of our licensing laws, the onus is thrown upon him.

But that does not convince me it is right? - Well,