

THE NATIVE COUNCIL SYSTEM IN S. A.

van Lillo : The Native Council System

Rogers : Native Administration in S. A.

Burke : History of Native Policy pp. 252-276.

N. B. J.

Local Self Government in Native Areas

Glenn E. Peterson. The Council System.

The Council system had its origin under the Glen Eyrie Act 25 of 1894, primarily intended for the District of Glen Eyrie at the Nation.

The Act provided for two kinds of local authority, namely,

- 61 A District Council for the administration of local affairs in the district as a whole.

Constitution of the Nation

Each location was to have a Location Board of three persons appointed by the Landers after consultation with the people of the location in a public meeting of all landholders in the location. Members of the Board held office for one year but were eligible for re-appointment.

Duties of Boards: Control construction of water courses; local irrigation; control of local traffic; destruction of noxious weeds; control of tree cutting

District Council

The District Council have jurisdiction in the whole district can be consist of 12 members with a Mayor as Chairman. Six members nominated by the Governor & six by the Local Authorities for appointment by the Ed. Councillors hold office for three years. Four Councillors constitute a quorum. Councillors paid for attendance at meeting; & for any services performed for the Council in accordance with a fixed tariff.

Revenue: (i) a rate on immovable property of 2% the L.
(ii) " " of not less than 5% on all registered holders of quantum title
+ (iii) make about 10 lakhs
(iv) local tax under Act 41 of 1925. which later replaced (ii) above.

Functions (i) Shipping & clearing of food (ii) roads (iii) encouragement of Native Agriculture
(iv) eradication of weeds; afforestation; irrigation; public health; bridges

Transkei

The Glen Spray Act was introduced to the Franchise of Proclamation 352 of 1894.

- (i) First District Council was first established for district of Muttonworth, Shufinga, Nganahua & Torrens.
 (ii) Location Boards were not provided for the Transkei.
 (iii) The Proclamation provided for a General Council combining the local Councils.

Each District consisted of six ^{land.} voters, two nominated by G. & four, being headmen, nominated by District Headman for appointment by P. The Magistrate or officers were acted on as Chairman. Quarterly meetings were to be held. The Council nominated by the

Grand Council consisted of two members from each District Council nominated by the District Council, one member by the Mayor of the District concerned.

Revenue (1) rate of 10% p.a. on adult male voters resident in area.

Functions: same as for distal convoluted but wider scope.

Asplen. Intension to the Transkeia District

London in 227 of 1898 made provision for extension of the Gray system of underground
land tenure to Brompton Park District & the establishment of Local Boards
in the District.

Genealogies of Bakolung Chief.

The Proclamation was applied to Ngazun & Tsimba in 1902 & 1904 respectively.
 In 1898 the District Council was established in Kertini by Proc 319 of 1898.
 By 1903 District Councils were established in the districts of Mantala, Mgandala, Supoko (Tebuland),
 Esolo, Kumbi, Mount Forest, Mount Pletika & Ngazun & last included by Proc. 152 of 1903
 there was therefore altogether 13 District Councils & the General Council consisted of
 (a) the Chief Magistrate (b) the District Magistrate (c) two representatives from each District Council
 nominated by Council & (d) one representative from each District Council nominated & appointed by S.
 Willard & Elliot & de la Haye in by Proc. 394 of 1903 & 114 of 1904 respectively
 Proc. 322 of 1906 abolished the Location Boards, leaving the District Council to manage
 local affairs. Mount Aslett was brought in by Proc 69 of 1907
 Matabele 95 of 1911
 Kalunga 310 of 1924.
 Council Regulations were revised & consolidated under Proc. 250 of 1927 & S.N. 1607 of 1927.

Pondoland

The Council system was established in Pondoland by Proc. 169 of 1911 which provided for
 three District Councils in Western Pondoland, namely in Libode, Ngqeleni & St Johns. & a
 General Council known as the Pondoland General Council.

In each District Council four councillors were nominated by the Chief & appointed by S.

The General Council was to consist of three representatives from each District
 (a) two by the S. & (b) two by the Paramount Chief.

The Council system was extended to Eastern Pondoland by Proc. 166 of 1927 & a larger
 Pondoland General Council including districts of Brijia, Pletika, Lushaka & Tabanobala.

Composition of District Council was changed then: (a) two members nominated by Chief
 (b) two by representatives of the people & (c) two by S. Paramount Chiefs of Eastern & Western
 Pondoland were made ex-officio members of General Council & of their respective District Councils.

Amalgamation of Pondoland & Transkeian Councils

By Proc. 279 of 1930 the Pondoland & Transkeian Council were amalgamated into
 the United Transkeian Territories General Council with a new constitution contained in P. 191 of 1932

Provisions

- (i) United General Council has 26 districts under its jurisdiction
- (ii) Each District Council consists of six members with Magistrate as Chairman, two nominated
 by S. in Pondoland & 2 by Paramount Chiefs & 2 by representatives of people outside Pondoland
 & 2 by representatives of the people.
- (iii) Chiefs of Pondoland & Transkeian are ex-officio members of their respective District Councils

The General Council consists of:

- (a) Chief Magistrate (b) District Magistrate (c) Paramount Chief of Eastern & Western Pondoland & Transkeian.
- (d) three representatives from each District, one nominated by S.S. two by each District outside Pondoland
 & in Pondoland one by the District Council & one by the Paramount Chief, appointed annually.

Standing Executive Committee of Chief Magistrate (a) three Magistrates & (b) four Natives.

Functions: consideration of economic, industrial & social conditions affecting Transkeian Natives
 proposed legislation affecting Natives
 specific matters submitted to it by S.S.
 resolutions on any such matters.

Extension of Council System beyond Transkei

The Native Affairs Act 28 of 1920 made provision for extension of Council system beyond Transkei. Section 5 provides for the establishment of Local Councils on recommendation of Native Affairs Commission. Each Local Council shall consist of 9 members with Magistrate as Chairman. Council has statutory power to make by-laws regarding local affairs such as roads, water supply, the dipping of stock, the destruction of weeds, sanitation, hospitals, improved methods of agriculture & Revenue. For the carrying out of these objects local councils are authorised to acquire & hold land or interests in land, to make bye laws subject to the approval of the Governor-General. Regarding Revenue the Councils are authorised (a) to prescribe fees for various services rendered by it

(b) to receive the local tax payable under Act 41 of 1925.

(c) to levy a rate of not more than £1 on adult males resident within its area of jurisdiction.

The Regulations governing procedure, qualifications of councillors, elections etc. are contained in S. N 50 of 1920 as amended by S.N 391 of 1932.

Under S. 14 of the Native Affairs Act provision is made for the establishment of General Councils comprising two or more ^{local} councils, upon the recommendation of the Native Affairs Commission. As for the number of Local Councils established under the Native Affairs Act are

- (1) 9 in the Transvaal
- (2) 2 in Natal
- (3) 9 in the Cape.

Only one General Council has so far been established, namely, the Transkeian General Council which embraces all the Cape Local Councils in the Transkei, but does not include the Port Shepstone Local Council.

Comparison of Transkeian & Council System & Council System provided for under the Native Affairs Act

1. The Transkeian Councils are not law-making bodies; they can only pass resolutions on the basis of which proclamations may be made by the Governor-General. The 1920 Act Councils are no longer merely advisory but are empowered to make bye laws on the subjects within their jurisdiction subject, of course, to the approval of the E.G. In other words the Transkeian Councils are advisory to the Chief Magistrate, but the 1920 Act Councils are independent within their own sphere.
2. Under the Transkeian system European officials are definitely members of the local & the General Councils; under the 1920 Act system European officials are not members of councils but act in an advisory capacity (Sections 5 & 14).
3. In the Transkeian system the Local Councils are merely organs of the General Council. Also the funds of the Councils are controlled & voted annually in or out of the General Council. In the 1920 Act Councils Local Councils retain their independence within their own sphere & their funds of those which belong to the Transkeian General Council are not controlled.

Limitations of the Council System

1. The Council system can only be applied in Native areas, leaving ^{the} many Natives in non-Native areas without a voice even in their local affairs.
2. The Councils are confined in their powers to purely local matters and therefore do not give the Native people in non-local matters affecting their welfare. Thus they cannot give an the Native point of view on many questions of general interest.
3. Providing the Native people with local and general councils cannot take the place of giving them representation in the highest legislative bodies of the lands of the Provincial Councils & Parliament.
4. The local Councils must not be mistaken for ^{full} self government; but they are merely a form of local government.
5. ~~The~~ Membership of a local or general council depends upon acceptance by the Governor-General. He ~~elects~~ must. The Governor-General can veto the appointment of any individual to a Council.
6. The presence of the Magistrates or Native Commissioners in the Councils means that the initiative in judged matters ~~admission~~ comes from them rather than from the Council. The official ~~after~~ conference after council meeting reviews council resolutions & the chief Magistrate ~~advises~~ ^{signifies} ~~then~~.
7. In the scheme of the Councils the best part is reserved for Europeans. The ~~Colon~~ has operated Natives in their own territories in bodies even in the hands entirely from Native domination.
8. The Councils are purely advisory to the Native Commissioner or the Chief Native Commissioner or the Governor-General who can veto any of their decisions. The power granted to the Governor-General to legislate by proclamation in Native areas is so vast that he can take decisions without consulting the Councils.

Merits of the Council System

1. They associate the people with the control of local affairs.
2. They give the people a voice in local matters affecting their interests.
3. They train the people in constitutional methods of expressing their views in general & local policy.
4. They keep government officials in touch with Native opinion.

What steps have been taken to meet the limitations of the Council System.

1. In regard to Natives living outside areas for which Councils may be established these fall into two sections, namely (a) Urban Natives & (b) Farm Natives.
- As for as giving these Natives a voice in local affairs is concerned, the case of urban Natives is met by the establishment of Native Advisory Boards in urban areas under the Natives (Urban Areas) Act 21 of 1923. Under 1, 2 & 3 of the Native Urban Areas Act provision is made for the establishment of Advisory Boards of not less than three members together with a Chairman who may be a European. Where such a Board is established or functioning, it must be consulted in regard to any regulation made by the local authority for the Native location or Village. Members of an Advisory Board are officers elected by registered occupiers of sites

THE BUNGA OF SOUTH AFRICA

A day may come when the word Bunga ("talk") will be as honoured in the history of the Bantu race as Witanagemot is in that of the Anglo-Saxon. Dimly conscious as they may be of the goal to which they are being led, the members of the United Transkeian Territories General Council are learning as surely as did the fore-runners of Simon de Montfort the first principles of democratic government.

For such an experiment the Transkei, the native reserve in South Africa, was well chosen. The countless mushroom huts which cling to the sides of the undulating pasture-lands harbour a native population of 1,200,000, and there is good material here with which to build a commonwealth. In April all roads lead to Umtata. In that month the Chief Magistrate summons to the capital the magistrate and three elected native councillors from each of the twenty-six districts of the reserved territory to hold conference on its government.

Umtata, with its background of lofty mountains, its wide, wooded streets, is a pleasant little town and the Bunga buildings are well planned to suggest their aim. The dome above the portico is designed like a native hut, the Hall of Session is spacious, the lounge of the white magistrates and that of the native councillors are exactly alike, and committee-rooms are at present under construction in which the members will learn administrative routine.

The session lasts for three weeks and the report of its proceedings, published annually, makes interesting reading. The councillors, who have already served their apprenticeship in village and district councils as did ours in hundred-moot and shire-moot, debate on subjects as varied as the King's prerogative and the depredations of the Nomakoko rat, on the Status Bill and the founding of people's banks, on new bridges and the effect of Christian marriage laws on native dowries, on the combating of soil erosion and the levying of taxes. This African Hansard embodies also the minutes of the standing committees on education, economics, and agriculture, and tabulates the findings of the Council which, sent to Capetown, take their place later on the Statute-book or are sent back to the Bunga for further consideration.

Not without reason has the name Bunga, or "talk," been chosen. The aim of the Native Council is as much the training of sound judgment as the framing of recommendations to the Legislature. It is the clearing-station where erroneous ideas can be corrected, new ideas introduced, and grievances ventilated in an atmosphere at once sympathetic and progressive.

The part played by the European members of the Council is in strict accordance with these aims. They may speak but they may not vote, and their speaking is never obtrusive, if one may judge from the report. While the African councillors are permitted and encouraged to speak with all the expansiveness of their race (either in English or in the vernacular, with an interpreter at hand), the magistrates intervene only to correct misunderstanding, occasionally to divert the argument to more useful lines, to give information on a

point of law, or to support a specially enlightened opinion.

At every turn there are curious revelations. A motion is made that a stop be put to inhumane slaughtering of animals, and one of the speakers says, "I wish to explain that native people have no intention of cruelty when they do this. The reason why a beast is slaughtered in that way is to make it bellow. The reason for making it cry out is to obtain a response from the spirits of the dead to whom the animal is being sacrificed. When the beast is made to cry out it is done at the behest of the witch doctor. I know that the complaint of the people is that the Council is stopping practices by which the people are able to help the sick. Even if it is unpopular with the people yet it is just, and I support the motion."

An amendment that the matter should be referred to the district councils and to the people for discussion was carried on the ground that, as one speaker declared, "It would not be nice if we asked for legislation without having tried to use our influence with the people. The man who practises these primitive customs sees no evil in them until he becomes enlightened."

Taxation was the genesis of the Mother of Parliaments, and the levying of taxes and their expenditure are a main topic at the Bunga. Laid before the councillors and fully discussed by them are reports on the three agricultural schools and two experimental farms, on the holding of farmers' days and shows, on the tour of the agricultural caravan school, on the issue of a "Farmers' Weekly," on veterinary work, on the provision at advantageous terms of fertilisers, stock, and implements, on the construction of dams, roads, bridges, and clinics, on afforestation and the introduction of grasses and food crops.

As in all human affairs, there is an ebb and flow. A beneficial measure welcomed by the Bunga in one year is cold-shouldered in the next, attendances at the instructional courses and shows fluctuate, the people grow weary in well-doing when noxious weeds and pests have to be destroyed. At every meeting of the Council the serious menace of overstocking is brought up and remedial measures recommended. But as the holding of stock is the native banking system and the security of credit, the basis of marriage settlements, and the centre of their communal system, it is deeply embedded in the life of the people.

"You, the leaders, must take the initiative," proclaims the Chief Magistrate. That is the keynote on which the Bunga begins and ends, and which sounds in the ears of the councillors as they wend their way back to their kraals to meet the stolid indifference or opposition of their backward neighbours.

It is all to the good that during the session the public galleries are always crowded with eager listeners and that already the Bunga is named with pride and expectation even by a small section of the people. A notable venture in government and self-government, the future of a great territory is bound up with its success or failure.

A. M. P.