

The Natives' Land Act: Ten historical quotes¹

January 19th marked the 100th anniversary of the signing into law of the 1913 Natives' Land Act. Below are ten extracts from contemporaneous texts of the time, or history books written after.

1. The 1911 Census recorded a "native" population of 4 019 006 in the Union of South Africa, 67.3% of the total population of 5 973 394.

Population of the Union of South Africa according to the 1911 Census

	Cape Province	%	Natal	%	Transvaal	%	OFS	%	Total	%
White	582 377	22.7	98 114	8.2	420 562	24.9	175 189	33.2	1 276 242	21.4
Native	1 519 939	59.3	953 398	79.8	1 219 845	72.3	325 824	61.7	4 019 006	67.3
Coloured	454 985	17.7	9 111	0.8	34 793	2.1	27 054	5.1	525 943	8.8
Asiatic	7 664	0.3	133 420	11.2	11 012	0.7	107	0.0	152 203	2.5
Total	2 564 965	100	1 194 043	100	1 686 212	100	528 174	100	5 973 394	100

LM Thompson, The Unification of South Africa 1902–1910, Oxford at the Clarendon Press, 1960

2. The percentage of the land owned and occupied by Natives (1913–1916)

According to the findings of the Beaumont commission established in terms of the Native Land Act farms owned by Whites constituted 74% of the total at that time, Native reserves and Native-owned farms 8.9% and Crown (i.e. state) lands 12.4%.

Overall, 48.6% of the Native population resided on Native owned farms or Native reserve land, 29.1% on farms owned by whites, 7.4% on farms owned by Whites but occupied by Natives only, 12.2% in urban areas, and 2.7% on Crown land. The principal Coloured reserves – Leliefontein, Komaggas, Steinkopf, Concordia, and Richtersveld in Namaqualand in the Cape Province, extensive but arid areas with a very small population – were included in the category of Native reserves.

Percentage of total land area in different categories

	Urban areas	Farms owned by Whites	Farms owned by Whites but occupied by Natives only	Native reserves, mission reserves, and farms owned by Natives	Crown lands occupied by Natives	Un-occupied Crown lands
Cape Province	1.3	78.1	0.1	9.3	0.1	11.2
Natal	0.9	48.4	9.5	30.4	3.2	7.5
Transvaal	1.2	61	9.1	4.4	1.6	22.5
OFS	1.4	97	0	1.5	0	0
The Union	1.2	74	2.9	8.9	0.7	12.4

Percentage of total Native population on the different categories of land

Cape Province	8	15	0.5	75.7	0.8
Natal	3.5	33.1	7.9	52	3.4
Transvaal	23.3	29.6	16.8	25.1	5.2
OFS	14	79.4	0	6.6	0
The Union	12.2	29.1	7.4	48.6	2.7

Figures derived from tables in Report of the Natives Land Commission, 1913–1916

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LM Thompson, The Unification of South Africa 1902-1910, Oxford at the Clarendon Press, 1960

3. The central provision of the *Natives Land Act*

The Act defined “scheduled areas” outside of which no Native was allowed to purchase or rent land – without permission – and inside of which no non-Native was allowed to purchase or rent land – again without permission. *Section 1 of the Act* stated:

3. Except with the approval of the Governor General -

- (a) A native shall not enter into any agreement/or transaction for the purchase, hire, or other acquisition from a person other than a native, of any such land or of any right thereto, interest therein, or servitude thereover: and
- (b) A person other than a native shall not enter into any agreement or transaction for the purchase, hire or any other acquisition from a native of any such land or of any right thereto, interest therein, or servitude thereover.

(2) From and after the commencement of this Act, no person other than a native shall purchase, hire or in any other manner whatever acquire any land in a scheduled native area or enter into any agreement or transaction for the purchase, hire or other acquisition, direct or indirect, of any such land or of any right thereto or interest therein or servitude thereover, except with the approval of the Governor-General.

As far as one section was concerned, the Bill was going to set up a sort of pale- that there was going to be a sort of kraal in which all the natives were to be driven, and they were to be left to develop on their own lines.

4. The Cape Province, which covered about half of South Africa’s land area and contained 43% of her population, was exempted from the Act (until 1936):

Section 8(2) of the *1913 Act* states:

(2) Nothing in this Act contained which imposes restrictions upon the acquisition by any person of land or rights thereto, interests therein, or servitudes thereover, shall be in force in the Province of the Cape of Good Hope, if any for so long as such person would, by such restrictions, be prevented from acquiring or holding a qualification whereunder he is or may become entitled to be registered as a voter at parliamentary elections in any electoral division in the said Province.

5. John X Merriman’s warning:

In a speech on the second reading of the Bill, John X Merriman, the former Prime Minister of the Cape Colony warned:

As far as one section was concerned, the Bill was going to set up a sort of pale- that there was going to be a sort of kraal in which all the natives were to be driven, and they were to be left to develop on their own lines. To allow them to go on their own lines was merely to drive them back into barbarism; their own lines meant barbarous lines; their own lines were cruel lines...

A policy more foredoomed to failure in South Africa could not be initiated. It was a policy that would keep South Africa back, perhaps for ever. What would be the effect of driving these civilized Natives back into reserves? At the present time, every civilized man – if they treated him properly – every civilized man was becoming an owner of land outside native reserve, and therefore he was an asset of strength to the country. He was a loyalist. He was not going to risk losing his property. He was on the side of the European.

All they wanted to do was to turn the Native from a tenant to a labour tenant, and then salvation would be at hand. He could not see very much difference between the two, except that one was a contented advancing man and the other a discontented man approaching very closely to the Russian serf – he was a soul.

If they drove these people back into reserves they became our bitterest enemies. Therefore, he viewed anything that tended that way with the gravest suspicion. Again, in this Bill there was not sufficient distinction between those Natives who tried to educate themselves and the ordinary raw barbarian. They were all classed under the word “Native”.

In the Free State, proceeded Mr. Merriman, the people had most excellent laws from their point of view for keeping out the Natives – stringent, Draconian, and violent laws, but they were not carried out, and the Natives had flooded the country.

All they wanted to do was to turn the Native from a tenant to a labour tenant, and then salvation would be at hand. He could not see very much difference between the two, except that one was a contented advancing man and the other a discontented man approaching very closely to the Russian serf – he was a soul.

John X Merriman, MP for Victoria West, in the debate on the second reading of the Bill, House of Assembly, Hansard, May 15 1913

6. The amount of land in the “scheduled areas”

Hermann Giliomee notes:

“The Land Act of 1913 restricted *Africans* to just over 10 million morgen, mainly in the Cape and Natal. The Beaumont Commission, set up to find additional land, three years later recommended setting aside an extra 8,365,700 morgen as scheduled areas. But it added that it was ‘too late in the day to define large compact Native areas or draw bold lines of demarcation.’ With few exceptions African land was ‘hopelessly intermixed with lands owned and occupied by Europeans whose vested interests have to be considered.’” *The Afrikaners: Biography of a People*, Hurst, 2003

The implementation of the commission’s recommendation proceeded at a glacial pace. By 1939 only 1,500,000 morgen had been acquired by the Native Trust, and not quite a million morgen actually transferred (Hoernle, 1945).

Giliomee writes that because the Natives Land Act made “little new land available, the reserves quickly became congested and the limited opportunities for individual tenure were further restricted by the strong support for communal tenure in the traditional African system. From 1920 the government increasingly stressed the development of African tribal life.”

7. The immediate effect of the Act:

The immediate most wrenching effect of the act was not due to the loss of title to land but rather to the enforcement of the anti-squatting provisions in the Orange Free State (the rest of the country effectively being temporarily exempted from them). The historian TRH Davenport observed:

“...The Cape was excluded from the operation of the Act, because to interfere with African land rights in the Cape was to interfere with their qualifications for the franchise... African squatters living in Natal and the Transvaal were also spared from eviction ‘until Parliament has made other provision’. But where the Orange Free State was concerned, existing legislation which restricted squatting was explicitly confirmed, and the general stipulation that existing share-cropping agreements could remain in force for the time being was incorporated in other sections of the Act, in which the Cape, Transvaal and Natal were mentioned but the OFS was not.

Many farmers in the Orange Free State proceeded to evict their squatters, rightly thinking the law required them to do so. The sudden uprooting of large numbers of Africans from Free State farms, and the migration of many of them northwards across the Vaal, to the accompaniment of widespread forced stock sales at bargain prices, were described in evidence before the Beaumont Commission and by Sol Plaatje in his memoirs.”

TRH Davenport, *South Africa: A Modern History*, MacMillan Press, 1977

“The good-humoured indulgence of some Dutch and English farmers towards their native squatters, and the affectionate loyalty of some of these native squatters in return, will cause a keen observer, arriving at a South African farm, to be lost in admiration for this mutual good feeling.”

8. Sol Plaatje on relations between Europeans and Natives in the OFS before and after the Act:

In *Native Life in South Africa* Sol Plaatje painted the relations between Dutch and European farmers and their native squatters in the Orange Free State, before the Act came into effect, in idyllic terms. He wrote:

“The good-humoured indulgence of some Dutch and English farmers towards their native squatters, and the affectionate loyalty of some of these native squatters in return, will cause a keen observer, arriving at a South African farm, to be lost in admiration for this mutual good feeling. He will wonder as to the meaning of the fabled bugbear anent the alleged struggle between white and black, which in reality appears to exist only in the fertile brain of the politician.

Thus let the new arrival go to *one of the farms* in the Bethlehem or Harrismith Districts for example, and see how willingly the Native toils in the fields; see him gathering in his crops and handing over the white farmer’s share of the crop to the owner of the land; watch the farmer receiving his tribute from the native tenants, and see him deliver the first prize to the native tenant who raised the largest crop during that season; let him also see both the Natives and the landowning white farmers following to perfection the give-and-take policy of “live and let live”, and he will conclude that it would be gross sacrilege to attempt to disturb such harmonious relations between these people of different races

and colours. But with a ruthless hand the Natives' Land Act has succeeded in remorselessly destroying those happy relations."

Later in the book he describes the devastating effect of the Act on the native tenants:

"Proceeding on our journey we next came upon a native trek and heard the same old story of prosperity on a Dutch farm: they had raised an average *800 bags of grain* each season, which, with the increase of stock and sale of wool, gave a steady income of about *150 Pounds per year* after the farmer had taken his share. There were gossipy rumours about somebody having met some *one who said that some one else had overheard* a conversation between the Baas and somebody else, to the effect that the Kafirs were getting too rich on his property.

This much involved tale incidentally conveys the idea that the Baas was himself getting too rich on his farm. For the Native provides his own seed, his own cattle, his own labour for the ploughing, the weeding and the reaping, and after bagging his grain he calls in the landlord to receive his share, which is *fifty per cent* of the entire crop.

"Some of their cattle had perished on the journey, from poverty and lack of fodder, and the native owners ran a serious risk of imprisonment for travelling with dying stock. The experience of one of these evicted tenants is typical of the rest, and illustrates the cases of several we met in other parts of the country."

All had gone well till the previous week when the Baas came to the native tenants with the story that a new law had been passed under which "all my oxen and cows must belong to him, and my family to work for *2 Pounds a month*, failing which he gave me *four days* to leave the farm."

We passed several farm-houses along the road, where all appeared pretty tranquil as we went along, until the evening which we spent in the open country, somewhere near the boundaries of the Hoopstad and

Boshof districts; here a regular circus had gathered. By a "circus" we mean the meeting of groups of families, moving to every point of the compass, and all bivouacked at this point in the open country where we were passing.

It was heartrending to listen to the tales of their cruel experiences derived from the rigour of the Natives' Land Act. Some of their cattle had perished on the journey, from poverty and lack of fodder, and the native owners ran a serious risk of imprisonment for travelling with dying stock. The experience of one of these evicted tenants is typical of the rest, and illustrates the cases of several we met in other parts of the country."

Sol Plaatje, *Native Life in South Africa, Before and Since the European War and the Boer Rebellion*, 1916

9. The Act restricted the purchase of land by black Africans outside of the reserves but it did not curtail it completely before 1936.

In his speech on the second reading of the Bill Minister of Native Affairs' JW Sauer denied that the Bill placed an absolute prohibition on inter-racial land purchases. He stated:

"Section 1 of this Bill referred to the consent of the Governor-General having to be obtained under certain circumstances, and that implied a certain principle.



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Some people talked of provisions which would make it absolutely impossible for a European to acquire land in certain areas, and for natives to acquire land in other areas. That seemed to him to be altogether too crude, and he thought that what they should have was not prohibition, but restriction, and the whole principle underlying this Bill was not absolute prohibition but restriction.”

The Minister of Native Affairs, House of Assembly, May 9 1913

As a recent study noted permission was granted in numerous instances:

“... the exception clause resulted in Africans buying more than 3,200 farms and lots between 1913 and 1936. Moreover, the Land Act was not retroactive: no African owner with a title deed, to our knowledge, lost his land in 1913 because of the Natives Land Act. Significantly, the government approved mortgages which helped Africans to buy their land.

Using the exception clause in the process of gaining permission for purchasing a farm was not easy, and prospective buyers had to be prepared to conform to the rules and criteria laid down by the Native Affairs Department (NAD)....A very important criterion was the location of the land: was it in an area recommended for African residence by the Natives Land Commission or the regional committees appointed, in 1917, by the prime minister to evaluate the Natives Land Commission's report?...

A geo-statistical analysis confirms the evidence that the 1913 Natives Land Act did not prevent Africans from acquiring land outside the scheduled areas identified by the Act. Breaking down the farms into separately transferred land units, Table

1 shows that in 1913 there were 591 African-owned land units in the Transvaal, of which 43.1 per cent were outside the scheduled areas. By 1936, blacks owned 934 land units (an increase of 58 per cent) with 63 per cent now located outside the scheduled areas. The area of African owned land outside the Land Act areas increased by 128.8 per cent to represent 42.1 per cent of the land owned by Africans in 1936, as opposed to the mere 24.6 per cent in 1913.”

Harvey M. Feinberg and Andre Horn, South African Territorial Segregation: New Data on African Farm Purchases. Journal of African History, 50 (2009), Cambridge University Press.

10. In the 1920s and 1930s the view was occasionally expressed by prominent liberals that the reserve system had protected Native lands from encroachment by Europeans:

In a speech to a Conference on Native Affairs in 1923 *the liberal historian* W.M. Macmillan commented:

“The history of the last century has proved abundantly (twice over in the fate of the Griquas, first in the south of the Free State and then in Griqualand East) that open economic competition in land is fatal to the weaker race. Given free right of entry of whites into native lands, the native will be presently be landless indeed.”

Alfred Hoernle made a similar point in 1939:

“... for the present, the Native Reserves are secured to the Natives in the sense that the Natives cannot alienate land to private European purchasers, and that Europeans can own land in the Reserves, and reside on it, only by the permission of the Government, given on the ground that the presence of such Europeans, as officials, traders, missionaries, is in the interests of the Native population. On the other hand, no Native individual or tribe may own land in an area set aside for White ownership. But, this segregation in respect of land ownership is not, of course, true territorial segregation. No doubt, it has protected, and is protecting, the remains of tribal lands from alienation, and so far it helps to preserve the integrity and cohesion of the Native peoples as a separate racial entity.”

Alfred Hoernle, South African Native Policy and the Liberal Spirit, Witwatersrand University Press, Johannesburg, 1945.

NOTES

¹ As featured on Politicsweb.co.za, 21 June, 2013