

# At War with the Pass Laws? Reform and the Policing of White Supremacy in 1940s South Africa

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## AT WAR WITH THE PASS LAWS? REFORM AND THE POLICING OF WHITE SUPREMACY IN 1940s SOUTH AFRICA

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## AT WAR WITH THE PASS LAWS? REFORM AND THE POLICING OF WHITE SUPREMACY IN 1940s SOUTH AFRICA\*

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**ABSTRACT.** *This article analyses a key reformist gesture by General Smuts's Second World War South African government – the May 1942 order suspending enforcement of the pass laws in major cities. Hated by Africans for curbing their mobility, employment opportunities, and urban residence rights, the pass laws were a fundamental instrument of white supremacy. What then did the suspension order signify? Reconstructing debates and divisions within and beyond the state, the article traces the steps leading to the suspension order, and discusses the responses to its implementation resulting in its later withdrawal. The account considers common explanations for the suspension order's genesis: industry's demand for labour, the wartime state's reduced policing capability, and official anxieties about Africans' loyalty at a time of vulnerability to invasion. Of these, only the last has clear merit. The real puzzle is the relaxation's continuance beyond the emergency situation of 1942. For this, the credit belongs to the momentum of liberal organization and opinion in encouraging advocates of reform within the state to hold their nerve. Only gradually could the opposition Nationalists, the party of apartheid, mobilize whites' hostility to black urbanization, thereby enhancing the influence of restorationist elements within the state calling for renewed coercion.*

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Was apartheid inevitable? To informed observers of South Africa around 1970, it certainly seemed a comprehensively entrenched system of racial economic exploitation and political domination.<sup>1</sup> But since the political upheavals of the 1980s, when its vulnerabilities became unmistakable, the possible mid-twentieth-century alternatives to apartheid have received closer scholarly scrutiny. The 1940s in particular intrigue historians as years in which significant opportunities to reform white supremacy arose and were foreclosed, not to be presented again for more than three decades. 'Worlds of possibilities', 'South Africa's Janus moment', and 'the schizophrenic 1940s' – phrases in the titles of

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<sup>1</sup> F. A. Johnstone, 'White prosperity and white supremacy in South Africa today', *African Affairs*, 69 (1970), pp. 124–40.

a recent edited volume and review article – evocatively convey this historiographical emphasis.<sup>2</sup>

That tremendous social and political fermentation in the 1940s challenged the pre-war segregationist order was and is broadly accepted. Prime Minister Jan Smuts, a principal architect of the South African system, famously announced in January 1942, at a trough in the country's wartime prospects, that '[i]solation [w]as gone and segregation ha[d] fallen on evil days, too'. Although Smuts believed there remained mileage in a sincerer form of white 'trusteeship' of African interests,<sup>3</sup> historians writing in the later apartheid era documented the militant steps Africans took themselves, in the plain absence of central or local government provision, to ensure their subsistence and reproduction during and after the war, including mass migration to the cities, workplace strikes, bus boycotts, and urban land invasions leading to the establishment of informal settlements.<sup>4</sup> Historians also showed how this 'urban crisis' of the 1940s, as it appeared to whites, both set the agenda for reactionary electoral politics and administration, and informed the compromises and contradictions of early apartheid policies and their implementation.<sup>5</sup> They largely accepted, however, that official receptiveness to reform barely outlived the emergency war years of the early 1940s, and that the bolder socio-economic initiatives, inquiries, and reports that the government entertained – in fields ranging from housing, industrial relations, and penal reform, to welfare payments, education, and health care – were political dead ends. Recent studies – written in a post-apartheid context that has seen a revival of liberal nationalist, social democratic, black entrepreneurial, and other projects cognate with those on offer in the 1940s – are more open to the possibility that officially sponsored reformism was not merely an opportunistic gesture moored to the exigencies of wartime, but was borne along by a higher tide of reformist opinion that

<sup>2</sup> S. Dubow and A. Jeeves, eds., *South Africa's 1940s: worlds of possibilities* (Cape Town, 2005); T. R. H. Davenport, 'South Africa's Janus moment: the schizophrenic 1940s', *South African Historical Journal*, 52 (2005), pp. 191–205. The edited volume comprises papers presented at a similarly titled workshop held at Queen's University, Kingston, Canada in September 2003. Further papers from this event were published in *South African Historical Journal*, 50 (2004), and are discussed in Davenport's review along with the edited collection and other unpublished papers from the workshop.

<sup>3</sup> J. van der Poel, ed., *Selections from the Smuts papers* (vols. v to vii, Cambridge, 1973), vi, pp. 336–8.

<sup>4</sup> This literature is synthesized in W. Beinart, *Twentieth-century South Africa* (2nd edn, Oxford, 2001), pp. 129–34.

<sup>5</sup> D. Posel, *The making of apartheid, 1948–1961: compromise and conflict* (Oxford, 1991); J. Hyslop, '“A destruction coming in”: Bantu education as response to social crisis', in P. Bonner, P. Delius, and D. Posel, eds., *Apartheid's genesis, 1935–1962* (Johannesburg, 1993), pp. 393–410; H. Sapire, 'Apartheid's “testing ground”: urban “native policy” and African politics in Brakpan, South Africa, 1943–1948', *Journal of African History*, 35 (1994), pp. 99–123; T. D. Moodie, 'The South African state and industrial conflict in the 1940s', *International Journal of African Historical Studies*, 21 (1988), pp. 21–61.

might plausibly have taken post-1945 South Africa in a different political direction.<sup>6</sup>

How quickly the limits of reform were reached, or wartime concessions withdrawn, varied from issue to issue, but a cause's advancement depended on some key interrelated variables: the presence of sympathizers within the state bureaucracy sufficiently senior to promote the cause; the openness of official policy-making to external constituencies influential enough to embolden and bolster the internal advocates; and a broader political calculus imparting the requisite influence to these external constituencies. The same variables *mutatis mutandis* determined the success of reactionary agenda. The point is well illustrated in T. Dunbar Moodie's analysis of shifts in the success or failure of advocacy, by senior civil servants in different parts of the state, of a co-optive or repressive response to African industrial militancy in the 1940s. Secretary for Native Affairs (SNA) Douglas Laing Smit and Secretary for Labour Ivan Lawrence Walker—supported by representatives of Africans in parliament, liberal bodies like the South African Institute of Race Relations, and sections of the white labour movement—urged the incorporation of African trade unions representing non-migrant workers into the country's formal industrial conciliation machinery, and made much of the running in the early war years. Opposing them, the South African Police (SAP) and the Mines department lined up alongside the mining industry in arguing that any recognition of organized African labour would open the way to a political radicalization of the workforce, including in the all-important mining sector, with uncontrollable consequences for the country's economic and political stability. The political climate of the later war and early post-war years, Moodie argues, decisively favoured these proponents of reaction over those promoting reform.<sup>7</sup>

The present article considers an equally important instance in which the war brought into question a previously settled policy fundamental to the maintenance of white supremacy and the system of racial economic exploitation: the pass laws and their enforcement. For decades, these laws, which had entitled the police at any time to demand that Africans show them a properly endorsed document or face arrest, had hindered Africans' freedom of movement, restricted where they could reside, and tied them to their white employers, underpinning a system of cheap labour and humiliating subjection. By the late 1930s, prosecutions for pass offences had peaked at some 150,000 annually, up from just over 100,000 a decade previously. In May 1942, however, the police were ordered to suspend the practice of demanding passes from Africans in major cities in an experiment that lasted nearly four years. Reimposed from 1946, and then systematically extended and tightened up,

<sup>6</sup> Dubow and Jeeves, eds., *South Africa's 1940s*; K. Gillespie, 'Containing the "wandering native": racial jurisdiction and the liberal politics of prison reform in 1940s South Africa', *Journal of Southern African Studies*, 37 (2011), pp. 499–515.

<sup>7</sup> Moodie, 'South African state'.

and brutally enforced, by the Nationalists, the pass laws were producing more than 620,000 prosecutions annually at the height of apartheid in the late 1960s.<sup>8</sup> Seen against this backdrop of ever more drastic enforcement, the anomalous period of the pass laws' suspension in the earlier 1940s stands out; often noted in passing, it merits closer study in its own right.

Historians have advanced four explanations for the May 1942 relaxation. The first cites the demand for African labour in the manufacturing sector, which had grown enormously to supply the country's war effort and replace formerly imported goods, and whose needs received precedence over those of white farmers and of white city dwellers fearful of black urbanization. The second focuses on the state's weakened capacity to impose controls on Africans given the absence of many policemen and other white officials on service abroad. The third interprets the relaxation as a direct response to wartime concerns about Africans' disaffection and loyalty. The fourth credits white liberal politicians and administrators with an ability to extract reforms from a politically vulnerable government unusually reliant upon their support.<sup>9</sup>

These explanations are not considered mutually incompatible, but much is at stake historiographically in which of them is emphasized. Stressing the labour needs of industry makes a point – about the influence, for good or ill, of business interests upon state policy – that is attractive across the ideological spectrum. To the economically orthodox, the suspension demonstrates how the allocation of labour less encumbered by non-market controls like the pass laws fostered economic expansion. Leftists and Afrikaner nationalists might see in it evidence of the Smuts government's subordination to urban industrial capital and British imperial war aims. The point is not entirely congenial to the leftist historiography, however, because it contradicts its core argument that South African capitalist development depended on repressive discriminatory controls like the pass laws.<sup>10</sup>

Focusing on weakened capacity foregrounds the limited choices available to the overstretched wartime state in directing its personnel, and is consistent with an analysis of how Africans' accelerated urbanization, and the related workplace

<sup>8</sup> M. Savage, 'The imposition of pass laws on the African population in South Africa, 1916–1984', *African Affairs*, 85 (1986), pp. 185–205, at p. 186.

<sup>9</sup> D. Hindson, *Pass controls and the urban African proletariat* (Johannesburg, 1987), pp. 55–6; I. Evans, *Bureaucracy and race: native administration in South Africa* (Berkeley, CA, 1997), p. 53; Savage, 'Imposition', p. 194; P. Bonner, 'Eluding capture: African grass-roots struggles in 1940s Benoni', in Dubow and Jeeves, eds., *South Africa's 1940s*, pp. 170–91, at p. 171; D. Welsh, 'Urbanisation in South Africa: 1929–1979', in E. Hellman and H. Lever, eds., *Conflict and progress: fifty years of race relations in South Africa* (Johannesburg, 1979), pp. 131–54, at p. 139; Beinart, *Twentieth-century*, p. 130; P. Alexander, *Workers, war and the origins of apartheid: labour and politics in South Africa, 1939–1948* (Oxford, 2000), pp. 56–7; P. Lewsen, 'Liberals in politics and administration, 1936–1948', in J. Butler, R. Elphick, and D. Welsh, eds., *Democratic liberalism in South Africa: its history and prospect* (Middletown, CT, 1987), pp. 98–115, at pp. 104–6.

<sup>10</sup> E.g. F. A. Johnstone, *Class, race and gold: a study of class relations and racial discrimination in South Africa* (London, 1976), pp. 35–8.

and community struggles they engaged in, forced the government to stay its repressive hand. Giving prominence to disaffection highlights officials' appreciation of how Africans' dispositions might shape the state's fate if the enemy invaded. These explanations citing weakened capacity and concerns about Africans' reliability—with their emphases on African agency and consciousness, and the limitations of the settler colonial state—reflect themes in recent Africanist scholarship.

By contrast, crediting white liberals and enlightened bureaucrats with influencing state policy in a meaningfully reformist direction is unpopular with a historiography that largely endorses the views of the rising Mandela generation of African National Congress (ANC) politicians of the 1940s and 1950s, who despised the gradualist and paternalist assumptions informing established mechanisms for consulting African opinion, and refused to confer legitimacy on whites appointed or elected to represent blacks. The literature has perhaps as a result too readily depicted top-down reform running in a channel separate from that of African disaffection. This article argues that in the early 1940s they ran together, imparting a momentum to reformist causes that significantly outlasted the state's moment of greatest wartime vulnerability in early 1942. Africans could influence the white power structure; some African leaders (including popular left-leaning ANC politicians) knew it; and they used the institutions in place and their connections with white liberals—a crucial component of Smuts's pro-war coalition—to do so.

In revisiting the origins and effects of the pass laws enforcement suspension order, this article follows Moodie's approach and documents the roles of competing interests within and outside the state bureaucracy both in the suspension order's genesis and in responding to its consequences. The principal departments involved in this instance were the SAP and the native affairs department (NAD), and the relevant exchanges between them began before the war. Historians have not explicitly located these two bureaucracies in relation to the pass laws enforcement issue in the way that Moodie situates them on opposite sides of the question of recognizing African trade unions. The inference to be drawn from the historiography, however, is that both the SAP and NAD endorsed the relaxation, albeit for different reasons: the SAP because its depleted wartime strength meant it lacked the capacity to enforce the pass laws; and the NAD because it feared the effects of African disaffection and disloyalty at a time when the country was vulnerable to enemy invasion. The evidence does not support this inference. The NAD's concern about Africans' loyalty was certainly germane, arising as early as the first half of 1939 and culminating, with the support of white liberal and organized black political mobilization, in the suspension order. But if weakened capacity was a consideration for the SAP, why did senior police officers themselves insist that the suspension compounded rather than eased their difficulties, and why did they press vigorously and often for the pass laws' reimposition? The labour needs of urban manufacturing, meanwhile, did not figure at all in the lengthy

discussions preceding the relaxation – these needs were still incipient in this phase as a discrete policy issue – but did feature in the twilight of the suspension order – long after the worries about African disaffection and police short-handedness had ceased to be pertinent – in deliberations near the end of Smuts's government on future policy towards Africans in the cities.

# I

In the late 1930s, the threat of war in Europe created difficulties for the otherwise solidly entrenched United party government of Generals Hertzog and Smuts. The two leaders could agree that the Union of South Africa's interests should be paramount in deciding relations with Britain and Germany in the event of war, and that the country had the sovereign right to take that decision independently. Hertzog, however, believed that neutrality would best serve the Union's interests, while Smuts thought that alignment with Britain was preferable, and probably inevitable given the country's existing agreements with, and dependence for defence upon, the Royal Navy. On 28 September 1938, just before the Munich settlement, Hertzog's cabinet agreed that South Africa would stand aside from a 'war in Europe with England as one of the belligerents'. As long as Hitler confined his territorial demands to 'Central or South-Eastern Europe', even Smuts thought it unlikely that *any* of the dominions would join Britain in fighting.<sup>11</sup> But Hitler also demanded, if only 'to further other and more immediate foreign policy aims',<sup>12</sup> the return of Germany's former colonies, including South West Africa (SWA), which the Union administered under a League of Nations 'C' mandate as an 'integral' portion of its own territory. Hertzog accepted that South Africa's position in SWA might have to be determinedly defended – diplomatically certainly, but also if necessary militarily, which sat awkwardly alongside his insistence that neutrality was feasible.

The diplomatic strategy involved reinforcing declarations at the League of Nations with high-level secret discussions with British and German leaders about possibly compensating Germany financially or with other African territories.<sup>13</sup> The proposals for compensation were unrealistic. Concerning territorial compensation, British Foreign Secretary Anthony Eden wrote to Neville Chamberlain after meeting Hertzog in May 1937: 'My own impression is that General Hertzog thinks that the major contribution should be made on the West Coast of Africa, preferably by the French!'<sup>14</sup> On financial compensation,

<sup>11</sup> W. K. Hancock, *Smuts: the fields of force, 1919–1950* (Cambridge, 1968), pp. 284–6.

<sup>12</sup> S. Pienaar, *South Africa and international relations between the two world wars: the League of Nations dimension* (Johannesburg, 1987), p. 145.

<sup>13</sup> *Ibid.*, pp. 146–9; M. Chanock, *Britain, Rhodesia and South Africa 1900–1945: the unconsummated Union* (Totowa, NJ, 1977), pp. 206–10.

<sup>14</sup> Eden to Chamberlain, 22 May 1937, The National Archives (London), Foreign Office 954/4A.



South Africa's defence minister told Hitler at the end of 1938 that Hertzog had 'mentioned... for South West Africa a sum of £50,000,000 plus certain trade advantages'.<sup>15</sup> How the Union was to raise that sum, which exceeded its annual budget, was unclear, although here again Hertzog may have been counting on the largesse of others.

The military strategy meant enhancing South Africa's police presence within SWA. In June 1939, following a dramatic show of force by an SAP contingent in April to forestall a possible Nazi coup in the territory, the SWA Police were incorporated into the SAP.<sup>16</sup> Even earlier than this, however, it implied preparations in key areas and industries of the Union itself, notably the Witwatersrand gold fields, that acquired greater urgency if not necessarily momentum following Munich.<sup>17</sup> In November 1938, 'entrusted with... preparing a scheme for the defence of... the Witwatersrand... in the event of industrial or other internal disturbances', the defence department asked the chamber of mines for 'a list of all vulnerable points on the Reef in so far as the Mines are concerned, which would have to be considered'.<sup>18</sup> In a related initiative in March 1939, the head of the SAP's Witwatersrand division informed the chamber 'that the Police [were] perturbed by the possibilities of sabotage on the mines' given the 'number of Germans employed in key positions', and urged the industry to 'take precautions to have [these] positions guarded'.<sup>19</sup> In early April, mere days before the dispatch of the SAP contingent to SWA, police commandants in Transvaal districts where industries thought to be of 'national importance' were located compiled lists of 'persons of alien nationality, whose sympathies... [would] not accord with South African interests in the event of war'.<sup>20</sup> During the SWA tension itself, police guards were 'posted at vulnerable points in the Union'.<sup>21</sup>

Also as a consequence of events in Europe and SWA, watch was being kept well before September 1939 on 'aliens in native areas'. This was the subject heading of a confidential report – in response to a departmental circular – sent to SNA Douglas Smit in May 1939 by the magistrate at Humansdorp, Cape province (50 miles west of Port Elizabeth). The magistrate noted that he was 'keeping a very watchful eye (long, did I, before any crisis occurred overseas)',

<sup>15</sup> O. Pirow, *James Barry Munnik Hertzog* (Cape Town, 1957), p. 237.

<sup>16</sup> Central Archives Depot, Pretoria (CAD), records of the South African Police (SAP) 1/94/39, *passim*.

<sup>17</sup> J. S. M. Simpson, *South Africa fights* (London, 1941), pp. 53–4, exaggerates the efficacy of pre-war preparations.

<sup>18</sup> Officer commanding Witwatersrand command to president, chamber of mines (CM), 5 Nov. 1938; J. P. Harding, chairman, technical advisory committee, CM, to general manager, 31 Jan. 1939; CM Archives, Johannesburg (CMA), file on internal security, 1938–9.

<sup>19</sup> Legal adviser to joint secretary, 20 Mar. 1939, CMA, file on internal security, 1938–9.

<sup>20</sup> Deputy commissioner (depcom), Transvaal division, to commissioner of police (compol), 13 Apr. 1939, encl. district commandant, Middelburg, to depcom, Pretoria, 12 Apr. 1939, CAD, SAP 1/196/40/7.

<sup>21</sup> I. P. de Villiers to secretary for external affairs, 30 May 1939, CAD, SAP 1/196/40/9.

and mentioned German-language pamphlets distributed in his district by one Friedrich Adolf Hendrichs, in charge of the Moravian mission store.<sup>22</sup> G. R. C. Baston at SAP headquarters told Smit that the police were 'fully alive to this' and that although Hendrichs was 'a Nazi', it was 'not absolutely established' that he was the source of the pamphlets, which were 'the usual papers of the Fascist and Nazi organisations which [could] be picked up anywhere'. The deputy commissioners in Grahamstown and Umtata, Baston added, were 'both of the opinion that these [pamphlets] can have no effect on the Native mind, and there is no sign of unrest'.<sup>23</sup> A defence department officer had similarly reported to Pretoria at the end of April 1939 the opinion of his fellow officers that 'Nazi propaganda' was 'being circulated among the Natives in the Transkeian Territories' and that there were 'many ardent Nazi supporters among the traders in the Territories', but Baston again reassured Smit that the deputy commissioner in Umtata held 'emphatically that there [was] no evidence of Nazi propaganda being spread among the Natives'.<sup>24</sup>

Smit himself was not reassured as further reports reached him of pro-German propaganda among Africans. Hearing, for example, that the 'Zulu' servant of the American envoy to South Africa had said that 'Germany was the greatest nation on earth and that the Germans had told them that the Zulus lost their country... because they had no guns and that the Germans would see to it that in the next war they were provided with guns and aeroplanes', Smit asked the police to interview the envoy. 'This kind of propaganda', he informed his chief native commissioner (CNC) in Natal, who was also asked to 'make confidential inquiries among the Native Commissioners whom [he] trust[ed]' and to consult the Zulu regent, 'is, of course, so insidious that one does not realise what is happening until the thing is accomplished... Things look very ugly in the world today and it is most necessary that we should be on our guard'.<sup>25</sup> Police investigation revealed, however, that the servant was from Plumtree in Rhodesia and claimed 'that he liked his American master and would not care to serve under a German'.<sup>26</sup> In a follow-up minute, Cape Town's deputy commissioner wrote 'that the talk of these natives, as alleged, is certainly not the result of any organized propaganda by Nazi Agents or others'.<sup>27</sup>

<sup>22</sup> Magistrate and native commissioner (NC), Humansdorp, to SNA, 1 May 1939, CAD, Native Affairs records (NTS) 511/400.

<sup>23</sup> Baston to Smit, 19 May 1939, CAD, NTS 511/400.

<sup>24</sup> Baston to Smit, 9 June 1939, encl. copies of J. J. C. Hamman, Eastern province command, to director of training and operations, Union Defence Forces, 28 Apr. 1939, and S. Varney, depcom, Umtata, to compol, 5 June 1939, CAD, NTS 511/400.

<sup>25</sup> Smit to Lugg, 19 June 1939, encl. in SNA to depcom, Cape Town, 19 June 1939, CAD, NTS 511/400.

<sup>26</sup> Depcom, Cape Town, to compol, 8 July 1939, encl. in Baston to Smit, 11 July 1939, CAD, NTS 511/400.

<sup>27</sup> Palmer to compol, 12 July 1939, enclosed in Baston to Smit, 17 July 1939, CAD, NTS 511/400.

Although the SAP, beyond investigating information reported by other departments, itself closely monitored alleged 'ardent Nazis' with 'feelings... very bitter against the British', and German residents known to possess or use wireless transmitting equipment,<sup>28</sup> the foregoing evidence shows there was much complacency in the police about the potential for subversion and sabotage shortly before the war. Concrete steps would follow rather than precede a crisis. Asked twice how 'petrol installations' would be secured against sabotage, the police replied the first time 'that, as far as possible, measures will be taken to reinforce the Staff Guards... if a state of emergency arises'; and the second, following urgent representations from Shell in late August 1939, that, again 'as far as possible', at 'centres where neither Railway nor South African Police men are posted as guards', company 'watchmen' were 'regularly visited and supervised by police Non-Commissioned Officers'.<sup>29</sup> Not surprisingly, a report prepared for Smuts soon after he became prime minister recorded damningly that 'any mobilisation for internal security on the 7<sup>th</sup> September, 1939 would have produced chaos in all directions'.<sup>30</sup>

Smit was thus unusual among senior civil servants in the degree of pre-war concern he expressed about subversive elements within the Union itself—as opposed to SWA, where Nazi activity was more blatant, and about which there was greater consensus within government. As SNA, Smit might be expected to worry about African opinion in the event of war, but much of his disquiet arose precisely because his department, despite its name, had lost direct access to a significant segment of the African population and had to rely largely on the SAP's intermediation. This was the result of historical competition—long settled in the SAP's favour—between the NAD and SAP for control over the sources of information within African communities, and accounts for police management's confident assertions in the face of the NAD's anxieties that Nazi pamphlets could 'have no effect on the Native mind'. Indeed, the SAP's monopoly in the production and distribution of this information was such that at the end of 1936 Smit's office had to ask the police to continue regularly forwarding political reports because it was 'anxious to keep in touch' with African opinion.<sup>31</sup>

Had he not found the world situation so troubling, Smit might have tolerated a status quo in the NAD's relations with the SAP, but the political divisiveness that participation in another European war threatened to cause among white South Africans generally, affected civil servants too and policemen particularly,

<sup>28</sup> Varney to compol, 5 June 1939, encl. in Baston to Smit, 9 June 1939, CAD, NTS 511/400.

<sup>29</sup> Baston to secretary, national supplies control board, 4 July and 29 Aug. 1939, CAD, SAP 1/196/40/7.

<sup>30</sup> 'A statement on the local military position existing on the 7th September, 1939 upon which date General Smuts assumed office as minister of defence', n.d., CAD, Accession 1, Smuts papers, vol. 132, no. 69.

<sup>31</sup> K. Shear, 'Chiefs or modern bureaucrats? Managing black police in early twentieth-century South Africa', *Comparative Studies in Society and History*, 54 (2012), pp. 251–74, at p. 267.

raising questions about their reliability. As early as June 1939 Smit had implied that there were native commissioners (NCs) – officers answerable to him – who might not be trusted.<sup>32</sup> How then was he to proceed *after* war was declared if the SAP, on whom he depended so greatly for information and investigations, proved unreliable? ‘While the Department has every confidence in the loyalty of the Natives throughout the country’, Smit wrote to his CNCs shortly after Smuts had formed a pro-war government, ‘Native Commissioners should keep in close touch with all shades of Native opinion and they should spare no efforts in counteracting any subversive influences that may be at work, and any evidence of enemy propaganda should be reported to this office at once.’<sup>33</sup> But how, having previously ceded precedence in the production of information to the SAP, thus alienating themselves from the African population, were Smit’s officers to establish and maintain this ‘close touch’, and how was ‘native opinion’ to be registered and moulded?

## II

The internment of ‘enemy subjects’ in the war’s early months lulled officials into further complacency about subversion and ‘internal sabotage’ that France’s collapse in mid-1940 shattered.<sup>34</sup> The new urgency was reflected in the NAD’s waxing anxiety about a countrywide effort ‘to spread enemy propaganda’ to undermine Africans’ confidence in the government.<sup>35</sup> Information originating from short-wave radio broadcasts by the German Zeesen station, or filtering across the border with neutral Portuguese Mozambique where German diplomats and agents could operate, was a particular concern. The sorts of rumours that Smit worried were ‘current among the Natives’ included claims that the departure of Union forces to fight abroad would allow Africans to ‘take their country back again’; that the government was about to ‘confiscate monies deposited in the Savings Bank’ because it was in financial difficulty, causing Africans to withdraw deposits; and that a German invasion would bring Africans higher wages, the abolition of passes, the allocation of farms, and cheaper consumer goods.<sup>36</sup> NCs were instructed to counter the rumours by holding fortnightly public meetings ‘at selected centres’ to ‘disseminat[e] authentic news’, albeit nothing that ‘might disturb the Native mind or create any feeling of apprehension’.<sup>37</sup> Such public

<sup>32</sup> See quotation preceding n. 25.

<sup>33</sup> SNA to chief magistrate, Umtata, 13 Sept. 1939, and similar minutes to other CNCs, CAD, NTS 511/400.

<sup>34</sup> Union of South Africa, *Report of the select committee on German Foreign Office documents (conduct of member)* (Cape Town, 1946), pp. 131 and 148, paras. 1,190 and 1,318.

<sup>35</sup> Smit to CNCs, Pietermaritzburg, Kingwilliamstown, and Umtata, 3 June 1940, CAD, NTS 511/400.

<sup>36</sup> Lugg to NCs, 3 June 1940, citing communication from Smit, CAD, NTS 511/400.

<sup>37</sup> Smit to all NCs, departmental circular no. 20 of 1940, ‘Enemy propaganda: dissemination of authentic news’, 11 June 1940, CAD, NTS 511/400.

meetings were preferred to counter-broadcasting, 'as the enemy could easily transmit their messages on the same wavelength with devastating effect'. It was also thought insufficient 'for natives to hear voices thrown at them through loudspeakers. They should see the person addressing them ... [and] in the case of recorded speeches, some person known to the natives should be present to supplement the records.'<sup>38</sup> African-language news bulletins issued by the NAD were to be distributed using 'recognised channels of communication ... including chiefs, headmen, leading Natives and Europeans of proved loyalty'. NAD officers were also asked to 'review the loyalty and trustworthiness' of whites who regularly interacted with significant numbers of Africans.<sup>39</sup>

Some of these ideas for 'combating enemy propaganda' and shaping African opinion had been aired at a conference of representatives of central and local government, the mining industry, and the press convened at the beginning of June 1940 by H. S. Cooke, the senior NAD officer in Johannesburg. Here, Smit admitted that 'enemy propaganda was causing the Government grave concern'. In speaking points drafted ahead of the conference, Cooke suggested the '[c]reation of a war film from extracts of existing films showing glimpses of enemy atrocities followed by heartening pictures of, say, Navy, Anti-Aircraft Guns in action, arrival of Empire troops, etc. etc.'. At the conference itself, however, H. C. Wellbeloved, labour adviser for the chamber of mines, 'was doubtful as to the real effect of this on the native mind'. Wellbeloved 'thought Communists were largely responsible' for defeatist messages reaching Africans.<sup>40</sup> This was the era of the Nazi-Soviet pact, and leftists, particularly those trying to unionize black workers in war-related industries, were interned.<sup>41</sup> Increasingly, however, state officials suspected working-class Afrikaans-speaking whites, many of whom were believed to be anti-war republicans and 'members of subversive organisations'. As Cooke's office put it, 'European miners and the lower paid servants of the railways such as conductors and ticket examiners, whose employment in both cases allows of their easy and frequent contact with the natives', were the 'two main agents for disseminating subversive stories'.<sup>42</sup> Only one representative at the Johannesburg conference, the local NC J. M. Brink, volunteered that the state itself might bear some responsibility for evidence of disaffection among Africans. '[R]ecent unfortunate legislation', Brink said, 'was giving the natives the impression that they were being down-trodden,

<sup>38</sup> 'Report of conference on enemy propaganda etc. held at the office of the director of native labour, Johannesburg', 5 June 1940, CAD, NTS 511/400.

<sup>39</sup> Departmental circular no. 20, 11 June 1940, CAD, NTS 511/400.

<sup>40</sup> 'Report of conference', 5 June 1940, and appended 'Note for conference' containing Cooke's speaking points, CAD, NTS 511/400.

<sup>41</sup> B. Hirson, *Yours for the union: class and community struggles in South Africa, 1930-1947* (London, 1989), pp. 41-8; M. Stein, 'Max Gordon and African trade unionism on the Witwatersrand, 1935-1940', in E. Webster, ed., *Essays in Southern African labour history* (Johannesburg, 1978), pp. 143-57.

<sup>42</sup> Acting director of native labour to SNA, 18 Sept. 1940, CAD, NTS 511/400.

thus providing an excellent field for enemy propagandists'.<sup>43</sup> That Brink's remark found its way into the NAD's report on the conference suggests, however, that it made some impression on his superiors.

Indeed, Smit, on at least one previous occasion soon after the outbreak of war, had had cause to reflect upon the difficulties the state made for itself in attempting to understand and enlist African opinion. In 1936, in removing the right of African males to qualify to vote on a common electoral register alongside whites in the Cape province, the government had created new mechanisms for Africans' voices to be represented at national level. Cape Africans were removed from the common voters' roll and placed on a separate list to elect three white MPs. Countrywide, Africans would elect four white members of the Union Senate and twelve African members to a Natives Representative Council (NRC) that also comprised four nominated African and six white official members and whose function was to advise parliament on matters affecting Africans.<sup>44</sup> The first elections under this system had taken place in 1937. With war piquing his anxieties about 'subversive influences' among Africans and about his department's distance from African opinion, Smit began to pay more attention to these mechanisms of representation.

Mostly rooted in liberal think-tanks, legal circles, and university departments, the seven white parliamentary representatives elected by Africans brought a national-level 'impetus' to reformist causes<sup>45</sup> that may have stalled had they not become an important pro-war element in the political calculus following the realignment of September 1939. Few as they were, therefore, they were already getting a more respectful hearing from the government and Smit's department. The NAD also strove to enhance the credibility of the NRC and to encourage other parts of the state to view the NRC's members – the nominated white officials perhaps even more than the elected black representatives – as figures of consequence. Thus, when forwarded a police report on a meeting held by Thomas Mapikela of the Free State ANC, in which the NRC member was described as 'Oproermaker [Agitator] No. 407', Smit felt compelled to inform Baston at police headquarters that Mapikela

gets a travelling allowance from us to enable him to visit the Natives whose interests he represents – so as to enable him to represent their views at the meetings of the Council, of which I am Chairman. There is nothing subversive in the address he gave ... and I think you will agree with me that in the circumstances it is very hard that he should be treated and described in your official correspondence as 'Oproermaker No. 407'. The same treatment has been meted out from time to time to other members of the Representative Council and such treatment only serves to antagonise these people whose co-operation is necessary in the smooth working of my administration among the Natives. There is, of course, no objection to the Police

<sup>43</sup> 'Report of conference', 5 June 1940, CAD, NTS 511/400.

<sup>44</sup> Representation of Natives Act, No. 12 of 1936.

<sup>45</sup> Gillespie, 'Containing', pp. 500–1.

being present at the meetings held by these Councillors, in the same way as their attendance is often thought desirable at [white] political gatherings, but to treat them all as 'Agitators' when they are carrying out a function which has been approved by the Government places me in an unpleasant position.<sup>46</sup>

Baston announced himself 'in full agreement with [Smit's] dissension' and promised the situation would 'be remedied'. He had, however, to ask Smit to provide him with a list of the NRC's 'native members' to compare against his 'list of agitators', revealing the lack of significance the police attributed to the NRC as either a source of information about African opinion or a vehicle of African politics.<sup>47</sup> In duly supplying this list, Smit hypocritically advised that Richard Baloyi, the ANC's treasurer-general, 'is said to have communistic leanings and ... his activities should be watched, but ... this should be done in such a way that he should not be aware of it'.<sup>48</sup> He was also fearful of the consequences of allowing the NRC to debate the war issue publicly and manoeuvred to prevent this.<sup>49</sup> At this stage (November 1939), Smit was clearly only dimly, if at all, conscious of the contradictions of his 'dissension', and seemed as much concerned about his own institutional 'position' and control as he was about accessing African popular opinion.

Brink's solitary intervention at the Johannesburg conference either initiated, or was indicative of, a growing realization among senior NAD officials that enforcement of the country's discriminatory oppressive legislation might only make Africans more receptive to 'subversive stories'. On 10 June, five days after the conference, Smit and his CNCs met in Pretoria to discuss 'the war situation as affecting the Native areas' and the point Brink had raised was deliberated. This meeting concluded that the state itself *was* provoking 'a good deal of the irritation amongst Natives generally', for Smit afterwards secured permission from his minister, Deney's Reitz, to write to Commissioner of Police I. P. de Villiers urging that 'a wiser discretion ... in the institution against them of prosecutions for petty offences ... would have a very wholesome effect on the minds of the Natives' – a suggestion De Villiers apparently accepted.<sup>50</sup>

There was a further consideration. It was immediately following this meeting with his CNCs that Smit issued the aforementioned instructions to NCs to get out into their districts more and hold frequent meetings with Africans to

<sup>46</sup> Smit to Baston, 20 Nov. 1939, CAD, NTS 86/332(4). Smit's paternalism shows through in the unreflecting implication that only whites held 'political gatherings'.

<sup>47</sup> Baston to Smit, 21 Nov. 1939, CAD, NTS 86/332(4).

<sup>48</sup> Smit to Baston, 24 Nov. 1939, CAD, NTS 86/332(4). Baloyi, whom Smuts called a 'capitalist', owned a transport company in Alexandra, the freehold township north of Johannesburg. It was probably his association with J. B. Marks – a leading communist – which made officials suspicious. Smuts to M. C. Gillett, 6 Dec. 1937, in Van der Poel, ed., *Selections*, vi, p. 108; M. Basner, *Am I an African? The political memoirs of H. M. Basner* (Johannesburg, 1993), p. 94.

<sup>49</sup> M. Roth, "If you give us rights we will fight": black involvement in the Second World War', *South African Historical Journal*, 15 (1983), pp. 85–104, at p. 88.

<sup>50</sup> Smit to De Villiers, 25 June 1940, encl. in Smit to Lugg, 5 July 1940, CAD, NTS 13/353.

combat 'enemy propaganda'.<sup>51</sup> Given that many NCs were also magistrates, a reduction in 'prosecutions for petty offences' would also 'lighten the burden in district offices', freeing NCs both from time-consuming court work and from some of the opprobrium attached to the enforcement of discriminatory legislation that further alienated the NAD from the people. Because prosecutions and the courts were involved, Smit's proposal to De Villiers required not only his own minister's approval but also De Villiers's, Justice Minister Colin Steyn. A subtle game of inter-departmental politics thus commenced. For now, Smit was content to ask De Villiers to obtain Steyn's approval.<sup>52</sup> Later, by having Reitz communicate directly with Steyn, he would go behind the backs of the SAP.

### III

The most persistent grievance for Africans was the administration of the pass laws. Barely two weeks after recommending to De Villiers that the state would benefit if the SAP were less obtrusive, Smit learnt that workers returning to lowveld homes from the mines were being arrested because their passes were not endorsed for travel beyond the railway terminus at Graskop – 'a new and irritating', even if technically correct, 'interpretation of the law'.<sup>53</sup> Forwarding the correspondence to Baston, Smit commented that his minister, Reitz, was

very perturbed at the large number of Natives who are being sent to jail for contraventions of the Pass Laws, and when times are a little more normal we will have to consider a revision of the law, but in the meantime, in view of the amount of enemy propaganda that is being sown among the Natives, we are most anxious that the Police should use a little common sense . . . [T]o send Natives to jail in these days for trifling offences . . . is just the sort of thing that causes disaffection.<sup>54</sup>

Nine months later, in April 1941, following representations from and 'a full and frank discussion' with the white parliamentarians representing Africans about the police's 'wholesale interference with Natives', including an incident in which the ANC president Alfred Xuma had been assaulted by a white constable, Smit confessed to Baston that he had 'a great deal of sympathy' with the views of the senators and MPs he had seen. To Smit's 'way of thinking it [was] a dreadful reflection on . . . European civilisation in South Africa that thousands of Natives [were] imprisoned every year for what [were] at most but trivial offences', and wondered 'whether [Baston] couldn't devise the means whereby some relaxation could be brought about without unduly interfering with the

<sup>51</sup> Departmental circular no. 20, 11 June 1940, CAD, NTS 511/400.

<sup>52</sup> Smit to De Villiers, 25 June 1940, encl. in Smit to Lugg, 5 July 1940, CAD, NTS 13/353.

<sup>53</sup> Wellbeloved to Smit, 12 July 1940, encl. district superintendent, native recruiting corporation (NRC), Graskop, to manager, NRC, 10 July 1940, CAD, NTS 13/353.

<sup>54</sup> Smit to Baston, 15 July 1940, CAD, NTS 13/353.



effectiveness of the regulations'.<sup>55</sup> Smit was requesting the impossible: white supremacy without the forceful means historically employed to create and maintain it. He was groping for a solution, but it was not yet clear to him that informal approaches at the highest levels were insufficient. Although Baston's office replied that there had been 'a marked decrease' in pass law prosecutions since Smit had first raised the issue in mid-1940,<sup>56</sup> lower-ranking policemen continued to use their powers to address immediate difficulties and to respond to the complaints of whites in their wards and districts without reference to larger policy concerns. This was especially true in these earlier war years when the internment of anti-war republicans politicized policing among whites, tempting the SAP locally to recover white support at Africans' expense.

In other spheres, too, Smit was engaged in efforts to ameliorate Africans' circumstances without confronting the apparently fundamental sources of their deterioration. Around the time that Smit was meeting Africans' parliamentary representatives, the latter also had an opportunity to ply Smuts, standing in for Reitz in the Senate, 'with questions and complaints', to which the prime minister responded 'sympathetically... on Native health and economic conditions, life on the farms, wages and other matters of interest to the Natives'. Smuts was surprised and 'pleased' subsequently to receive a letter of thanks from the senators for his 'helpful remarks', and a note from Smit 'that even he was much moved and that [Smuts's] outlook as publicly stated would have a far-reaching effect'.<sup>57</sup> These exchanges formed part of the preliminaries to the appointment in August 1941 of an inter-departmental committee, chaired by Smit, which was instructed by Smuts to 'explore possible ways, other than merely increasing wages, of improving' conditions for Africans in urban areas. Often derided as toothless for this exclusion of the issue of wages, the basis of the cheap labour system, the committee itself frankly acknowledged in its interim report of March 1942 'that within [its] terms of reference it ha[d] not discovered any remedies... both practicable and... immediately sufficient'.<sup>58</sup> However, it was precisely because it could not address pay frontally that the committee turned its attention to and made potentially highly consequential recommendations concerning two of the most important long-term supports of the low-wage economy: the pass laws and obstacles to African trade unionism.

Smit appears personally to have been profoundly affected by the findings of his committee, and was both invested in and armed by its recommendations. One finding was that outside of the Cape province there had been 318,858 convictions for pass offences in the three years beginning in 1939, representing a 'harassing and constant interference with the freedom of movement of

<sup>55</sup> Smit to Baston, 18 Mar. and 9 Apr. 1941; Baston to Smit, 22 Mar. 1941: CAD, NTS 13/353.

<sup>56</sup> W. S. Long, for compol, to SNA, 13 May 1941, CAD, NTS 13/353.

<sup>57</sup> Smuts to M. C. Gillett, 18 May 1941, in Van der Poel, ed., *Selections*, vi, pp. 297-8.

<sup>58</sup> Union of South Africa, *Report of the inter-departmental committee on the social, health and economic conditions of urban natives* (Pretoria, 1942), p. 29, para. 2.

Natives giv[ing] rise to a burning sense of grievance and injustice which has an unsettling effect on the Native population as a whole'. The committee recommended the pass laws' abolition, but that 'in the meantime instructions should be issued to authorised officers to enforce the Pass Laws only when there are reasonable grounds for suspecting that some other offence has been or is about to be committed'.<sup>59</sup> The committee thus prepared the ground for the pass laws enforcement suspension order, and its reformist recommendations were beholden not merely to the predilections of administrative insiders like Smit, but drew force from the influence of the Africans' representatives who were an important component of Smuts's narrow pro-war parliamentary majority, from the liberal voices among the '262 European and 154 Native witnesses' the committee examined,<sup>60</sup> and from the concerns about African disaffection that further broadened the political space for the articulation, beginning with Smuts himself, of a more sympathetic policy towards Africans. The short-term suggestion that enforcement be eased pending consideration of a longer-term abolition of the pass laws was also informed by the NRC, which at the end of 1941 debated and approved a motion deprecating the 'high-handed manner in which Police raids for liquor and passes or permits are carried out in some of the large urban centres... creat[ing] a feeling of antagonism on the part of Africans towards the police' – a debate that ended with Councillor Baloyi's asking that 'the Government try an experiment; suspend the Pass Laws for a month or two and see what happens, see whether it is not going to lead to an improvement in the position'. It was, Baloyi said, almost 'as if the police want to antagonise the people against the Government because our people think the Government is doing these things'<sup>61</sup> – a conclusion that only reinforced the view Smit had been coming to independently.

Meanwhile, through 1941 and into 1942 reports continued of 'subversive propaganda' among Africans, with particular attention being paid to Natal and the Transvaal, which bordered on neutral Portugal's Mozambique colony, 'from which the enemy [could] operate into the Union'.<sup>62</sup> Japan's entry into the war at the end of 1941 and the additional pressure this placed on Indian Ocean defence initiated a second peak of official concern about Africans' loyalty, and led to further efforts to temper the enforcement of intrusive discriminatory laws. Certainly in communities, such as in the Sibasa area in the northern Transvaal, where people faced drought and possible famine, and were weighing up whether or not to join the native military corps (NMC) for war service in non-combatant roles, police raids and arrests in February 1942 for beer brewing were viewed by NMC recruiter, Major T. E. Liefeldt, as 'quite unnecessary and uncalled for'. At both district and national level, renewed pressure was placed

<sup>59</sup> Ibid., p. 24, paras. 304–6.

<sup>60</sup> Ibid., p. 1, para. 5.

<sup>61</sup> Smit to compol, 20 Oct. 1941; SNA to compol, 29 May 1942, enclosing extract of NRC proceedings: CAD, SAP 15/40/37.

<sup>62</sup> Smit to Alport, 19 Feb. 1942, CAD, NTS 511/400.

on the police in early 1942 to desist from such actions. The SAP, reeling from the recent discovery that numbers of its members had been plotting a coup attempt, was now widely regarded within the NAD as not merely heavy-footed but intentionally seeking to provoke disaffection. Either way, as in the previous crisis moment of June 1940, the state itself was more likely than deliberate subversive enemy propaganda to create disaffection among Africans, and incidents like that at Sibasa forced senior officials yet again to confront this unpalatable truth.<sup>63</sup>

Smit was receiving other reports in February 1942 'that the outlook of the Natives on the war [was] deteriorating', with 'bad news from overseas' being compounded by 'subversive propaganda...disseminated among them' suggesting that German, Italian, or Japanese rule would be more benign; that Africans volunteering for war service were being 'put in the firing line' but not trusted with weapons; and that they should 'go slow and...adopt an attitude of passivity'. In asking his CNCs to investigate these reports, Smit tried to strike a reassuring note. 'We must not, of course', he urged, perhaps seeking to convince himself as much as his subordinates, 'allow ourselves to be stampeded by rumours that may be quite untrue'. Nonetheless, he confessed, 'my own impression is that the attitude of the Natives has deteriorated'. The 'war situation' was 'undoubtedly causing us all a great deal of anxiety', and 'loyal officers' had 'to maintain the utmost vigilance...and to report any indications of disaffection or unrest at once' so that 'immediate steps may be taken to deal with any danger that may arise'.<sup>64</sup>

In their follow-up responses, Smit's officers reported a wary indifference among Africans rather than any positive hostility. 'While they profess to be loyal and probably are', wrote one, 'they just take the line of least resistance and do nothing'.<sup>65</sup> The senior NAD official on the Witwatersrand summarized the broader findings effectively:

Many Natives are sceptical about their future. They do not put much faith in our promises for post war amelioration, and cannot see what they are likely to gain by joining in the war now, and making sacrifices to that end. There is an inclination to think that any change of regime cannot leave them in a worse position than they are now. These people are not aggressive in their views. Perhaps their attitude is best defined as indifferent.<sup>66</sup>

<sup>63</sup> Liefeldt to SNA, 20 Feb. 1942; Rogers to SNA, 28 Feb. 1942, covering statement by Liefeldt, 27 Feb. 1942; Rogers to SNA, 14 Mar. 1942, covering reports by Northern Areas NCs: CAD, NTS 511/400.

<sup>64</sup> Smit to Alport and Smit to Mears, 19 Feb. 1942, CAD, NTS 511/400.

<sup>65</sup> N.A. Ogilvie, additional NC, Louis Trichardt, to Rogers, 5 Mar. 1942, CAD, NTS 511/400.

<sup>66</sup> Lowe to Smit, 6 Mar. 1942, CAD, NTS 511/400. See also Roth, "If you", pp. 103-4; B. Hirson, 'Not pro-war and not anti-war, just indifferent: South African blacks in the Second World War', *Critique*, 20 (1993), pp. 39-56.

Smit was fearful, however, that in the event of an Axis invasion Africans' 'attitude' would shift from apparent indifference to aggression, and he could no longer rely on direct informal representations to the police to secure their co-operation in ensuring that active African hostility was not inflamed by insensitive administration of the pass laws. Possibly, too, with elections due in mid-1942 for the NRC and white representatives of Africans in parliament, the authorities sought means to reward incumbents facing challenges from more radical contestants.<sup>67</sup> Finally, then, in May 1942, Smit's minister, Reitz, convinced his colleague, Justice Minister Steyn, to issue an order specifically instructing the police not to demand passes from Africans in several of South Africa's major urban centres 'except in circumstances where there are reasonable grounds for believing that the Native concerned has committed or is about to commit some other offence [than that of being abroad without a pass] of sufficient gravity to justify such action'. Night-time curfew regulations remained in force, but here too 'discretion' was urged.<sup>68</sup>

#### IV

Had the police welcomed the ministerial order as a recognition that their diminished strength left them unable to enforce the law, would their actions and rhetoric have indicated that the suspension hindered rather than helped them? Within months, for example, Witwatersrand police, citing a 'crime wave', were testing the limits of the order in 'send[ing] out Sunday afternoon patrols to round up loafers, drunks etc.', apparently using the pass laws to make the arrests, and having to answer to the complaints of vigilant leftist and liberal critics for doing so.<sup>69</sup> Elsewhere, too, SAP chiefs objected that 'the limitation placed upon the Police' left them 'almost powerless to deal with idle and destitute Natives' to whom they attributed increases in serious crime, thereby demonstrating precisely why informal requests that they enforce the pass laws tactfully had failed. '[U]nless the Ministerial Order... is cancelled', Natal's deputy commissioner Meston wrote in early 1943, referring to Durban, where fear of invasion had led to a black-out being imposed from mid-1942, 'our hands will be hopelessly tied in fighting crime'. Although acknowledging that Pietermaritzburg, the inland provincial capital, had experienced

<sup>67</sup> Basner, *Am I?*, pp. 122-3; P. Walshe, *The rise of African nationalism in South Africa* (London, 1970), p. 312.

<sup>68</sup> L. Durham, for secretary for justice (SJ), to compol, 5 May 1942, CAD, SAP 15/27/28; P. van der Byl, *Top hat to velskoen* (Cape Town, 1973), pp. 229-30.

<sup>69</sup> SNA to compol, 2 Jan. 1943, encl. H.M. Basner to SNA, 23 Dec. 1942; decompol, Witwatersrand, to compol, 15 Jan. 1943; CAD, SAP 15/27/28. Crime on the Witwatersrand and in Pretoria was the focus of a contemporaneous inter-departmental committee, chaired by Johannesburg Chief Magistrate S. H. Elliott, but this did not, as Davenport, 'South Africa's Janus', p. 198, suggests, lead rapidly to the wholesale withdrawal of the suspension order.

'no appreciable increase in crime' following the order, Meston complained that Africans did

not look upon the non-enforcement of the Regulations as a privilege but as a victory scored over the authorities and in most instances their manner is definitely one of defiance... Many [white] homes in Pietermaritzburg are, owing to the war, without their menfolk and naturally having Natives roaming around all hours of the night results in the women developing a justified sense of insecurity and fear.<sup>70</sup>

In a report to Smit, however, Natal's CNC qualified Meston's analysis, concluding 'that the re-imposition of the Pass Laws' would be a 'retrograde step', neither 'justifiable or politic'.<sup>71</sup> With the measures it had taken to extend its knowledge of Africans' conditions, and given its enhanced authority within the state, Smit's NAD was now much better placed than it had been in 1939 to prevail over the SAP. Acting commissioner Baston thus had to inform his deputy that the minister of justice had decided to maintain the suspension order in Natal's two main cities but would review the evidence after a further 'month or two'.<sup>72</sup> Baston claimed that he himself was 'generally reluctant to return to the old system of pass hunting', but saw no alternative to at least a selective 'retightening [of] the pass laws' (to which the minister assented) to improve state control over a burgeoning informal settlement area like Durban's Cato Manor, which he regarded as 'a natural hiding place for natives wanted by Police'.<sup>73</sup> Over many decades, the pass laws had become a core instrument of white supremacy to whose absence urban police forces could not adjust.

Reflection within the state on the experiment of relaxing the pass laws focused in January 1944 when Donald Molteno, one of the three MPs representing Africans, gave notice of a motion calling on the government to consider repealing the pass laws in their entirety on the grounds that they were undemocratic, unjust, 'inconsistent with... healthy economic development', and caused 'interracial friction'.<sup>74</sup> Molteno had not merely taken it upon himself to speak *for* Africans; his motion drew on resolutions passed at both the recent NRC session and ANC conference, and illustrates how African protest and white liberal advocacy flowed in the same channel. In response, police divisions were asked to report on trends in crime after May 1942 in areas subject to the ministerial order. Chief Inspector Baillie, for the Witwatersrand, argued that prior to the relaxation the pass laws had contained 'lawless elements' within

<sup>70</sup> Meston to compol, 5 Feb. 1943, CAD, SAP 15/27/28.

<sup>71</sup> Smit to compol, 6 May 1943, encl. acting CNC, Pietermaritzburg, to SNA, 28 Apr. 1943, CAD, SAP 15/27/28.

<sup>72</sup> Baston to depcom, Pietermaritzburg, 19 May 1943, CAD, SAP 15/27/28.

<sup>73</sup> Baston to SJ, 12 Aug. 1943; L. Durham, for SJ, to compol, 25 Aug. 1943, CAD, SAP 15/27/28.

<sup>74</sup> Smit to Baston, 25 Jan. 1944, CAD, SAP 15/27/28.

segregated 'Native townships, locations, mine and industrial compounds etc.', but subsequently these 'elements' had

found their way without hindrance into the European residential areas. They roamed the streets under the very eyes of the Police who were no longer able to control their movements and whose presence was no longer respected by those bent on crime. They were able to extend their margin of safety to the very doorstep of Police Stations. This naturally afforded such Natives an opportunity of studying police movements etc., thus enabling them to strike at any weak points.

Because being in or seeking paid employment was the only legitimate reason, from whites' perspective, for Africans to be in towns, passes were issued or endorsed by officials and employers, and Baillie unsurprisingly held 'passless Natives' to be 'as a rule of the criminal type'. This was a reassertion of the notorious Stallard doctrine – which informed pre-war urban legislation and was named after the chairman of the 1920 commission whose report articulated it – that towns, being 'essentially the white man's creation', should only be accessible to Africans 'willing . . . to minister to the needs of the white man' and who would 'depart . . . when [they] cease[d] so to minister'.<sup>75</sup> Arrests effected under different laws showed, Baillie wrote, that '[t]he Natives concerned, with very few exceptions, were unemployed and could be regarded as "won't works" and had no pass or document of identity and a very large percentage bore criminal records'. For Baillie, the ministerial order, coming on top of the reductions in the SAP's strength, had 'aggravated the already serious position which was being experienced at the hands of the Native criminal'.<sup>76</sup>

The Free State's deputy commissioner, P. G. de Wit, reported that in Bloemfontein the relaxation had caused a fall in the number of Africans arrested from 14,611 in the period May 1940 to December 1941, to 10,369 in the period May 1942 to December 1943 – a reduction of nearly 30 per cent that reflects the significance of the pass laws' contribution to the ubiquity of the police in Africans' lives. In Bloemfontein, as elsewhere, whites and the police discerned a corresponding increase in 'rowdiness' and 'trespassing', and the adoption of 'a defiant attitude' by Africans after May 1942. De Wit too thought repeal 'impracticable, and that some measure of restriction to control the natives [was] imperative to avoid chaos' and 'for the welfare of both races'.<sup>77</sup> As the under-SNA concluded in a minute to Smit summarizing these and similar reports from other police divisions, and following a discussion of them with police headquarters: 'From a Police point of view identification of Natives is vitally important as also control of the ingress of Natives to urban centres and their environs. If, therefore, the present pass system is to be abolished an effective alternative scheme should replace it. I agree with this view.'<sup>78</sup>

<sup>75</sup> Hindson, *Pass controls*, p. 37.

<sup>76</sup> Baillie to compol, 31 Jan. 1944, CAD, SAP 15/27/28.

<sup>77</sup> P. G. de Wit to compol, 4 Feb. 1944, CAD, SAP 15/27/28.

<sup>78</sup> Mears to SNA, 10 Feb. 1944, CAD, SAP 15/27/28.

In these and Meston's earlier reports may be discerned a sense of outrage at the loss of respect the divisional chiefs perceived in Africans for the police, the state, and whites more broadly. The reports reveal a psychology of white supremacy offended by Africans' apparent ingratitude in abusing a reform that administrators conceived of as a 'privilege'; within the top-down framework of 'trusteeship', Africans were not meant to take their destinies into their own hands, or act as if they had *won* concessions or 'a victory scored over the authorities', but should have responded in ways that gave fitting prominence to whites' magnanimity and disinterestedness. The defiance these officers identified may have been symptomatic of the militancy Africans were showing in many other spheres—in workplaces, informal settlements, and public transport boycotts, and in the 'claims' to 'full citizen rights', and 'demands' for the removal of all 'discriminatory legislation' (including the pass laws), that the ANC had adopted at its recent December 1943 conference<sup>79</sup>—but to them it afforded a glimpse of the loss of white personal, collective, and institutional authority that a permanent abolition of the pass laws would cause. In communicating the belief that they were under siege—observed by black 'lawless elements' at their 'very doorstep[s]—the police were not merely responding to but leading white public opinion, and they had clearly succeeded in transferring some of their anxiety to Smit's deputy, thus presaging a firmer response in the House of Assembly to Molteno's motion by Piet van der Byl, who had replaced Reitz as minister of native affairs in early 1943.

Molteno's call for the pass laws' repeal received a few hours of parliamentary time on 14 March 1944 in an adjourned debate that never came to a vote but in which Van der Byl signalled that he would support neither the motion nor the amendment of the opposition National party (NP). Moving his motion, Molteno cited a speech in which Reitz two years earlier had "found that nothing [was] so conducive to irritation, to bad feeling, to hatred, to disturbance of race relations between black and white, than the Pass Laws where they [were] administered". The pass laws, Reitz had said, were causing whites to "contract a slave state mentality", leading Africans in turn "to contract a permanent hatred and dislike for the Europeans" that would make for "a sorry country" in future. For Molteno, the May 1942 order was a 'relaxation of [the pass laws] administration' only that did not touch disabilities 'quite out of tune with modern conceptions' that Africans experienced in needing permission 'in [their] own country' to seek and hold employment, travel about, or reside where they wanted.

<sup>79</sup> *Africans' claims in South Africa*, reprinted in T. Karis and G. M. Carter, eds., *From protest to challenge: a documentary history of African politics in South Africa, 1882–1964, II: Hope and challenge, 1935–1962* (Stanford, CA, 1973), pp. 209–33.

For the NP, by contrast, it was 'extraordinary that the hands of the police should be tied', leading to 'a chaotic state of affairs' in which '[n]o white man in Pretoria or Johannesburg dare[d] leave his house alone for an hour or two without the place being broken into'. Excoriating 'the increasing signs of detribalisation, influx into the larger cities and large-scale vagrancy prevailing amongst the native population', the NP demanded: 'effective control over the movements of natives', underpinned by the issuing of identification cards and the creation of a 'population register' that would 'once and for all definitely establish the dividing line between white and non-white in South Africa'; 'a system for licensing and rationing labour' fairly among the different economic sectors; and 'the proper protection of life and property against large-scale housebreaking and theft especially in cities'.

Responding to the debate, Van der Byl sought to steer between Molteno's position and the NP's. He accepted that the pass laws were 'irksome' to Africans, but complained that reformist rhetoric implied they 'were solely brought into operation with a view to repressing and forcing down the native and keeping him under control in an unfair way'. In stating that 'it [was] time' this implication was disputed, he acknowledged the influence of reformist opinion in shaping more recent public debate and policy. Against the reformers, the minister advanced three arguments. First, he revived the old NAD paternalist justification that the pass laws protected, and ensured official 'guidance' was available to, 'unsophisticated' Africans confronting 'the complicated machinery of [urban] civilisation' and potentially 'unscrupulous employers'. Second, like the police, he cited the Stallard principle that there was

no place in the town for the man who does not wish to work and who does not wish to pay his way. There is no place for the man who wants to come into town and live by his wits, and in view of the difficulties of identification in regard to the average native, some documentary proof must be carried by him to show his standing in the community in order to protect the native who is doing a steady job of work and in order to protect the local authority which has to foot the bill. I feel that, however undesirable it may be from the ethical point of view, it is necessary to have these pass laws as conditions are at present.

Finally, Van der Byl said, while the 1942 'concession' had attempted to address 'the apparent oppressiveness of the pass laws', it had 'not led to the unqualified success we had hoped for'. Africans had been given 'a chance to prove their goodwill and appreciation of this concession which would have strengthened my hand to have made further concessions', but the 'very substantial increase in serious crime' and evidence of tax evasion 'show[ed] that . . . undue advantages [had] been taken of this relaxation'. The minister ended by warning that the future of the 'relaxation' was in the balance; he did not 'wish to withdraw it', but there was 'a strong movement on foot for the strict re-application of the various



control provisions of the law'. Although his language was more moderate, it echoed police management's in blaming Africans for their failure to respect white supremacy when not physically compelled to do so, and implied that the experiment would not endure.<sup>80</sup> Certainly, this is how the ANC saw the debate, for it subsequently joined the Communist party in a campaign that aimed to gather a million signatures for a petition to parliament to abolish the pass laws.<sup>81</sup>

Yet, the suspension continued for another two years with the police arguing that the pass laws' 'abolition [was] impossible unless it [was] substituted by another method of registration whereby proper control over the Natives [could] be exercised'; that they 'fail[ed] to see what punishment other than imprisonment [could] be imposed upon a native who [was] out of work'; and that the pre-May 1942 enforcement procedure be resuscitated.<sup>82</sup> On 21 January 1946, the post-war police commissioner, Robert Palmer, met the ministers of native affairs and justice together with Smit (by then no longer SNA) and the secretary for justice in Cape Town to discuss the issue. Palmer was asked to supply statistics on the 'volume of crime in ... larger centres' during 1943 to 1945, including increases in the size of the urban African population and 'figures in regard to serious crime and crime committed by Natives'.<sup>83</sup> On 24 January 1946, a police deputy commissioners' conference met in the presence of the SNA and concluded that the May 1942 restriction be withdrawn, subject to Van der Byl's approval, but that 'the Police should exercise their authority in this regard very sparingly, that there should be no wholesale raids and that the provisions of the respective Pass Laws should be employed only as a last resource in special cases'.<sup>84</sup> Van der Byl finally did agree on 6 March 1946, provided 'that the Police should exercise their powers very sparingly', and added that 'no public statement should be made on this matter'.<sup>85</sup> The latter stipulation may have been to prevent the credit for the lifting of the ministerial order being claimed by the NP, which since the debate on Molteno's motion had accused Smuts's ministers of having 'enfeebled the police' by refusing to allow them to enforce the law, causing their 'failure to deal adequately with native criminals'.<sup>86</sup> Equally, however, the government did not want openly to break with reformist opinion; as late as November 1947, replying to a petition by some 6,500 British students protesting against South Africa's 'policies of racial injustice and discrimination', it insisted that it

<sup>80</sup> *House of Assembly Debates (HAD)*, 1944, cols. 3,068–111.

<sup>81</sup> Walshe, *Rise*, p. 313.

<sup>82</sup> Depcom, Transvaal division, to compol, 13 Apr. and 16 May 1945; compol to SJ, 27 Dec. 1945; CAD, SAP 15/27/28.

<sup>83</sup> Palmer to Long, 22 Jan. 1946, CAD, SAP 15/27/28.

<sup>84</sup> Palmer to SJ, 29 Jan. 1946, CAD, SAP 15/27/28.

<sup>85</sup> SJ to compol, 14 Mar. 1946, CAD, SAP 15/27/28.

<sup>86</sup> *HAD*, 1944, cols. 9,175–6; cutting from *Transvaal*, 11 Feb. 1946, CAD, SAP 15/27/28.

remained its 'steadfast endeavour... to relax the Pass Laws wherever possible'.<sup>87</sup>

## V

This history of the relaxation of pass laws enforcement shows how extensive were the obstacles within the state itself to the top-down reform proposals and initiatives of the 1940s. Formal high-level measures, backed by the commitment and vigilance of reformers beyond the state bureaucracy, were needed to ensure that established policing practices of white supremacy did not either inadvertently or deliberately undermine the government's more urgent priorities in the early 1940s. And yet, in this case, the concession – made initially in response to overriding concerns about Africans' disaffection, and with the support of influential white liberals informed by organized black opinion – outlasted by at least two years the critical wartime necessity that had attended its introduction.

Why was the suspension continued well after the immediate danger of early 1942 had passed? A diminished policing capability is not the answer because the police themselves said the suspension only aggravated their difficulties. While the issue of African loyalty had made it 'politic' to relax the pass laws, the principal determinant of the decision to maintain the relaxation was the momentum of reformist opinion and organization, which pushed steadily if ultimately unsuccessfully against the gathering resources of reaction: the mid-1940s shift in the focus of white politics from the war question to that of how to renovate white supremacy; the gradual recovery of the SAP's credibility institutionally within the state, and also among the white public, which whether for or against the war had had cause to question the police's probity; and the government's own ambivalence about reform, especially in the face of NP propaganda. Possibly, too, as post-war non-mining industrial expansion proceeded, providing jobs for demobilizing whites, the correspondingly greater demand for urban African labour factored in official calculations in maintaining the suspension, although no direct evidence substantiates this point. Indeed, as long as workforce entrants thus 'minister[ed] to the needs of the white man', their increase was not incompatible with urban pass law enforcement.

That the opposition from the later war period criticized the government for tying the police's hands signalled how the Nationalists hoped to redraw the rhetorical battle lines of post-war white politics on their own terms of apartheid *baasskap*. In this, they were vindicated, for Smuts's government, however coyly it ended the suspension of pass laws enforcement in March 1946, found itself engaging in highly visible and internationally embarrassing domestic

<sup>87</sup> South Africa House, *South African government's policy for non-Europeans: reply to petition submitted to his majesty the king* (London, 1947), pp. 3, 19.

repression – including restricting Indians' rights to purchase land, violently subduing a landmark strike by black mineworkers in August 1946, and charging much of the Communist party's national leadership with sedition in November 1946 – while simultaneously seeking to maintain reformist support.<sup>88</sup>

Smuts's reactionary measures lastingly alienated mainstream African politicians from constructive participation in the NRC, and increasingly too from the white liberals with whom they had worked in the earlier 1940s. But Smuts himself was not altogether done with reform. On 16 August 1946, the last day of the mineworkers' strike, the government announced the appointment of a native laws commission, chaired by Henry Fagan, a supreme court judge and former minister of native affairs, to consider urban African policy, the operation of the pass laws, and the migrant labour system.<sup>89</sup> A judicial commission along such lines had been proposed by a supporter of Molteno's motion in the 1944 parliamentary debate, so this was not an insignificant gesture.<sup>90</sup> Here, the labour needs of secondary industry *were* explicitly considered.<sup>91</sup> Although Smuts wrote that he hoped the commission would 'not unduly delay their inquiry and report, as they bear closely on the very essence of our Native troubles', which were 'getting [South Africans] into ill odour' at the United Nations,<sup>92</sup> he also sought through its appointment both to defer the demands of reformers who continued to support him, including some of the more talented members of his cabinet, and to prevent the NP from further making 'native policy' an issue with which to assail him domestically. Smuts succeeded in stringing along his white liberal followers, for whom he was much the better of two evils, but, as the outcome of the 1948 contest revealed, he failed to neutralize 'native policy' as an electoral issue.

As to the pass laws, the political limits of reform from above were inherent in the idea of 'trusteeship', which even in its sincerest guise took white supremacy for granted. Smuts, Reitz, Smit (who entered parliament in 1948 as a member of Smuts's party), and even the instinctively reactionary Van der Byl had all expressed the desire, beyond the immediate necessity of wartime emergency, for a white supremacy that Africans might acknowledge without being compelled to do so and that would be as a consequence all the more secure. In holding to this improbable course they tacked towards Molteno's uncompromising liberalism but ended on the restorationist rocks of the SAP and the NP.

<sup>88</sup> J. Barber, *South Africa's foreign policy, 1945–1970* (London, 1973), pp. 30–3; H.J. and R.E. Simons, *Class and colour in South Africa, 1850–1950* (Harmondsworth, 1969), pp. 575–7, 583–8; M. Scott, *A time to speak* (New York, NY, 1958), p. 116.

<sup>89</sup> Van der Poel, ed., *Selections*, vii, p. 88 n. 3.

<sup>90</sup> *HAD*, 1944, col. 3,088.

<sup>91</sup> A. Ashforth, *The politics of official discourse in twentieth-century South Africa* (Oxford, 1990), pp. 123–4.

<sup>92</sup> Smuts to J. H. Hofmeyr, 23 Sept. 1946, in Van der Poel, ed., *Selections*, vii, p. 88.