

DRASTIC CHANGE IS INEVITABLE

THE LAND issue lies at the very root of some of the most fundamental, important and controversial aspects in the creation and shaping of the new South Africa.

Before the advent of Union in 1910 almost 10 million morgen of land was set aside for black occupation. The Natives Land Act passed in 1913 was essentially the first segregation Act of the new state, inasmuch as, on the basis of and including the pre-Union areas, it set aside roughly 10m morgen — the so-called scheduled black areas — and ordained that within these areas no non-black, and outside these areas no blacks, would be able to acquire any rights to land.

When the Act was passed in 1913 there was general acceptance that the land set aside was hopelessly inadequate, and the Act itself provided for the appointment of a commission, later to be known as the Beaumont Commission, to recommend to Parliament what further provision should be made. Parliament, however, did not display any desire to implement the recommendations — not until 1936 when the Native Trust and Land Act provided for the eventual addition of a further 7m morgen, in the form of so-called released areas.

Since 1936 successive governments have bought up land from white farmers to fill this “quota”; huge sums of money have been expended. The process was complicated by the Government policy of removing so-called black spots (land owned/occupied by blacks but falling outside the scheduled and released areas), and the forceful removal of these blacks.

The setting aside of these rural areas was intended originally purely for black (tribal) occupation. It was a tragedy that it was accompanied by legal restrictions on the acquisition by blacks of land outside these areas, so introducing compulsory separation and racial discrimination.

It was an even greater tragedy when this separation was used to justify and implement a policy based on the premise that the black areas were the exclusive

political home of the blacks and the areas outside these black areas the exclusive political home of the whites.

This was the fundamental approach in the Verwoerdian policy of “separate political development” which eventually led to the creation of the six autonomous self-governing states and the four “independent TBVC countries.

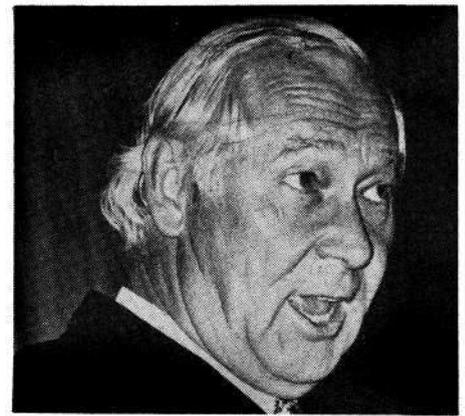
The express intention of policy was that eventually all these black areas would become independent, that blacks (wherever they were living) would only have the right to exercise their political rights in these areas, that eventually there would be no more blacks who would qualify as South African citizens, and that blacks (and black institutions such as universities, colleges, schools etc.) should be relocated in these areas.

THE POLICY was a dismal failure. It did tremendous harm. Not only did it serve as an excuse for decades, not to deal with the real issue of black political participation, but it created immeasurable hardship, injustice and bitterness. Many were forcibly removed from land they and their forbears had occupied, and in some cases owned, for many years.

The removals took place in an attempt to clear the white areas of “badly situated” “black spots”. In the process of consolidation of the “homelands” four such “independent” states (the so-called TBVC countries), and six other areas (formerly called “national states”, now the “self-governing territories”) with a large degree of internal political autonomy came about.

In some cases the land to which the blacks were moved provided better agricultural opportunities. Research will have to be done to determine to what extent tribes moved voluntarily to these areas and to what extent they were compelled to move.

The Land Act of 1913 also made the leasing by blacks of land outside the black areas unlawful. This was followed in the 1936 Act by stringent provisions regarding “squatters” and “labour tenants”. The result was that many lost



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vice-chairman of the Advisory Commission on Land Allocation, believes that finding a fair means of adjusting ownership – urban and rural – is critical in creating the new society.

rights they had enjoyed from time immemorial on white-held farms, e.g. as labour tenants or share-croppers. Many were forced to accept the status of ordinary farm workers or to leave the land and find employment and residence elsewhere.

This process was aggravated by changes in agricultural practices whereby land use became far more intensive and by increasing mechanisation, neither government nor the owners of these farms acknowledged that the black labour tenants and “squatters” had vested interests in the land on which they were living.

In creating independent states, the incorporation of areas often served as “inducements” to make independence more acceptable to black leaders. In the case of Transkei, for example, land which traditionally was part of Ciskei was transferred to Transkei. Other compensatory land was promised to Ciskei.

Many black urban communities were removed from the areas where they had been living — sometimes for a very long time — either because the area was regarded as a “slum”; or because they held the land under ownership-title in conflict with official policy; or because the land was required for “white” residential or other developmental purposes; or because residence of blacks in a particular area was “undesirable”.

In terms of the Group Areas Act, too, large numbers of individuals or families



‘ LAND APPORTIONMENT IS GROSSLY UNFAIR AND UNACCEPTABLE ’

were compelled to sell their properties and to move to proclaimed group areas.

Many white land-owners in the rural areas were compelled to sell their land, very often by way of the threat of expropriation, to enable the Government to implement the provisions of the Act of 1936.

As a result of these policies land apportionment is grossly unfair and unacceptable. Drastic change in approach has become inevitable.

This change will be effected by the passing of the Abolition of Racially Based Land Measures Act in 1991, in accordance with the Government's commitment to remove all discriminatory legislation from the statute books. The Act provided for the repeal of the Act of 1913, the Act of 1936 and the Group Areas Act. A White Paper on land reform was issued at the time, setting out the Government's views on a new land policy.

During discussion of the Bill by the relevant Standing Committees of Parliament, it became evident that more than merely the repeal of the various land acts would be necessary if imbalance and injustices were to be removed. The result was the introduction of special provisions for the appointment of an Advisory Commission on Land Allocation.

The Commission undoubtedly faces a task of immense proportions and complexity.

One of the first questions which comes to mind, is whether there should be some "compensation" for those black communities which were forcibly deprived of the land they had traditionally occupied.

In respect of those areas still owned by the Development Trust there should not be insurmountable problems about returning these to the communities which originally occupied them, assuming that such communities could still be traced. It is, however, clear that merely returning the land without providing adequate financial and other assistance to enable those returning to use the land productively, would be totally unsatisfactory and self-defeating.

A major problem confronts us, however, in respect of land previously owned/occupied by blacks, taken over by the Trust and then sold to whites. These whites hold title to the land and acted completely *bona fide* in purchasing

it. Quite obviously there is no sense in compounding the injustice by depriving them of the land without proper consultation and compensation.

Of similar practical and political significance is the whole question of opening up agricultural land generally to blacks to ensure a more equitable distribution of land, and a greater role for black farmers in the field of agricultural production.

There is no doubt that the legislation enforcing land segregation, inasmuch as it has prevented blacks from acquiring and using land, has created an unbalanced situation which has to be rectified in one way or another.

What special steps should be taken to assist black farmers in developing agricultural skills and expertise, and in the production and marketing of their pro-

‘ THE COMMISSION UNDOUBTEDLY FACES A TASK OF IMMENSE PROPORTIONS AND COMPLEXITY ’

duce? Will providing financial, technical and administrative assistance, as is the case at present with white farmers, be sufficient to meet the needs and create a full-time black farming class?

Equally important is the need for providing land for urban and peri-urban development, especially for the hundreds of thousands of squatters who will come to settle in these areas in the coming decades.

Unfortunately, because of the policy which refused to accept or even to contemplate the permanence of the urban black population, such a back-log has arisen that the authorities are faced with a problem of enormous proportions, aggravated by the understandable negative reaction of many existing communities to having squatters accommodated in their immediate vicinity.

Last, but not least, there is the vexed question whether, to what extent and in what way, the communal land tenure system operative in many areas should be maintained. Who in fact should be the "owner" (the titledeed-holder?) of such land? The community? The chief? The community authority?

And what would the rights be that

such "owner" would exercise, and what would the rights be of the individual community members actually occupying and/or using the land? Under what circumstances could or should the communal system be replaced by a more individualised system of land tenure or ownership? And how will this affect the social fabric of the community?

In terms of the Abolition of Racially Based Land Measures Act, the State President has appointed a Commission of 7 persons, under the chairmanship of Justice T.H. van Reenen. The other members are: the author of this article; Dr R.E. van der Ross (former rector of the University of the Western Cape); Prof Harriet Ngubane (anthropology dept., Cape Town University); Bishop T.W. Ntongana; Mr N.J. Kotze (former president SA Agricultural Union); and Dr D. Krogh (adviser to the governor of the Reserve Bank).

The Commission must tender its advice, and make its recommendations, to the State President not later than 1 March every year. The report will be

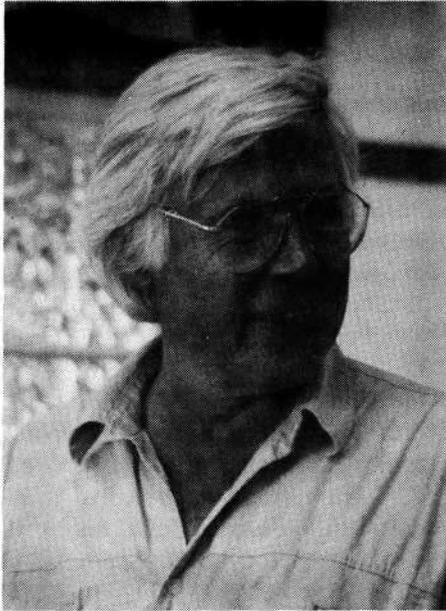
tabled in Parliament.

MY PERSONAL interpretation of the main functions of the Commission is that it has to identify land which was expropriated or from which people were removed with a view to restoring the land to them or assisting them to return to their original land — but only if such land has not (subsequently) been "developed or allocated for a specific purpose". It will depend upon the facts of a case whether the land in question has been "developed" or "allocated for a specific purpose". One would be inclined to say that land which, for example, was acquired from blacks by the SA Development Trust and subsequently sold to white farmers would fall outside the scope of the commission's activities. Land so acquired and which is still in the possession of the Trust would fall inside the category of land to be investigated by the Commission.

The Commission will also have to identify rural land with a view to its acquisition for agricultural settlement.

This obviously opens the door for the creation of a black farming class (outside





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the self-governing states). This may be said to make possible the creation of a new system of land ownership and usage. This function might, in the long run, be far more important in bringing about a new land dispensation in South Africa.

The Commission will have to consider the planning and development of land, whether for residential or agricultural purposes.

The Commission has invited people who feel that they have a claim in respect of land from which they have been removed, or have a contribution to make in resolving the problem, to get in touch with it. They will find the Commission very receptive and very open.

The extent to which it will be able to make a meaningful contribution in respect of one of the most difficult and most important issues in our public life will very largely depend upon their constructive involvement and participation. ●

‘ *If this is what the new South Africa is going to be like, then we are going to win. We are going to be roaringly successful.* ’

Room for optimism

WESTGATE, Ridge Park, The Grange. These most southerly Pietermaritzburg suburbs tumble down a long and verdant decline to the west of the Richmond Road. They are, to look at, nothing out of the ordinary: quite modest, in fact. Yet they house a community which appears to have stepped into the vanguard of multiracial local government in South Africa.

The first of these southern suburbs, The Grange, was built in the early 1970s to provide economic rented accommodation for low-income white families. Westgate followed in the late 1970s and Ridge Park (a low-cost private development) several years later. In the early 1980s, when the State's policy shifted from housing provision to ownership and self-help, most of the properties passed into private hands.

At least two years before the repeal of the Group Areas Act black families, under nominees and closed corporations, were taking advantage of reasonable prices and moving in. After the repeal, the trickle became a substantial flow, although many white owners had not the means (or the inclination) to move out.

Was this a recipe for plunging prices and racial tension? On the contrary, prices have held steady, and the integration process has given rise to the Southgate Area Charter.

In a nutshell, the Charter — described recently as a “mixture between a body corporate in a townhouse complex and a neighbourhood watch” — will draw the home-owning community together through common goals such as security, beautification, public amenities, and codes of conduct — all designed to enhance the quality of life, reduce tension, and of course to protect the value of property.

At a public meeting held in The Grange school hall late in January, an enthusiastic senior municipal official told the audience of 500: “This should be the model for the city; in fact, it should be the model for the whole country.”

TO UNDERSTAND more fully the implications of the Charter, and how it works, it is worth starting at the beginning.

Enter Albert Nash, a Pietermaritzburg real estate expert who has served on the national executive of the Institute of Estate Agents of South Africa, as well as heading the local branch. In the late 1980s Nash turned his thoughts to the implications for the property market of the repeal of Group Areas. It did not take him long to realise that the black demand for white housing would be considerable, not least because families who could afford to do so (and there were plenty of these) would be only too willing to move closer to their places of work, and to improved public amenities, and at the same time as far as possible from the many black areas around the Natal capital plagued by the province's endemic political violence. He foresaw, too, that it would be the white lower-income groups who would be at the interface of this rapid suburban integration.

“For 40 years, the Nationalist Government had been taking the country down a highly regulated, separatist road,” Nash says. “Then, all of a sudden, they changed direction. They took away the old regulations, and left a void. People felt unprotected, vulnerable, wary. That was when I began to think of some form of neighbourhood charter.”

The essence of the Charter, some elements of which Nash picked up on visits to America, is succinctly expressed when he asserts: “If you can get people to arrive at a common goal, the cultural and political aspirations become secondary.” Almost inevitably, then, the Charter concept is based on goal-oriented management techniques where KRAs (key result areas) are identified and strategies for achieving the desired results are developed. Some of the overarching goals for a racially mixed suburb, Nash reasoned, would surely be in the

