

https://dspace.org/

Freedom in land and work: labour tenancy and the proclamation of chapter four in Lydenburg

Schirmer, S.

1990-02-06T06:09:01Z
http://hdl.handle.net/10539/8077

Downloaded from a DSpace repository. https://dspace.org/



UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG
HISTORY WORKSHOP

STRUCTURE AND EXPERIENCE IN THE MAKING OF APARTHEID

6 - 10 February 1990

AUTHOR: S. Schirmer

TITLE: FREEDOM IN LAND AND WORK : Labour Tenancy and the Proclamation of Chapter Four in Lydenburg

AFRICANA LIBRARY

HWS 378

INTRODUCTION

> Indeed, before 1939 the political leanings of the country's farming community tended towards the United Party's 'Fusion' government and away from the *Herenigde Nasionale Party* (HNP). However during the 1940s, as the overall farm labour shortage worsened and the government failed to remedy the problem, white farmers threw their weight increasingly behind the HNP."[1]

How did the Fusion government's attempts to meet the labour demands of the farmers fail? What was the nature of the relationship between the white farmers and the government departments that attempted to respond to their demands? This paper examines the relationship between the state and the farmers during the late 1930s. By examining this relationship some important insights will be established into the uneasy nature of this relationship at a specific conjuncture. The state's responses to the labour demands of the farmers in the 1930s were far from adequate. It is evident that state interference in the labour relationships of the South African countryside were largely ineffective. A conflict of interest between the bureaucratic concerns of certain government departments and the demands of the farmers was an important element of this process. Thus farmers in many areas of the South African countryside were becoming increasingly frustrated and disillusioned with the states ability to offer them effective assistance. This was occurring at the time when the Afrikaner nationalist movement that would take power in 1948, was being constructed.

An important moment in the attempt to forge an effective relationship between the farmers and the state, occurred in 1938 when the state attempted to implement Chapter Four of the 1936 Land Act in the district of Lydenburg. The labour tenants of Lydenburg responded to the terms of the chapter with united and determined resistance. This resistance must be seen as the crucial factor that undermined the chapters effectiveness and ultimately led to its withdrawal in 1939. The events of this failure took place primarily in the Lydenburg district. However, this regional interaction between farmers, the state and the African labourers they were trying to subdue, had significant consequences for the future nature of this relationship throughout South Africa. The failure of the proclamation in Lydenburg served as an example of the states inability to effectively interfere in rural labour relationships. This was a lesson for both farmers and the state. At the time, the example of the state's failure in Lydenburg caused farmers throughout South Africa to mistrust state interference and fall back on their own resources. The state on the other hand was made aware of the obstacles that stood in the way of effective

---

[1] Deborah Posel - "The Meaning of Apartheid before 1948: Conflicting Interests and Forces Within the Afrikaner Nationalist Alliance" JSAS Vol.14 No.1 pg 131

intervention in the countryside. Further action was discouraged in subsequent years by citing the example of the difficulties that had occurred in Lydenburg in 1938. Chapter Four was not implemented until 1956. At that time it was proclaimed throughout South Africa and enforced by the expanded coercive apparatus of the apartheid state.

The nineteenth century witnessed a number of instances of state implemented measures designed to regulate relationships in the farming areas of South Africa. Anti-squatting measures were implemented in the Cape in 1878. The independent Boer republic of the Orange Free State passed legislation designed to end squatting and regulate the distribution of labour tenants to a maximum of five per farmer. This legislation had little effect on the actual conditions existing in the countryside. In 1913, provisions were made in the Land Act to eliminate squatting and define the labour tenant relationship in terms of a 90 day minimum obligatory period of labour. However, many of the provisions of this act proved unenforceable as landowners found various methods of circumventing the anti-squatting provisions. "The formal prohibition of sharecropping in the act was in large part ineffective, and indeed it was not even implemented by the authorities - certainly not in 1913."[2] The 1913 legislation failed to directly regulate the position of labour tenants and it was left up to later legislators to deal with this persistent problem.

In 1932 the government passed the Native Service Contract Act. As Marian Lacey has shown, the act was principally designed to provide the farmers with effective means with which they could tie their labour tenants to the land.[3] These measures hoped to undermine the labour tenants ability to protest with their feet. Section 9 of this act dealt specifically with the elimination of squatting and the regulation of labour tenancy.[4] The section aimed to tax whites who condoned squatting on their land, out of business. The section also tried to define labour tenancy in terms of a six month obligatory labour period, which was double the period required by the 1913 Land Act. While these provisions seemed fairly impressive on paper, the catch in their application was that they could only be applied by proclamation.[5]

The government department responsible for the implementation of this section was the Department of Justice under Minister Oswald Pirow. Almost immediately, the Department of Justice started

---

2 Keegan - Rural Transformations in Industrialising South Africa pg 189

3 Marian Lacey - Working for Boroko pg 180

4 Government Act No. 24 of 1932. Section 9.2

5 Government Act No. 24 of 1932 section 9.1

experiencing difficulties in the implementation of the proclamation. The deputations that arrived at the Department of Justice's offices from various farm unions soon made it clear that the diverse agricultural conditions in the South African countryside would make the application of this section an extremely difficult task. In order to discover the feelings of the farming community of the Transvaal, committees were set up in all farming districts to determine the desirability of applying the section in each district.[6]

The reports of the committees, set up in 1932, revealed a great deal of diversity amongst the farmers. This diversity did not only manifest itself between districts but was often apparent within the various farming districts. The Department of Justice was faced with the problem of implementing a policy that was opposed by a large number of farmers in the Transvaal. Fortunately for the Department of Justice they were able to transfer this problem when the responsibility for the administration of the Native Service Contract Act was handed over to the Native Affairs Department (NAD) in 1934. For farmers who were anxious for the government to get involved in the regulation of labour relationships, the involvement of the NAD was not a good sign.

The NAD generally saw its task as the essential administrative machinery in the implementation of segregation in South Africa. Dubow has outlined how segregation became an extremely powerful ideology in the 1920s and 1930s with wide ranging support from the various segments of the white population of South Africa. "Segregation was an umbrella ideology with the capacity to include a wide range of different interests within its consensual orbit..."[7] The NAD committed itself firmly to the implementation of segregation as the ideal solution to South Africa's "racial problems". The paternalist thinking of many NAD officials was ideally suited to the acceptance of segregation. The ideal of letting Africans develop "along their own lines" in segregated reserves agreed with the NAD impulse to "protect" African societies from the corrupting influence of "western" ideas and lifestyles.[8]

The NAD's commitment to segregation meant that they were obliged to find land for any Africans forced off land due to legislation enacted by the Government. This land would have to be found outside the designated reserves. This was necessary to safeguard important administrative concerns in these areas. At the level of ideology, government action that created landlessness amongst Africans would be in direct violation of the ideals encapsulated in the segregation ideology. Africans would not be able to "develop along their own lines" if they had no access to land on which to develop.

---

6 Ibid.

7 Dubow - "Segregation and Native Administration in South Africa 1920 -1936" PhD Thesis 1986 pg 382

8 Dubow - Op. Cit.

For these reasons the NAD was strongly opposed to applying section 9 until additional land for African occupation could be found. The overcrowded reserves could not provide such land. Additions would have to be made if segregation was to become a reality in a South Africa where significant changes, designed to alleviate the labour difficulties of the farmers, were to be enacted. The government's response to these sets of problems was to be contained in the proposed Native Land and Trust Act.

The Native Land and Trust Act was designed to extend the reserves in order to make the realisation of segregation a more realistic prospect. The act intended to increase the scheduled reserve areas by defining further released areas in the vicinity of the reserves. This "released" land amounted to a maximum of 7.25 million morgan and could be bought by either individual Africans or the "Native Trust" that was to be set up on behalf of Africans. The "Native Trust" was charged with the responsibility of acquiring and developing the land within the African reserves.

This act was being formulated by the select committee at the time that the NAD received the responsibility for administering the provisions of the Native Service Contract Act. Realising that land for displaced squatters and labour tenants would only become available with the passing of the Native Land and Trust Act, the NAD decided to suspend the proclamations under section 9. Rather than stick with the provisions formulated by the Department of Justice the NAD also decided to formulate new legislation in conjunction with the Land and Trust Act. This legislation was designed as a response to the complaints made by farmers about the "unsatisfactory" labour conditions existing in the South African countryside. At the same time the new legislation intended to meet the administrative and ideological concerns of the NAD and to avoid some of the problems created for the NAD by the 1932 legislation. The result of these considerations was Chapter Four of the 1936 Native Land and Trust Act.

Chapter Four of the 1936 act essentially represents a compromise between the demands made by the farmers and the paternalist concerns of the NAD. Chapter Four was simultaneously more cautious and more thorough than section 9. Primarily the chapter reflected the NAD's concern with mitigating the effects of the land displacements that would conceivably result from this legislation. Like section 9, Chapter Four made its provisions subject to the condition of a proclamation. The provisions of Chapter Four would only apply in districts that had officially been proclaimed in terms of the chapter. In this way the NAD circumvented the problem of attempting to uniformly apply these provisions to the diverse South African conditions. This provision also meant that the NAD could avoid applying the chapter until it had satisfied itself that sufficient land for African resettlement was available in the district concerned. The provisions of Chapter Four exempted scheduled native reserves and released areas from being proclaimed,

a distinction which section 9 had neglected to make.

The method that would be used to abolish squatting added one important innovation to the methods that had been drawn up in 1932. Chapter Four continued the practice of demanding a five pound tax per adult male squatter, payable by the landowner. However, while this tax was immediately payable under section 9, Chapter Four introduced a ten year time scale during which the tax would gradually be increased until it reached five pounds. In this way, the NAD wanted to phase out squatting gradually, giving the department ample time to accommodate the displaced squatters. Predictably, the snails pace of this provision did not meet with the approval of the farmers.

Section 38 of the chapter clearly outlined the NAD's concern with displaced and landless Africans. The wording of this section committed the government to finding alternative accommodation for displaced labour tenants and squatters.[9] Thus, the concern to accommodate landless Africans ceased to be merely a moral duty held by the NAD. Instead, it became a legally binding duty on the government.

The provisions of the Chapter clearly reveal the NAD's concern to mitigate some of the harsher effects of the 1932 legislation. However, the chapter was not concerned to protect the labour tenant or the squatter in their positions on the white farm land. Certain elements of the legislation promoted the state's systematic and rational intervention in the rural areas. While section 9 had merely been concerned with the elimination of squatting and setting a six month minimum period for labour tenancy, Chapter Four, in dealing with these issues, also attempted to establish a more equal distribution of labour in the rural areas. This was to be achieved by the establishment of labour tenant control boards in the proclaimed districts. These boards were to consist of an official of the NAD and two local land owners who were "actually carrying on farming operations."[10] These boards were empowered to regulate the labour tenant distribution in their districts. This was to be achieved by ordering local farmers to reduce their number of labour tenants if it was deemed that a particular farmer was employing labour tenants in excess of his labour needs. If a farmer refused to comply with these instructions, he would be taxed for each of his excess labour tenants. As a guideline to these boards the chapter deemed the general requirements of farmers to consist of five labour tenant families if these labour tenants worked for six months a year.

By ending squatting and regulating labour tenancy it was hoped that a redistribution of the labour force in the rural areas would occur. This redistribution would make potentially productive

---

9 Government Act No. 18 of 1936 Section 38 pg 125 - 126

10 Government Act No. 18 of 1936 Section 28

labourers that had been wasting away as "unproductive squatters" and superfluous labour tenants, available to farmers. These provisions were not, however, merely an unselfish response to farmers demands. They were also intended to establish a more ordered rural world.

The provision of the chapter that set out to transform the multiplicity and haphazard nature of the agreements between farmers and labour tenants was section 27. This section required all labour tenants to be registered with the local Native Commissioner. In this way the NAD hoped to establish a labour tenant system that could be effectively regulated. All labour tenants had to offer four months of obligatory labour to the farmer in order to be registered as labour tenants. The NAD hoped that this provision would eventually establish a uniform period of labour required from tenants throughout the union.

The NAD attempted to implement these measures on a farming community that was extremely divided. Farming conditions in the 1930s where changing at a highly uneven rate. Some districts where developing rapidly while others carried on with age old methods and eked out a precarious existence. Within farming districts themselves, a discrepancy between wealthy, progressive farmers and less fortunate and more "traditional" farmers invariably existed. These "progressive" farmers where usually committed to advancing farming methods at all cost. "It was from within this grouping that was drawn the bulk of those committed to revolutionising agrarian relations and forces of production."[11] In their commitment to progress these farmers where often opposed by farmers with scarcer financial resources who were concerned that radical changes in the countryside would threaten their precarious position, especially in regard to labour relations.

There was, however, a common concern amongst farmers in the 1930s about the shortage of labour. The +/_ 10 years preceding 1938 were dominated by an anguish amongst farmers for their dwindling labour supply. The files of the Department of Agriculture are filled with requests from all over the Union for the state to help farmers with the securing of an adequate labour supply. Such requests often hoped to reverse state policies that were seen as restricting the supply of labour in the rural areas.[12] Probably the strongest complaint made by the farmers against the state was "the slack administration of the Pass Laws and of the Native Service Contract Act." To rectify this position the farmers called on the state to increase the control over Africans. This control should tie them to the land and undermine their ability to "desert with impunity."[13]

---

11 Bradford - A Taste of Freedom pg 31

12 LDB R2989 V1758 Resolution passed at a combined meeting representative of the farming, mining and manufacturing industries of the Barberton - Pilgrims Rest District. Held at Nelspruit on 29 March 1930

13 Ibid.

It was in response to these demands that the NAD formulated Chapter Four. However the determination to support state intervention was by no means a foregone conclusion in the rural areas. It is clear that some districts in the Transvaal were wary of such intervention in their labour relations. The district of Waterberg for example was of the opinion that "it is unlikely that any native would agree to work six months instead of three, the existing custom, without further payment. All young and able bodied Natives would leave and go to town."[14] Thus the farmers of the district of Waterberg were opposed to the application of state legislation that increased the period of obligatory labour required from labour tenants.
In the farming district of Lydenburg, the farmers were less cautious regarding the compliance of their labour tenants because a number of farmers in the district had already successfully increased the labour obligations made on their tenants. Some of the farmers in the Lydenburg district were thus concerned to establish legislative backing for a relationship that, de facto, already existed.

The labour tenant relationship was the dominant form of labour in the Lydenburg district.[15] This relationship was able to persist in the Lydenburg area because land was still relatively plentiful, despite the fact that many farmers were increasing the land under cultivation.[16] The practice of agriculture in the district had always consisted of numerous experiments with crops undertaken by the "progressive" farmers. According to Morrell, a significant section of these progressive farmers were represented in the Lydenburg North Farmers Association. "Many of its members came from the English settler community which had grown up after the discovery of gold in the area in 1872."[17] A typical member of this community was H. L. Hall. Hall's memoirs reveal the extent to which progressive farmers in Lydenburg were prepared to experiment with different crops in response to varying market conditions.[18] Hall's experiments with a variety of crops were facilitated by his use of irrigation schemes to water these crops. "At Krokodil Spruit I was busy growing crops and bringing water along to irrigate them. I thoroughly enjoyed the tussle of bringing water along where sometimes the irrigation engineer said it was not possible."[19] The practice of irrigation and the abundance of water in the Lydenburg district made it possible to grow wheat when the conditions became

---

14 NTS 61/362 V8636; Boskenhout Farmers Association; Minutes of a meeting held on 11 June 1932

15 NTS 97/362 V8837; Report of the Office of the Native Commissioner Lydenburg 1938

16 Evidence given to the NEC by E. DE Souza and H. Naethling; 18 August 1930

17 Morrell - "Competition and Cooperation in Middelburg" pg 395

18 H L Hall - I Have Reaped My Mealies pg 242

19 Ibid.

favourable for this crop.

The Lydenburg North Farmers Association came under the leadership of the "progressive" farmer E. De Souza. A number of Afrikaans speaking farmers also became members but the tradition of experimenting with crops and irrigating the fields continued in this area. Thus a number of farmers started wheat farming when conditions became amenable. Generally, this type of farming came about as part of a trend towards wheat farming in South Africa. This trend was established in response to improved markets. According to one survey "the production of wheat has greatly increased, largely as a result of the rise in the cost of importation due to the war of 1914-1918, and subsequent protection of the local industry."[20]

While the poor soils in Lydenburg made wheat farming difficult, the irrigation of the fields during winter allowed the farmers to get fairly high yields of wheat from their lands. Lydenburg is a middleveld district and therefore has a moderate temperature and receives a fairly steady rainfall. In times of drought, when the highveld receives no rain, the moisture rising up from the coastal areas still manages to reach the middleveld and produce rain. Thus, Lydenburg is well supplied with water and a number of reliable streams run in the area. This has made irrigation a viable possibility in Lydenburg for a long time.[21]

Because the farmers of Lydenburg were prone to experiment with a number of crops, the practice of growing crops in both winter and summer was already established amongst some "progressive" farmers. Because wheat did not encroach on the summer growing period, many farmers readily adopted the practice of "double cropping". Double cropping continues in the Lydenburg district today. Although, it has been found that it is more suitable to the conditions in the area to grow wheat in the winter and soya beans in the summer.

The establishment of double cropping on a number of farms greatly affected labour tenant conditions. Labour tenants were allowed access to land in summer, while in winter, on farms where the entire irrigable land was put under cultivation, the labour tenants were not able to farm.[22] Double cropping also meant that the labour demands of the farmers greatly increased. The establishment of this practice in Lydenburg meant that the labour demands of the farmers were no longer seasonal. Instead they extended throughout the year. For this reason, the ticket system and longer labour periods were

---

20 Van Der Horst - Native Labour in South Africa pg 279

21 Interview with M. Mason, September 1989

22 Evidence given by "native witnesses" to NEC; August 18 1930

instituted in Lydenburg.[23] Under the ticket system a six month labour period could easily be made to extend throughout the year. The ticket system was a variation of the normal labour tenant arrangement where the period of labour was served in consecutive days. Instead, under the ticket system the labour tenants were asked to work for the farmer whenever the farmer required their services. The obligatory labour days would then be marked off on a register until the period had been completed. This system often gave the labour tenant no continuous time in which he could tend his crops and he would have to rely on members of his family to tend the crops during the days that he was working.

The attitude to labour tenants displayed by Lydenburg farmers was one that generally saw this form of labour as a necessary evil. Some of the wealthier farmers foresaw the day when the profitability of their farms would bring about a situation where labour tenants would no longer be needed. "Maar vandag begin dinge so te verander dat dit meen dat ons die kaffer altyd by ons aan die werk moet hou.... Later sal dit vir ons betaal om die kaffer te huur liewer as hom op die plaas te laat woon."[24] However, most farmers in Lydenburg found some good reasons for maintaining the labour tenant relationship. One reason given by a wealthier farmer, was the unreliability of other forms of labour. Although this farmer claimed that he hired labour during periods of high demand, he complained about the fact that a farmer could never be sure of getting enough labour in this way. In contrast, labour tenants were permanently on the farmers land and were thus a much more stable form of labour. Another farmer expressed the same sentiment in different words: "As ek die versekering sou kan kry dat ek die kaffers altyd sou kan kry, dan sou ek liewer nie die woonkaffers aanhou."[25]

Wages paid to labour tenants was not a general phenomenon in the Lydenburg district. De Souza claimed that he paid his labourers if they worked in excess of the obligatory labour period. However the obligatory period remained unrewarded in cash and was deemed as a rent payment for the right to reside on the white farmer's land. Other farmers paid their labour tenant's taxes and thus mitigated the need for the labour tenant to find part time employment in order to earn a cash wage. The labour demands on the farms that extended through the whole year obviously rendered the tenants task of finding part time employment impossible. Despite these incidents of wages being handed out on some farms, it would seem that most Lydenburg farmers felt that they were unable to afford a cash wage or cash supplement for the work rendered by labour tenants.

---

23 De Souza to NEC op. cit.

24 Lydenburg farmers evidence to NEC op. cit. (Trans. Today, conditions are changing to such an extent that we have to keep the African working the whole time. Later it will be in our interest to hire the African rather than allowing him to live on the farm.)

25 Ibid & Evidence of M.J. Van Rensburg to NEC; 21 August 1930 (Trans. If I could get the assurance that I could always get the African, then I would rather not keep the labour tenant)

While most of the farmers establishing new labour relations in Lydenburg where the more successful farmers, a number of farmers existed who continued farming according to the established methods. The ninety day labour tenant contract whereby the labour tenant served his obligatory labour period in consecutive days still existed in the Lydenburg district. Some of the wealthier farmers maintained that the ninety day contract was only practiced by a minority of farmers.[26] However, the Native Commissioner of Lydenburg claimed that about fifty per cent of the labour tenants worked from January to December when called upon, while the rest worked on contract for three to four months per anum.[27] Thus, the old form of labour tenancy continued to exist fairly extensively in the Lydenburg area.

The farmers of Lydenburg requested the proclamation of Chapter Four in their district because they found themselves at a crucial stage of transition in the struggle to increase the exploitation of the labour tenants. Thus, they decided that the support of state legislation would represent a crucial turning point that would establish a more exploitative labour tenancy relationship on a uniform basis throughout the district. "It was hoped by the farmers that by means of the application of the chapter that labour would become plentiful and that there would be a more even distribution among all classes of farmers."[28] Farmers believed that the Chapter Four legislation would both solve their labour shortage and regulate labour conditions in their district.

Despite the economic divisions that existed between farmers in the Lydenburg district, they were united in their support for the provisions of Chapter Four. The unification of the farmers around this issue occurred for a variety of reasons. Different farmers had different reasons for supporting the legislation. Most farmers in the Lydenburg area suffered from a labour shortage and they all hoped that the abolition of squatting would force a number of Africans in the district into a labour relationship with the local farmers. Those farmers that had already established a six month or more relationship with their tenants, supported the legislation because they hoped that the backing of the state would re-enforce the exploitative demands that they had fairly recently instituted. A uniform application of the six month labour obligation would confirm this relationship as the only legitimate labour tenancy arrangement possible within the district. This uniformity would also limit the ability of the labour tenants to avoid the farms where year round labour demands were made.

Farmers who retained the old three month labour tenancy

---

26 Evidence given to the NEC 18 August 1930

27 NTS 97/362 V8837; Office of the Native Commissioner of Lydenburg, undated report

28 NTS 97/362 V8837; Office of the Native Commissioner of Lydenburg, undated report

arrangement, supported the proclamation of Chapter Four for two reasons. They saw in this legislation an effective method to increase their labour supply and the opportunity to implement labour tenancy conditions that could facilitate more profitable farming ventures. Thus, farmers that were economically less advantaged could have seen in the compulsory implementation of the six month labour period, a chance to catch up to the farming methods of the more "progressive" farmers. The farmers with less labour also saw in the labour tenant control boards an opportunity to acquire labour from farmers who had "too much" labour and thus, further narrow the gap between "progressive" and poorer farmers. It would seem that a number of farmers actually overestimated the capacity of the boards to create labour. A number of farmers where of the opinion that they could apply to the boards for labour if they were experiencing a shortage. They thus perceived the boards as a type of labour recruiting agency.[29] This was clearly not the function of the boards in terms of their description in Chapter Four. They were merely designed to prevent farmers from wasting or under-utilising labour tenants.

As part of the struggle between labour tenants and farmers, the request to proclaim Chapter Four in the Lydenburg district must be seen as a united action undertaken by the farmers of Lydenburg as a group. This united action was an attempt by the farmers to back up their interests with state legislation against the labour tenants attempts to avoid increasing exploitation. Lydenburg farmers were convinced that state intervention would be effective in aiding them in their struggle to establish an adequate and amenable labour supply. This confidence in state intervention existed despite the failure of previous state measures to have any direct influence on conditions existing in the South African countryside.

The farmers of Lydenburg saw the 1936 legislation as legitimating their demands for an unpaid six month period of labour. The provisions of Chapter Four actually did not stipulate that the period of labour should be unpaid. Many officials in the NAD actually hoped that farmers would be prepared to pay for the extra labour period that they were demanding.[30] Despite these intentions, the chapter did not specifically stipulate that the period of compulsory labour should be paid. In this way the wording of the chapter implicitly backed up the demands of the farmers. On the other hand there was no way that the provision demanding six months labour could be enforced by the government. Farmers could register their labour tenants at the Native Commissioner's office. The registration form would stipulate that they would require six months from their labour tenants. Then they could go back to their

---

29 NTS 97/362 V8837; Chief Native Commissioner Northern Areas - Notes on a visit to Sekukuniland and Lydenburg; 7 July 1938 "Farmers overestimated the scope of Chapter Four.... They believed that the Boards of Control could supply labour to farms with a shortage."

30 Ibid.

farms and ask their labour tenants to work for three months and no one would be the wiser. Nor was there anything in the chapter that could prevent a farmer from exceeding the six month minimum labour requirement. Thus, the registration demanded by Chapter Four was a largely symbolic act that reinforced the farmers ideas about what the imaginable parameters in the relationship between farmers and labour tenants were.

The farmers of Lydenburg assured the NAD that the proclamation of Chapter Four would not elicit any resistance from the labour tenants in the district.[31] The farmers probably assumed that labour tenants would not be able to resist measures that where backed by the combined authority of the white farmers and the South African Government. This assurance together with information that not many labour tenants or squatters would be displaced by the chapter in Lydenburg [32], prompted the NAD to risk applying the chapter in the Lydenburg district despite some serious reservations expressed in the department.[33] However, contrary to the farmer's assurance, the labour tenants proceeded to offer united opposition until the chapter was repealed.

Resistance to the proclamation of Chapter Four broke out amongst the labour tenants of the Lydenburg district as soon as the nature of the provisions contained in this proclamation became apparent. For the labour tenants, the provisions of this chapter where a fundamental attack on their attempts to safeguard the lifestyle that they wanted to lead. When a labour tenant of Lydenburg was asked to give his reasons for living on the farms as a labour tenant he replied, "it is the natural tendency on the part of the native to be free and independent, and to be free from restraint."[34] The existence of labour tenancy reflects the attempt by Africans to maintain an independent access to land and enough free time to devote to their own farming activities. Chapter Four was perceived by the labour tenants as a threat to that independence and freedom. In the opinion of a labour tenant of the district, people left the Lydenburg district rather than comply with the provisions of Chapter Four, because: "They want places where they are free."[35] The provision of Chapter Four that stipulated that all labour tenants had to be registered with the Native Commissioner was particularly perceived by the labour tenants as a direct attack on their

---

31 NTS 97/362 V8837 The Chief Native Commissioner Northern Areas to NAD; 1 July 1937

32 NTS 61/362 V8636; Summary of Committees Recommendations.

33 NTS 97/362 V8837; The Chief Native Commissioner, 6/10/37

34 Evidence given to the Native Economic Commission in Lydenburg; August 20 1930 pg 702 - 707

35 AD 843/RJ 101.27, Rheinallt Jones Papers; Letter from Samson Mnisi to Rheinallt Jones; 12/9/38

freedom.[36]

The threat of registration, as it was perceived by the labour tenants, was expressed in a number of "rumours" that circulated amongst the African population in Lydenburg. These rumours included contentions that registration would make the stock of the labour tenants the property of the white farmers. Further, registration would force them to work from sunrise to sunset and forever bind them to the farmer who paid the registration fee. Some rumours even went so far as to maintain that farmers where buying their labour tenants for the 6 d registration fee. Registration was thus seen as a way of turning labour tenancy into a system of slavery.[37] While these rumours obviously exaggerated the effects of registration, they reflect that registration was seen as an attempt to legalise the increasing exploitation carried out by many farmers. Registration was seen as an attack on freedom because it gave the farmer's labour demands an element of finality. This finality was perceived because of the formal nature of the registration process which set down the obligatory labour period on paper.

The fact that Chapter Four was perceived as a general attack on "freedom" by the labour tenants, goes a long way towards explaining the unity of the opposition to Chapter Four. "Freedom" was an idea behind which all labour tenants of Lydenburg could unite in opposition, irrespective of the manner in which Chapter Four affected them in material economic terms. The unifying effects of this "idea", that had an impact independent of economic conditions, explains the fact that "ninety nine per cent of Natives have voiced their disapproval of the application of the chapter."[38] This unanimity occurred despite the fact that a large variety of labour tenant conditions existed in Lydenburg and the provisions of the chapter affected different labour tenants in different ways.

The unifying idea of freedom was reinforced by a number of economic and tactical considerations. The fact that many labour tenants had previously worked ninety days and were now expected to offer double that period by the stroke of a pen, naturally put these labour tenants in the forefront of the resistance. These labour tenants felt the effects of the chapter most directly. However, the potentially uniform application of the six month labour period had a profound effect on those labour tenants that had been part of the group of tenants who worked all year round. The uniform application of these conditions in Lydenburg meant that the labour tenants were

---

36 Delius has illustrated the emergence of profound suspicion amongst Africans about the agreements initiated by white farmers and their representatives. Many disputes resulted from these agreements and Africans came to regard them as methods of depriving them of their land. These disputes arose both from "contradictory agreements [and] distinct views of the nature of the rights they conferred. This history of suspicion about such agreements could have influenced the labour tenants rejection of the registration process of 1938. See: The Land Belongs to Us pg 31 - 34

37 NTS 97/362 V8837; Office of the Native Commissioner Lydenburg; Undated Report

38 Ibid.

deprived of the ability to move to farms with more acceptable labour conditions. The uniform application of exploitative conditions also deprived the labour tenants from using the threat of moving as a weapon against farmers who were anxious not to lose their labour supply. Pass laws ensured that applying the Chapter only to one district would still limit the maneuverability of the labour tenants. This came about because Africans had to apply to the Native Commissioner for a pass if they wanted to leave the area.

The proclamation of Chapter Four also magnified the struggle over the labour of the family that had been going on between farmers and labour tenants. Farmers were attempting to increase their labour supply by forcing the entire labour tenant family, including woman and children, to work for the compulsory labour period.[39] Labour tenants were bitterly opposed to this practice because it threatened to totally undermine their attempts to carry on farming for themselves. They needed their families to tend the crops while they were working for the farmer or working for cash off the farm. Although Chapter Four did not make any specific provisions for this practice, a number of farmers were convinced that Chapter Four would enable them to place the whole family under labour obligations. Tenants were similarly convinced, and thus found a further reason to oppose the provisions of Chapter Four.

The proclamation of Chapter Four in Lydenburg was the event that brought the seething resentment between labour tenants and farmers, that had been brewing in the district for a number of years, out into the open. According to evidence given to the Native Economic Commission in 1930 the labour tenants in Lydenburg directly blamed the white farmers for the worsening conditions on the farms.[40] Resentment had been felt amongst the labour tenant population for a long time. This resentment now fueled the determination of many labour tenants to refuse to comply with the provisions of Chapter Four, irrespective of the consequences. For many labour tenants the proclamation was a signal to take a determined stand on issues that had been disturbing them for a number of years.

The extent and intensity of the feeling against Chapter Four was expressed in a number of meetings held by the Native Commissioner of Lydenburg. The Commissioner held meetings with a total of approximately one thousand two hundred labour tenants in districts of Lydenburg including Ohrigstad, Badfontein, Boschfontein and Naauwpoort. From these meetings the Commissioner concluded: "I think I may safely say that all these natives vented their disapproval to work the minimum period of 180 days fixed." Apart from this unanimity, the Commissioner also noted that in some districts "the natives were infuriated and showed and expressed

---

39 NTS 97/362 V8837; Undated Report of the Native Commissioner Lydenburg NTS

40 Evidence Given by T F Schwellnus to NEC 21 August 1930 "Die Kaffer werk nou meer as by vroer gedoen het. Blameer die Kaffer die witman? Ja."

their disapproval very loudly."[41] Another observer came across a similar intensity: "There can be no doubt about their bitter resentment. The older men were most fierce in their opposition."[42] The opposition to Chapter Four in Lydenburg was unanimous, determined and deeply felt.

The intense feeling against the Chapter was further reflected in the steadfast refusal of the labour tenants to comply with its provisions. Labour tenants who had lived all their lives on one farm were prepared to take the risk of being evicted with their families, rather than comply with the provisions of the chapter. The chapter itself ensured that failure to comply with the registration process meant certain eviction. Farmers had till a certain date to register their labour tenants. Any African living on a white owned farm who had not been registered by that date, could not be termed a labour tenant according to the chapter. He would therefore have no legal right to remain on the farm and would be given a "trek-pass" (marching orders) by the farmer. A number of labour tenants did not wait around to find out whether the farmers would go through with the registration process or not. They packed their things and left the district in search of more amenable conditions in another district.

In the implementation of Chapter Four by the NAD many NAD officials found themselves in an ambiguous position. According to their ethos the NAD officials saw themselves as the "friend of the native" and attempted to play a mitigating role that protected the "native" from the worst excesses of the white man. However, due to their situation in the application of Chapter Four, the NAD came to be perceived as an institution that could not be trusted to serve the African's best interest. The local Native Commissioner of Lydenburg was a clear example of this process. He took an interest in the plight of the labour tenants and held meetings with them in order to discover the nature of their grievances. In his report on the situation he reveals sympathy with the resistance undertaken by the labour tenants: "This opposition stands to reason, I know full well that if I were in their place and I had formerly worked three to four months for my residential rights, I would be strenuously opposed to working double the period for that right, and possibly my "brothers" would assist me in my opposition thereto."[43] However, the Native Commissioner was caught between his sympathy for the "natives" and his position in the NAD which had entered into an alliance with the farmers of Lydenburg. Added to this was the mounting problem of providing the resisting labour tenants with alternative accommodation.

---

41 NTS 97/362 V8837; Native Commissioner Lydenburg to Chief Native Commissioner Northern Areas; 10 June 1938

42 AD 843/RJ 2.2.6, Rheinallt Jones Papers; Letter to Lydenburg Magistrate from Senator Rheinallt Jones; 11 June 1938

43 Report of the Native Commissioner Lydenburg op. cit.

The Native Commissioner of Lydenburg tried to forestall the crisis situation for the NAD without compromising the interests of the farmers. His decision to come out on the side opposing the labour tenants was reinforced by directives from higher NAD officials who were determined to maintain the alliance with the farmers. NAD officials in Lydenburg were instructed to avoid involvement in the conflict between farmers and labour tenants and to leave it up to the farmers to resolve the matter with their labour tenants.[44] This alliance was also much more directly felt by the Native Commissioner than other NAD officials, higher up in the state department. This was the case because the local Native Commissioner was a member of the white community of Lydenburg which was dominated by farmers. His position within this farming community was further cemented by his appointment as chairman of the new Labour Tenant Control Board in Lydenburg.

The situation created by Section 38 brought the Native Commissioner's decision to work against the labour tenants out into the open. He tried to ensure his status in the community and his position with his employers by using underhand tactics against the labour tenants. When labour tenants came to enquire about their situation, the Native Commissioner told them that the land to which they had a right under section 38 was not available. Because the land was not available, the Native Commissioner informed all inquiring tenants, they were left with no alternative except to agree to labour tenancy under the new conditions. The determination to avoid using section 38 as it was obviously intended - as a means of protection for displaced labour tenants - came about as a result of the realisation that the NAD would not be able to handle the relocation brought about by the large scale refusal to register for the new contracts. On the other hand enormous resentment would be directed against the NAD by the farmers when they realised that the NAD was helping to relocate their vanishing work force. In the face of this pressure the Native Commissioner decided to throw the NAD ethos to the wind and let the African labour tenant bear the brunt of the land shortage.

In a further attempt to appease the farmers, who were readily prone to suspect the NAD, the Native Commissioner also refused to give Africans passes to leave the Lydenburg district and tried to persuade them to accept labour tenancy under the new conditions.[45] With actions such as these the NAD's image as the protector of the natives was compromised in favour of good relations with the farmers.

The Africans of Lydenburg perceived this situation and revealed

---

44 NTS 97/362 V8838; Chief Native Commissioner Northern Areas to Native Commissioner Lydenburg; 12 September 1938

45 AD 843/RJ 2.2.6, Rheinallt Jones Papers; Letter from Rheinallt Jones to Secretary of Native Affairs; 26 October 1938

a hostile attitude towards the office of the Native Commissioner. "In many cases Natives who have trekked have not reported to this office. They consider they are fleeing from some danger and are willing to be prosecuted under the pass laws rather than report to this office, which they maintain brought the evil upon them."[46] Thus the office of the NAD in Lydenburg came to be regarded as an enemy by the labour tenants. However, despite the growing enmity between the labour tenants and the NAD, the relationship between the farmers and the NAD remained uneasy.

The interpretation of section 38 proved to be a central issue of the struggle to implement Chapter Four in the Lydenburg district. Senator Rheinallt Jones, the representative of the Africans of the Transvaal in parliament, saw that if this section was given full implementation and a large amount of labour tenants were evicted from the farms because they refused to enter the new contracts, the Native Affairs Department would be faced with the difficult problem of finding land for resettlement in increasingly overcrowded reserves. Acting on behalf of the labour tenants of Lydenburg, Rheinallt Jones expected that if the NAD was faced with this problem they would rather repeal the proclamation than grapple with the difficulty of locating non existing land. However, it was not clear to what extent Section 38 could be interpreted to include the labour tenants who would be thrown off the farms for refusing to register for the new contracts. Rheinallt Jones sent the matter to be decided by the Law Advisors office and continued to advise the labour tenants not to engage in any illegal activity that would give the farmers an excuse to eject labourers for offenses other than the disputes over the new contracts. The Native Affairs Department in the meantime attempted to offer its own interpretation of section 38.

It has been shown that the NAD was fully aware of the problem with which it was presented by the wording of section 38. However, in an attempt to avoid this problem and maintain the alliance with the farmers, officials in the NAD attempted to come up with an alternative interpretation of section 38. In proclaiming Chapter Four in Lydenburg, the NAD had not taken the labour tenants into account as potential beneficiaries of the provisions of section 38. In fact due to the low number of squatters in Lydenburg and the expectation that these would be absorbed by the farmers, the NAD had not expected section 38 to be an important factor.[47] Once it was realised that, through their resistance, all the labour tenants of Lydenburg could fall under section 38, the NAD tried everything in its power to avoid its obligation of finding alternative accommodation for these people. In their attempt to preclude labour

---

46 Report of Native Commissioner Lydenburg op. cit.

47 NTS 97/362 V8834 Secretary for Lands to Secretary for Native Affairs 10/11/38; The situation for the NAD was complicated further by a request made by the Department of Lands to have all the squatters removed that resided on land held in Lydenburg by the former department. These squatters amounted to 2716 "soule". As land held by government departments did not fall under Chapter Four this request amounted to another unforseen resettlement problem for the NAD.

tenants, the Native Affairs Department asked the department of Justice to consider that "since the natives concerned could avoid displacement by agreeing to render 180 days service to the farmers, their displacement is due to their own attitude, and not to the operation of the provisions of Chapter Four."[48] As the wording of Section 38 stated "If any Natives are displaced from land (not scheduled or released) by reason of the operation of this Chapter Four, it is the duty of the Native Affairs Department to make provision for their accommodation in a scheduled Native area or a Released Area." (my emphasis)[49], the NAD realised that their interpretation of the law would disqualify the displaced labour tenants from being eligible for any compensatory land. Unfortunately for the NAD, the Department of Justice did not agree with this suggestion and the matter had to be dropped.

Rheinallt Jones received an answer from the Law Advisers Office that confirmed his interpretation of Section 38. The NAD was officially obliged to provide land for all labour tenants who refused to comply with the provisions of Chapter Four. The NAD, realising the difficulty of the situation, sought to find a compromise solution. What they suggested was the reduction of the 180 day contract to 120 days. The Africans of Lydenburg were prepared to accept this compromise. Rheinallt Jones held a meeting with the "representative natives" of Lydenburg to sound them out about this compromise offer. The answer he received "from all wards" was "a resounding no!"[50]

It is clear from the determination of the labour tenants, as well as from their refusal to accept a compromise on the number of days in the contracts, that their resistance was not merely based on an objection to the period of the labour as set out in Chapter Four. Instead they objected to the actual chapter itself. The chapter threatened to take the period of labour that the tenants were forced to work, out of the realm of the struggle between the individual farmer and the individual labour tenant. By demanding that all labour tenants be registered, the chapter forced an agreement on the labourers that irrevocably fixed the precise period of compulsory labour for every labour tenant. Labour tenants objected to the finality of the provisions that the proclamation of Chapter Four entailed.

The NAD maintained a diplomatic attitude to the situation in Lydenburg. In response to requests from numerous farming associations in the district, they postponed the registration deadline. The farming associations requested this postponement because they believed the labour tenants needed more time to come

---

48 NTS 97/362 V8837; Department of Justice to the Secretary of Native Affairs 17/6/38

49 AD 843/RJ 44.3, Rheinallt Jones Papers; Statement made by Senator Rheinallt Jones 3 June 1938

50 AD 843/RJ 2.2.6, Rheinallt Jones Papers; Letter from Rheinallt Jones to the Chief Native Commissioner; 26 October 1938

to grips with the new situation. The Lydenburg North Farmers Association expressed the opinion "as die woonkaffers in fyf tot ses maande sien dat die diens nie so swaar is as wat hulle wysgemaak word, sal hulle ingee."[51] The postponement of the registration deadline meant that a head to head confrontation was temporarily avoided. Instead this action created a deadlock whereby the farmers were waiting to see what the labour tenants would do and the labour tenants were waiting to see what the farmers would do. For the farmers this deadlock could not last indefinitely because a number of tenants grew impatient with the situation and left the district. Locked in confrontation with the labour tenants, the farmers witnessed the steady trickling away of their labour supply. That this situation was serious is evinced by a report compiled by the Office of the Native Commissioner. This report listed "228 Natives who [left the district] and elected to seek their own residences and 94 who requested accommodation from the Department in terms of section 38."[52] These figures only reflect those Africans that went through official channels. Many more left the district in contravention of the Pass Laws. Thus, numerous farmers were losing their labour and the situation was taking on crisis proportions.

The NAD attempted to discover an acceptable compromise with the farmers that would alleviate the delicate situation in Lydenburg. However, despite the desperate situation caused by the potential walk out of their entire labour force, the farmers were unwilling to compromise. They saw a compromise as a defeat for themselves and a victory for the labour tenants. At the suggestion that either the chapter be withdrawn or the term of labour be reduced to 120 days, the farmers were adamant that such a move was "tantamount to an admission of defeat" and would create an "impossible situation between farmers and the natives."[53] The farmers were clearly aware that they had reached a crucial stage in the struggle to exact more labour from their tenants. They realised that a repeal of Chapter Four could signal a major victory in the consciousness of the labour tenants, and could threaten the gains that had already been made by a number of farmers before Chapter Four was implemented. What the farmers favoured was a return to the original situation where the struggle between labour tenant and farmer was confined to the individual farm. However, they were determined to bring about this situation without actually repealing Chapter Four.

These demands were considered at a meeting between the NAD, the Minister of Native Affairs and the farmers of Lydenburg, held on Tuesday October 2nd 1938. The meeting was called in order to "lay

---

51 NTS 97/362 V8838; Lydenburg Noord Boere Unie to Lydenburg Magistrate 30 June 1938 (Trans. If the labour tenants see, in five to six months, that the labour is not as difficult as they are being told, they will capitulate)

52 NTS 97/362 V8837; Undated Report of Native Commissioner, Lydenburg.

53 NTS 97/362 V8837; NAD Correspondence, October 1938

before the Minister the grievances of farmers in the Lydenburg area arising from the proclamation of Chapter Four".[54] These grievances essentially concentrated on the diminishing labour supply that had become apparent since the application of Chapter Four, which was supposed to have increased the labour supply. Many farmers felt that the Africans objected to the registration of contracts and that they needed time to adjust to the new conditions. They also requested that the chapter be proclaimed for the whole of the Transvaal so that labour tenants could not move to neighbouring districts in order to avoid the provisions of Chapter Four. The Minister was largely sympathetic to the demands of the farmers and it was decided that: "The proclamation had brought about a sudden change in the state of affairs and in order to give the Natives time to adjust themselves the Department of Justice had been asked not to prosecute the Natives for any infringement of the provisions of this section. Perhaps penal sanctions would be restored at the beginning of the year."[55] This provision meant that the registration of labour tenants would not be enforced. This was designed to suspend the deadline for registration indefinitely and give the farmers time to settle the differences with their labour tenants. The Minister also promised to look into the question of applying Chapter Four to the whole Transvaal. This resolution, handed down by the Minister of Native Affairs, formalised the trend that had been established by the local NAD officials in their administration of Chapter Four.

The suspension of the provisions of Chapter Four caused many farmers to rethink their relationship with their labour tenants and to come to a solution worked out between the farmer and the labour tenant without the interference of the state. As a result of this, a number of farmers in the Lydenburg district "told their tenants that they will not insist on the 180 days but will carry on as formerly."[56] Despite the farmers reluctance to give the labour tenants the impression that they had achieved a victory, in practice, the suspension of Chapter Four marked a major victory for the labour tenants of Lydenburg.

In this compromise, the NAD had attempted to maintain good relations with the farmers. However, despite the efforts of the NAD, a lot of resentment was nevertheless felt by a number of farmers. This resentment was chiefly directed against the Office of the Native Commissioner in Lydenburg. Despite the Native Commissioner's attempts to prevent the labour tenants from leaving the district, a farmer complained that "the Native Commissioner was too attentative to the Natives and too ready to give them passes."

---

54 AD 843/RJ 2.2.6, Rheinallt Jones Papers; Meeting of Farmers in the Bioscope Hall Lydenburg; 2 October 1938

55 Ibid.

56 NTS 97/362 V8837; Native Commissioner, Lydenburg to Chief Native Commissioner, Northern Areas 10 June 1938

Another farmer got personal in his attack on the Native Commissioner. He objected to the "practice of appointing men from other districts as Native Commissioners in Lydenburg. A local man would know how to handle the Natives properly."[57] These attacks reflect that insurmountable differences of opinion existed between the farmers and officials of the NAD. Despite the attempts by the NAD to find ways to appease the farmers, these divergences ensured that the result of this could only be an "uneasy alliance" between the two groups.

The situation in Lydenburg calmed down after the suspension of the provisions of Chapter Four. Despite the Ministers hopes to the contrary, penal sanctions under Chapter Four were not restored in Lydenburg the following year and the Chapter was eventually repealed. For the labour tenants of Lydenburg who had not left the farms, this meant a return to the situation that existed before the proclamation. This constituted a victory, as well as hope for future victories, in the struggle to control the terms of the labour tenancy relationship. For the farmers the struggle to increase the exploitative nature of the labour tenancy relationship went on without the aid of the state.

Officials in the NAD could not have been very upset over the failure of Chapter Four in the Lydenburg district. In fact the Secretary of Native Affairs D.L. Smit was quoted as saying that "no one would be more pleased" than himself if the chapter proved to be unworkable.[58] Despite the NAD's concern to satisfy the farmers demands, a number of their top officials were ideologically opposed to the measures bolstering the labour tenancy system. All subsequent attempts to apply the chapter throughout the Transvaal were frustrated by the diversity of opinions amongst farmers and the lack of available land where displaced squatters and labour tenants could be accommodated. Effectively, the NAD's attempt to regulate the labour relationships in the rural areas had failed.

---

57 Meeting of Lydenburg Farmers with Minister of Native Affairs op. cit.

58 AD 843/RJ 2.2.6, Rheinallt Jones Papers; Letter from the Bishop of Pretoria to Rheinallt Jones 4 July 1938