

“How Treacherous the Gift”: Settler Motivations for Self-Government in Natal, the Cape Colony, and Palestine

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Introduction

The grant of self-government is not always a meritorious act of abdication on the part of Great Britain. It is sometimes an unworthy shuffling off of our responsibility to the weaker races under our rule. The natives of Natal, Kenya and Southern Rhodesia know how deceptive are the words self-government, and how treacherous the gift. – Josiah C. Wedgwood, 28 June 1928¹

In Natal, the nascent British settlement in southeastern Africa, in the early 1850s, the settler press was saturated with calls for elected representative institutions and cries of liberty and equality for British subjects. “No men,” concluded the *Natal Witness*, “are ‘unfit’ to be added to our present Legislative Council.”² “Is it to be said and thought of us that we alone are willing to remain Slaves?” asked the *Natal Standard*.³ The *Natal Independent* acerbically wrote that “every effort has been actively put forth to subvert the aspirations of the people for rightful liberty, by the most imbecile despotism that ever set up for mastery over any people.”⁴ And the *Natal Mercury* claimed that the Natal government was “an oligarchy and not a constitution...the people have no voice in the management of public affairs.”⁵ Democracy was the watch-word of the day for Natal’s white settlers.

At the same time, these same settlers sought to implement restrictive legal codes governing indigenous land, labor, and life on Natal’s more than 120,000 indigenous residents. The *Natal Standard*, only two weeks after calling for elected representation, outlined a twelve-step plan for the complete bureaucratic subjugation of indigenous peoples, including the division of their land into “sufficient” quantities for individual families, the creation of a majority-white police force, and the drafting of a new restrictive labor law.⁶ In the *Witness*, “An English

¹ Memorandum by Wedgwood, The National Archives UK (TNA) CO 733/158/3.

² *Natal Witness*, 27 February 1852.

³ *Natal Standard and Farmer’s Courant*, 23 March 1852.

⁴ *Natal Independent*, 9 September 1852.

⁵ *Natal Mercury*, 5 April 1854.

⁶ *Natal Standard and Farmer’s Courant*, 23 March 1852.

Colonist” wrote that indigenous peoples must be placed on “locations” under the supervision of white magistrates, that chiefly rule must be broken, and that polygamy must be banned. And the *Natal Times* protested “in the name of the white people of Natal, against the principle of applying the native tax solely for the behoof of the native population” and complained that, in any event, the tax levied on indigenous peoples was far too low.⁷

Natal, like other settler-colonies, was a deeply divided place in which class and race often overlapped and reinforced one another. In such conditions, why did settlers press for elected representative bodies—institutions that, in their own words, were sites of equality, freedom, and self-government—given such inequalities? Such a question is hard to answer from the conventional wisdom surrounding elected bodies like parliaments, congresses, and assemblies: the right to self-government, in this telling, is simply part of the natural rights of citizens. Certainly these arguments were an important part of how settlers discursively made their case to their imperial rulers. But is this all the story?

In this paper, and in my dissertation, I argue that the primary motivation settlers have in attempting to form elected representative institutions is an economic one: the protection and accumulation of property and wealth. In settler-colonies, this manifests in three domains. The first is land: settlers arrive (initially) without land and need it for the functioning of their economy and society. Yet their holdings—often acquired through the conquest of their sponsoring power—were always uncertain, at risk from both the arbitrary taxing and expropriating powers of the metropole and the continued presence of indigenous peoples seeking to regain their land. The second is labor: settlers need a workforce and turn to indigenous and imported labor sources (frequently slaves) to power the colonial economy. Land and labor form

⁷ *Natal Times and D'Urban Agricultural and Mercantile Gazette*, 8 October 1852.

the underpinnings of settler wealth. But these two forces are near-useless without the power to build a settler state apparatus. With elected representative institutions at the colony level, settlers could control their own land policy and provide, in some ways, for their own defense; they could write harsh labor codes that ensured a captive, racialized, low-wage workforce; they could direct the gains accrued from their economic efforts toward the building of infrastructure and other so-called public goods (even if those goods were for the exclusive use of settlers). Representative institutions were not just, and not primarily, good politics: they were good business, too.

Examining the origins of elected representative institutions is crucial because these bodies are remarkably resilient to political and economic crises. Assemblies like these withstand wars, revolutions, and occupation by foreign powers. When they do fail, their design influences their successor institutions. Once developed, the institutional architecture of assemblies is frequently difficult to change, except in small ways: a bicameral parliament, for example, can find it near-impossible to demand the abolition of one of its houses. If the institutions themselves are set up to provide for the protection of the property of some and the funneling of wealth to that same class, then it is at least possible that despite the passage of time, they function in similar ways in the present.

In this paper, I explore the socioeconomic motivations for elected representative institutional formation in three cases. In each of these cases, I want to emphasize, land, labor, and state-building play roles in the constitution of the property and wealth settlers wish to protect and accumulate. But in this paper, I will focus on one of the factors in each case. I will explore the importance of land to settler institutional formation in Natal, drawing on debates over what to do with the so-called “native locations.” In the Cape Colony, I will demonstrate the centrality of labor to the formation and functioning of the Cape Parliament, using petitions and debates over a

new labor code. And to explicate the crucial role of state-building, I will delve into the struggle the Zionist movement faced in gaining taxation powers in early modern Palestine. *[In the dissertation, I add to these cases colonial Algeria, and to the question of why settlers wanted elected representative institutions the question of how they won them from imperial powers.]*

Literature Review

[For the sake of space and to not bore the audience, I have abbreviated a literature review below. The dissertation and paper address two primary literatures: the political science literature on “democratization” and the interdisciplinary literature on settler-colonialism.

The former generally calls countries “democracies” when they have three features: a directly elected assembly, an indirectly or directly elected executive, and a suffrage rule that incorporates 50% or more of their population.⁸ Countries, however, generally become “democracies” through the expansion of the franchise; in other words, the formation of the elected assemblies (and executives) is rarely studied. This literature has also shown a robust correlation between the level of economic wealth and the level of “democracy,” but in turn has rarely interrogated the origins of the wealth of the country and to which sections of the population it accumulates. My dissertation seeks to address both of these lacunae.

The settler-colonialism literature places great stock in the so-called “logic of elimination” whereby settler-colonies are defined as such because of the “elimination of the native.” These stand in contrast to “colonies of exploitation” or simply “colonialism” in which indigenous peoples are exploited as a labor source for the accumulation of resources to the metropole. In general, this assertion has led to a prioritization of land accumulation and

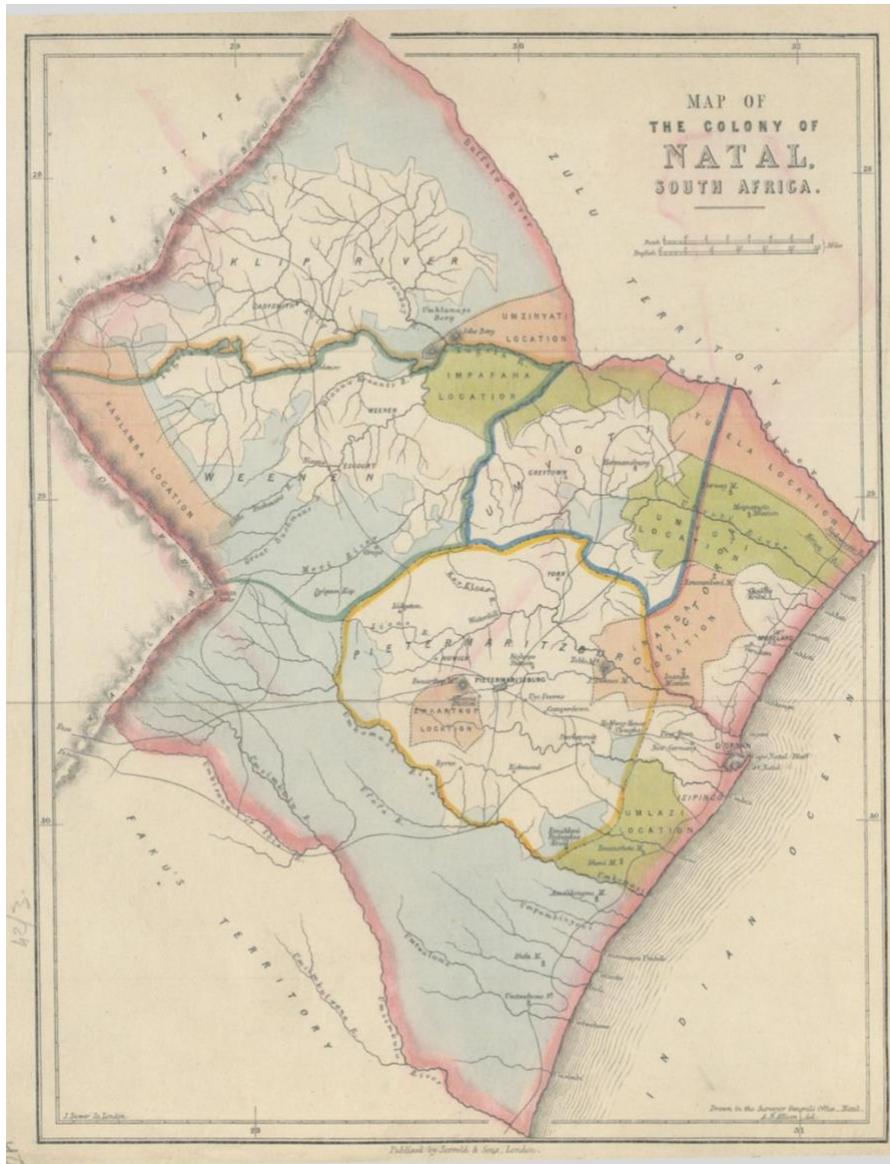
⁸ Frequently studies of historical democratization use a “manhood suffrage” rule to allow for countries to be coded as democracies prior to the mass enfranchisement of women. The ontological and epistemological choices here are debatable and are the subject of a small but growing critique.

genocide as the operative signs of settler-colonialism. The fact that in many settler-colonies indigenous populations remain in significant numbers (even after or amid massive settler efforts at the expulsion, ethnic cleansing, or genocide of indigenous peoples) poses a challenge to this assertion and should cause us to examine other factors within settler-colonialism, in particular the role of labor in the settler political economy, and, I argue, the role of settler political institutions in setting the colonial and post-colonial institutional order.]

Land

European permanent settlement in southeastern Africa began in 1837 with the arrival of Afrikaner settlers from the Cape. In 1839, the Afrikaners founded the short-lived Republic of Natalia, which would be conquered by Britain in 1842 and annexed in 1843. The Colony of Natal was governed separately until its union with the Cape Colony, Orange Free State, and South African Republic in 1910. Unlike the Cape Colony, which had a sizable settler minority by the mid-1800s, Natal's settlers encountered and warred with a large indigenous population. Within the colony's borders were, by 1856, only at most 10,000 white settlers and between 120,000 to 150,000 indigenous people. This demographic reality shaped the political economy of the colony, particularly its land and labor structures.

From the first moments of the Afrikaner and British conquests, white governing authorities had struggled to decide how to allocate conquered land and how to best rearrange indigenous peoples to serve the interests of the colonial economy. In 1846, British colonial administrators developed the "locations system" that would form the basis for how the colonial state would allocate indigenous land in Natal. Created as a way of "concentrating" the "rude and uncivilized" nomadic indigenous peoples, the Locations spread across a much smaller territory



Map of Natal in 1860, showing the counties and cities: Klip River and Weenen in the north, Pietermaritzburg in the center, Durban in the southeast, and Victoria and Umvoti in the north-east. A. B. Allison, drawn in the Surveyer Generals Office – Natal. Available at <https://commons.wikimedia.org/wiki/Stamps_of_Natal#/media/File:Map_of_the_Colony_of_Natal,_South_Africa.jpg>.

than had been inhabited by indigenous tribes before the onset of white settlement.⁹ They were

⁹ NAB GH 589/10, Grey to Pottinger, No. 3, 4 December 1846, p 20, in Pottinger to West, No. 1, 30 January 1847. It is important to note the unsettled political context of the territory that would come to make up Natal when Afrikaners arrived in 1837. The accession of the Zulu king Dingane in 1828 and infighting among the Zulus led to a steady outflow of refugees from Dingane to the area around Port Natal (later Durban). By 1839, after Mpande (called Panda in the settler press) split from Dingane, the Afrikaners had secured a sizable territory for the short-lived Republic of Natalia. When British troops annexed the Republic in 1843, most of the Afrikaner population left for the interior, and indigenous Africans returned to their lands. This out-migration and indigenous return formed the demographic map for British colonial administrators to manage. See Martens (Martens 2015: 186-187).

intended, according to the recommendations of the 1846-47 Locations Commission, to provide for the easier administration of indigenous African peoples, to be governed by a magistrate and numerous administrative staff, to incorporate industrial schools (so that indigenous peoples could be useful laborers to white settlers), and to have an indigenous police force (Martens 2015: 193). The Commission recognized what would come to be a common theme in settler views of Natal: that

[t]he management and efficient control of the large native population within this district is a subject of such vital importance in its bearing upon the future prosperity of the settlement that we deem it our duty...to represent as forcibly as we can the intimate connection that exists between the two.¹⁰

The location system was only ever partially implemented, and out of the ten locations totaling 10 million acres only three (totaling just over two million acres) were created. The Colonial Office in London was unwilling to fund any new expenditure for the governance of indigenous peoples, and the industrial schools, police force, and administrative staff never materialized. Instead of implementing a sort of “direct rule” of Natal’s indigenous population, the Colonial Office decided to retain indigenous customary law in nearly all matters and retain indigenous tribal chief rule—within the locations. In form and in substance, the “native locations” were prototypes of the later Bantustans of apartheid South Africa.

Yet still, settlers chafed at the locations’ existence, which both denied valuable land to settlers and, even more crucially, assigned enough land to indigenous peoples—though still far less than to Europeans—that they were able to continue subsistence farming and remain apart from the settler-dominated labor market. It was this connection between land and labor that would be repeatedly stressed by the settler press. As early as 1848, the Durban-based *Natal*

¹⁰ *Report of the Commissioners on the Location of the Natives* in Pottinger to Grey, No. 67, 26 May 1847, in Parliamentary Papers (980), *Correspondence relative to the establishment of the settlement of Natal*, July 1848, p 132.

Patriot called for indigenous peoples to be “concentrated and scattered about the Colony in bodies of not more than from 5 to 6000...[which will] secure a more speedy and certain revenue, and effect a more rapid civilization.”¹¹ The *Natal Independent* wrote that “the labour of the Caffres must be rendered available, and in order to do this they must be concentrated in locations at convenient distances over the whole colony.”¹² The *Natal Standard* recommended that the government should establish a location “within twelve miles of every town and village” for ease of access to labor.¹³ And the *Times* further developed this plan by recommending the break-up of the existing locations and “planting around such reduced and manageable sections, a cordon of European settlements.”¹⁴

For settlers, the very existence of the locations meant a loss of land in their hands, a loss of a valuable low-wage labor force, and a slower-growing (or even shrinking) settler economy. The Locations Commission in 1846-1847 had been made up of primarily colonial administrators; in 1852, a new commission with a settler super-majority was assembled to examine indigenous governance. Amid numerous efforts to prove that most of Natal’s indigenous population were actually immigrants and held no land rights, the commission held that “three or four acres of land per head [were] amply sufficient to maintain a Kafir population.”¹⁵ This body recommended that new locations be drawn up at only 24,000 to 26,000 acres each housing between 7,000 to 8,000 people.¹⁶

Indigenous land ownership in any meaningful capacity clearly rankled settlers. But it was the addition of elected members to the Natal Legislative Council in 1856 that caused them to

¹¹ *Natal Patriot*, 18 February 1846.

¹² *Natal Independent*, 16 May 1850.

¹³ *Natal Standard and Farmer’s Courant*, 20 April 1852.

¹⁴ *Natal Times and D’Urban Agricultural and Mercantile Gazette*, 5 November 1852.

¹⁵ NAB CSO 55/3, p 77.

¹⁶ *Ibid*, p 248.

expect their proposed reforms to be enacted. When Natal was conquered by the British, it was first administered by the government of the Cape Colony, then by its own Lieutenant Governor and Executive (1845) and Legislative (1848) Councils. The latter was first comprised only of four colonial officials and was the subject of much settler opprobrium. After a protracted effort, however, settlers won the addition of twelve of their own elected members to the body, creating a sizable settler majority that settlers imagined could finally settle the weighty questions facing the colony. None was more important than solving the “native question,” never precisely framed, but appearing as a constellation of overlapping discourses encompassing indigenous peoples’ economic, political, and social relations with settlers.

When elections were called for February 1857, settler candidates to the Legislative Council began publishing letters to their supporters in the colonial press. To become a candidate, settlers simply had to be nominated by twelve of their fellow voters; frequently, in reply to these nominations, settlers publicly outlined—in everything from broad strokes to painstaking detail—the policy goals they hoped to pursue in office. Overall, at least 26 candidates stood for election in Natal in 1857; of these, I found 24 platforms in the settler press.¹⁷ Candidates in each of Natal’s eight legislative districts published platforms in the press, and in at least five of these, we have platforms from each of the candidates.¹⁸ This amounts to a remarkably comprehensive overview of settler views of the purpose of and goals for representative institutions at the very moment of their creation. These platforms are even more representative of public opinion than

¹⁷ All candidates cannot be accounted for because election results were unavailable in the districts of Umvoti and Klip River. In Umvoti, Erich Landsberg was elected over an unnamed opponent. In Klip River, Humphrey Edward Knight and J.J. Gregory were elected, but at least Phillip Ferreira also ran in that election after switching from Pietermaritzburg City. Additionally, in Victoria County, the minister and newspaper editor J.A. Archbell took part in a public meeting as a candidate, but he was not listed in the election results. I collected 25 platforms, one of which was from a candidate (John Brown, Durban City) who, while declining to run, discussed issues he felt candidates should address in the elections.

¹⁸ In Umvoti County, we cannot be certain of the number of candidates, and in both Klip River County and Pietermaritzburg City, we are missing one candidate platform.

the also-vocal and opinionated settler press, since we can also observe which candidates won their elections.

Of the twenty-two platforms that put out policy proposals published in the settler press, eighteen of them began by discussing what to do with indigenous peoples. Three more platforms put forth proposals on indigenous peoples in their second policy paragraph, meaning that nearly all—twenty-one of twenty-two—platforms saw the “native question” as foremost on the policy agenda. One key aspect of this question was what to do with indigenous peoples’ land—what to do about the “native locations.”

It was clear that settler candidates saw one chief purpose of the newly-elected body as the dismantling of the existing location system and its replacement by one that would better secure land and labor to Europeans. Many saw the existing system as representing inequality favoring indigenous peoples and harming white settlers. Arthur Walker of Pietermaritzburg County called the locations “as now a rich refuge to the Kafir.”¹⁹ James Saunders of rural Victoria County called the locations “a crying injustice which gives every black man who may hereafter come among us (unless he be civilised) as much land as he requires for nothing, whilst the [white] man has to pay for it.”²⁰ Similarly, John Goodricke of Durban explained that

“the policy hitherto pursued by our Government has been based on the fallacy of placing the black population (savages) on the same level as the colonists...I have always thought it a great and mischievous mistake to locate large bodies of savages in trackless and inaccessible wastes, and it will be the duty of your representatives to devise a safe mode of breaking up the locations.”²¹

For settlers, the use of elected representation to reduce the land allocated to indigenous peoples would end this fallacy, repair the injustice, and see the allocation of land directly to Europeans.

¹⁹ Walker, *Natal Witness*, 19 December 1856.

²⁰ Saunders, in *Natal Mercury*, 12 February 1857.

²¹ Goodricke, 22 January 1857, in *Natal Mercury*, February 1857.

Nearly all settlers proclaimed themselves in favor of dividing up the locations, but this did not mean a mere subdivision of land.²² Instead, the intent was to give indigenous peoples what settlers calculated as just enough to get by. James Arbuthnot of Pietermaritzburg County argued for settling indigenous peoples in villages “with a sufficient commonage for their cattle.”²³ In a similar vein, Philip Ferreira of Pietermaritzburg County proposed “considerably to diminish the extent of the locations to just as much land as would be calculated sufficient for each family for dwelling and agricultural purposes with the right of pasture to a limited extent and no more.”²⁴ The clear sense among settlers was that existing locations—despite their vastly reduced size from prior indigenous landholdings—still provided enough land for indigenous peoples to mostly avoid the settler-dominated labor market. Sufficiency, defined by settlers, was the guiding principle.

Similarly, the broken-up locations were to not facilitate indigenous autonomy or independence, but the needs of the settler political economy. John Moreland of Pietermaritzburg County outlined a detailed scheme whereby new, smaller locations, in which indigenous peoples would be “compelled to reside,” would be created under the supervision of white magistrates, each having an industrial school.²⁵ The addition of white magistrates and the imposition of “direct rule” was a longstanding settler demand; magistrates were intended to “destroy the overgrown authority of the Kafir chiefs.”²⁶ The break-up of the locations was at once intended to provide a captive workforce in small, manageable quantities at safe, yet close proximity to settler population centers and to demolish any existing institutional forms of resistance to settler rule.

²² Of the two candidates advocating caution, one was elected (Donald Moodie, in Durban).

²³ Arbuthnot, 15 January 1857, in *Natal Witness*, 23 January 1857.

²⁴ Ferreira, 12 January 1857, in *Natal Witness*, 16 January 1857.

²⁵ Moreland, 22 November 1856, in *Natal Witness*, 26 December 1856.

²⁶ *Ibid.*

But, though labor and governance were inextricable parts of the “location question,” we should not lose sight of the fundamental concern over land. After all, settler agriculturalists were first and foremost annoyed with the removal of land from their grasp. “I am sorry to see,” wrote W. H. Addison of Durban County, “so large a portion of our most valuable coast lands swallowed up in native locations.”²⁷ It comes as no surprise, then, that numerous candidates argued for the allocation of these lands to white settlers themselves. John Millar of Durban Town suggested dividing “the present dangerously large locations” and allocating their land “to the greatest possible extent for the enterprise of an industrious European population.”²⁸ Jonas Bergtheil of Pietermaritzburg County proposed, after allocating sufficient land to indigenous families, “granting to the European those portions which may be left at liberty.”²⁹

For settlers, the locations were a store of land unjustly kept away from the civilizing influence of settler capitalism and industrial agriculture. They were sites of potential indigenous resistance in the form of existing tribal institutions. And they were repositories of labor that was inefficiently distributed and inadequately compelled to sell itself in the labor market. The solution to these overlapping problems lay in elected representation. For years, settlers had tried to influence government policy through the press, through public meetings and petitions, and through participation on official commissions. With the advent of elected institutions, they promised to accomplish through the law that which they had previously been hamstrung in their efforts to address. For settlers in Natal, elected representation was not primarily about the rights of British subjects to equality—it was about the rights of settlers to order the world around them.

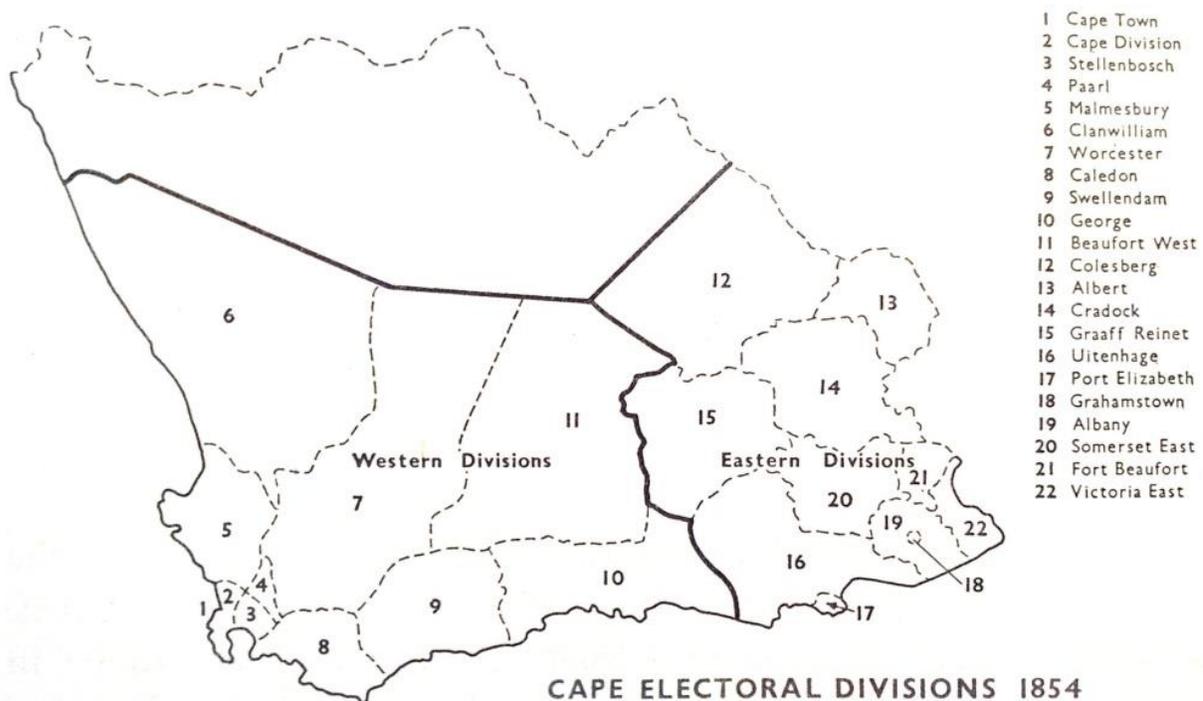
Labor

²⁷ Addison, 31 January 1857, in *Natal Mercury*, 5 February 1857.

²⁸ Millar, 27 January 1857, in *Natal Mercury*, 29 January 1857.

²⁹ Bergtheil, 18 December 1856, in *Natal Witness*, 19 December 1856.

The Cape Colony was founded by the Dutch East India Company in 1652, with the landing of Jan van Riebeeck and the setting up of a waystation for Dutch ships on the way to and from the East Indies. In 1795, the British conquered the Cape, only to cede it back to the Dutch in 1803 and reconquer it in 1806. Throughout this period, the white settler population of the Cape slowly grew, and the colony united in 1910 with three other colonies to form the Union of South Africa. The British settler-colony territorially expanded as well, steadily incorporating vast new territories to its domain and with it, substantial populations of indigenous peoples.



Cape Archives: Early Maps of the Cape Colony. Available at: < https://upload.wikimedia.org/wikipedia/commons/f/fc/1854_Cape_Colony_-_The_2_Provinces_and_22_Districts.jpg>.

The colony was governed autocratically, with nearly all power vested in the hands of the governor, under Dutch rule and in the early years of British administration. In 1826, the imperial government in London added an Advisory Council to assist the governor, without the power to veto the governor's decisions. In 1833, the British added a Legislative Council consisting of a majority of colonial administrators and a minority of appointed white settlers. And in 1853,

settlers at the Cape finally won an elected parliament. The Cape Parliament was made up of a House of Assembly and a Legislative Council, both elected by a putatively race-neutral property qualification franchise. In arguing for the creation of an elected body, settlers for decades had argued that their status as property-holders and the present and potential economic wealth of the colony were reasons to grant them elected representative institutions. But within these grandiose arguments about the purported rights of property-holding subjects—“no taxation without representation” was the rallying cry—was an economic agenda that relied on harnessing indigenous labor to galvanize the settler economy. In this section, I sketch the process by which labor law was developed at the Cape to demonstrate that settlers both had longstanding goals of securing a docile, captive workforce and saw the creation of representative institutions as a means to securing this end. In doing so, I draw on petitions to the Cape Parliament, as well as the proceedings of that body in its early years, to demonstrate that settlers, at elite and mass levels, saw the management of labor as a primary reason for the establishment of elected representative institutions.

Under non-elected governing institutions, settlers found themselves able to enact some changes to labor law to suit the needs of settler landowners and other capitalists, but could not enact several of their preferred regulations. For instance, in 1834, the Cape colonists immediately petitioned to their new Legislative Council for a solution to the problem of “vagrancy.” The vagrancy bill introduced would have criminalized a variety of supposed offenses, primarily vagrancy, but also including foraging for fruits and nuts, living on government or private land without permission, and leaving work before the stated end of a contract.³⁰ Three days after

³⁰ A vagrant was defined as someone who “not having wherewith honestly to maintain themselves, and being without any lawful employment whereby they may honestly earn the means of subsistence, who shall wilfully live idle.” Cape Archives (CA) VC 248, S22, 25 August 1834.

terminating a contract or losing employment, a person was deemed to be a vagrant and could be apprehended by field cornets or (even more insidiously) any landed proprietors. The punishment was two to four weeks of hard labor for the first offense, increasing to two and three months for subsequent offenses.³¹

The measure was met with staunch protest from missionaries and indigenous Khoikhoi in the colony, who argued that the vagrancy law would simply amount to the re-implementation of systems of coerced labor that had been outlawed with regard to indigenous people in 1828.³² The settlers themselves responded with forty testimonials, petitions, and reports submitted to the Legislative Council in favor of the bill.³³ And while the bill's drafters insisted that the law had nothing to do with race nor would it establish a new labor regime, the memorialists were quite clear on who the ordinance was intended to apply and what effects it was intended to have. For example, nearly three hundred inhabitants from the winemaking regions of the Cape saw "with the greatest satisfaction...that means are to be adopted to force the many Vagrants...to obtain an honest livelihood and fixed residence."³⁴ While many of the colonists were careful to dress this language up in a purported concern for the "moral degradation" of indigenous peoples that only hard labor and fixed residences could ameliorate, the substance of their petitions established that the Vagrancy Ordinance was primarily intended to secure to settlers a viable, racialized source of low-wage labor.³⁵

The Vagrancy Ordinance was prevented from being enacted by the Colonial Office

³¹ CA VC 248, S23, 30 August 1834.

³² CA LCA 6/19.

³³ The documents can be found in CA LCA 6.

³⁴ Memorial from inhabitants of Paarl, Drakenstein, Fransche Hoek, Wagemakers Vallei, Stellenbosch District, undated, CA LCA 6/35.

³⁵ Memorial of the inhabitants of the district of Albany, undated, CA LCA 6/41. This was equally recognized by dissenting members of the Legislative Council; see CA VC 248, S24, 8 September 1834.

because of concerns over its racial implications. But in 1839, debates over labor law sprung up again around the introduction of a Master and Servants Ordinance. While the original draft of this ordinance included several protections explicitly for people of color, the final draft removed all references to color and raised the lenient requirements to the level of European workers; thus, for instance, the maximum length of oral contracts for any worker was one year.³⁶ The original draft of this ordinance included distinctions for workers of color generally including more lenient provisions. For instance, the ordinance included a differential restriction on the length of oral contracts (one year for European workers, one month for workers of color).³⁷ While this law, since it did away with any color distinction in law (Bundy 1975: 38), formed the genesis of the liberal myth surrounding the Cape Colony,³⁸ Keegan (1996: 126) points out that

[t]he reality was that the masters and servants ordinance was aimed at the coloured working class, and was universally so interpreted. It bound workers with severe criminal sanctions for breach of contract, including such subjectively determined ‘crimes’ as disobedience, defiance, and resistance... The ordinance sought to buttress the racial hierarchy and to reinforce the subordination of coloured workers, as well as the subordination of women to men in labouring families. The legal underpinnings of a racial order did not require that the law be couched in overtly racial terms.

Even this ordinance was not deemed enough, for in 1848 Governor Harry Smith and the Legislative Council formed a special committee to collect evidence on its workings, the working of which was upended by the struggle for elected representative institutions. Between 1848 to 1853, during which these bodies were eventually won, settlers of all political stripes claimed that a vagrancy law and revisions to the labor regime of the colony were exactly the benefits that

³⁶ See CA LCA 10/16. The provisions in this document did not extend to “native foreigners,” or those covered by Ordinance No. 49 of 1828, which extended passes to primarily Xhosa workers from beyond the colony’s borders. Nor did it apply to women. See Keegan (1996: 125).

³⁷ CA LCA 10/16.

³⁸ This is to say, the idea that Cape legislation, including the later non-racial franchise, protected people of color by inclusion in a system of equal rights. Lewsen {&Lewsen:1971ih} similarly links the “Cape liberal tradition” to the non-racial franchise.

those institutions could provide. In early 1849, the *Cape Town Mail* reported that farmers had met with Governor Smith and asked for “some law being passed to check missionary institutions and compel the labouring classes to work for the farmers upon terms more advantageous to the latter.”³⁹ The Graham’s Town *British Settler*, amid the 1851-1853 Xhosa war, said “it will be time enough to enact laws to restrain *vagrancy* and *squatting*, when we know what land we are to get back again.”⁴⁰ And the conservative *Cape Monitor* lamented the “insolence of servants” alongside discussing the differences in draft constitutions.⁴¹

It should come as no surprise, then, that one of the first legislative efforts of the new parliament was the passage of a Master and Servants Act that would further subordinate the interests of workers to employers and lay the groundwork for a nominally free but effectively coerced labor system. Three weeks into the first session, after hearing that the government had no plans to introduce a new Master and Servants bill, John Molteno rose to propose a select committee on the advisability of drafting a new law. Molteno’s reasons included ameliorating “the evil effects which cannot fail to ensue from the absence of nearly all control over large numbers of Native Foreigners constantly pouring into the Colony from the Northern and North-eastern Boundaries, whose labour, under proper regulation, would be of the greatest service, at the same time tending to civilize and better their condition.”⁴² The committee included six members, all of whom came from rural agricultural districts.⁴³

The committee’s meeting minutes detail many of the draconian provisions that would make their way into the act. On August 8, 1854, punishments suggested included “hard labor...in

³⁹ *Cape Town Mail*, 13 January 1849.

⁴⁰ *British Settler*, 25 October 1851.

⁴¹ *Cape Monitor*, 21 March 1851.

⁴² CA CCP 1/1/1, 18 July 1854, p. 43.

⁴³ These were John Charles Molteno of Beaufort West, Augustus Tancred and Johannes Hendricus Brand of Clanwilliam, Hugo Loedolff of Malmesbury, James Collett of Cradock, and Charles Pote of Graham’s Town.

the first instance and solitary confinement as a termination.” On August 16, the committee recommended the introduction of a pass system for laborers. Their report, given to the House of Assembly on August 29, recommended that “Punishment for Insubordination, &c...shall be imprisonment for a period not exceeding one Month, with spare diet and solitary confinement for a period not less than three, nor more than five, successive Days in each Week.” It also gave masters power to command their servants’ attendance in court at will, subject to an arrest warrant. Masters, on the other hand, were only issued a summons and could show good cause for not appearing.⁴⁴ The report was introduced too late in the session to be drafted into a bill, but it would come back in 1855.

In the proceedings of the 1855 select committee on the Master and Servants Bill, the bill’s provisions only became more stringent.⁴⁵ Charles Pote, for instance, proposed that the punishments recommended in 1854 should serve as a baseline for the first offense, but for “repetitions the Magistrate should be at liberty to inflict corporal punishment.”⁴⁶ The amendments also included the special appointment of Justices of the Peace to adjudicate between employers and workers, a measure with the practical effect of delegating to large landholders juridical powers in addition to their employer status.⁴⁷ Though the bill was withdrawn after extended debate that year, the strict provisions remained when it was refiled in 1856.

By this point the settlers—to say nothing of the bill’s proponents in the House of Assembly—were frustrated. Already in 1854 sixty-nine residents of the rural eastern district of Cradock, seeing that the bill would not pass that year, petitioned parliament to “have [the bill]

⁴⁴ CA HA 3/111. The report was dated 24 August 1854 and was printed by the parliament on 29 August 1854. See CA CCP 1/1/1, 29 August 1854, p. 213.

⁴⁵ Now without Tancred, Brand, and Collett, and with Bosman, J.J. Meintjes of Graaff-Reinet, and Lirvogel.

⁴⁶ CA HA 6/38, 22 March 1855. This was in accordance with the Natal Masters and Servants Ordinance of 1850, which proscribed a flogging penalty for various offenses. See Bundy (1975: 40).

⁴⁷ *Ibid.*, 23 March 1855.

now brought forward, and that a vagrant Law be also framed, the necessity of which is unquestionable.”⁴⁸ In 1855, more than one hundred farmers from Koeberg, hopeful of the bill’s passage that year, wrote that they considered “the present Law of Masters and Servants in the Colony to be an unjust Law, oppressive to the Master without being beneficial to the Servants, and entirely inapplicable to the present circumstances of the community.”⁴⁹ By 1856, rural landholders were at the end of their rope. The language of several petitions from the rural areas of Clanwilliam and George is worth quoting in extended length. They wrote:

That for many years before the present Constitution came into operation they lived in constant expectation that a law would be framed which would enable them to calculate on the Services of their Servants with some degree of certainty where once contracted, and by which the Master also would be obliged to fulfil his engagements.

That your Petitioners struggled hard to obtain the boon of a free Constitution under the firm Conviction that the first law proposed in the first session of the New Parliament would be a law to improve the present position between Master and Servant.

That they have patiently waited up to the third session and that no law to that effect has as yet been passed.

That owing to the want of such a law the Colony is duly Retrograding and before long will be reduced to a state of Bankruptcy...

Your Petitioners also pray that a pass system or Vagabond law may be passed, applicable to all for the better security of property, and to prevent idle wanderers from Roving in every direction, and in conjunction with this they lastly pray that a law imposing a Capitation or poll tax may be enacted by which at least every person entitled to vote may help to contribute to the increase of the Revenue of this Colony.⁵⁰

The language in this petition is instructive because it links the passage of the Master and

⁴⁸ CA HA 751/92, 24 August 1854 and CA HA 751/93, 15 August 1854.

⁴⁹ CA HA 752/78. The petitioners were referring to the 1841 Master and Servants Ordinance, the strict provisions and punishments of which we have already seen.

⁵⁰ CA HA 753/1, 17 March 1856, from the division of Sandveld, Clanwilliam, with 67 signatures; CA HA 753/4, 17 March 1856, from Langekloof, George, with 36 signatures; CA HA 753/11, 19 March 1856, from Berg, Langevley, and Boven Oliphants River, Clanwilliam, with 89 signatures; CA HA 753/20, 25 March 1856, Onder Roggeveld, Hantam, and Onder Bokkeveld, Clanwilliam, with 148 signatures. The petition from George did not ask for a poll tax but was otherwise identical. Another petition (CA HA 753/26, 28 March 1856, Hardeveld and Kamesberg, Clanwilliam) was in Dutch and I was unable to verify whether it was identical to the English petitions.

Servants Act with, on the one hand, a series of proposals that combined would produce a totalizing and stifling labor regime, and on the other, a consistent plea for such legislation spanning the time before and after the Cape Constitution was enacted. The petitioners clearly link their advocacy for those representative institutions to changes in labor law that would secure their property and increase their prosperity. In case there was any doubt as to the racial composition of the working class, the petitioners pointed out that it was “the colored population [who were] living in idleness about without any Restraint or obligation” while farmers and their families dutifully paid their taxes and performed menial tasks. Identical petitions from the same groups were submitted to the Legislative Council when the House of Assembly finally passed the bill in April 1856.⁵¹ It became law on June 6, 1856.⁵² The final provisions included, among other things, a maximum five-year written contract with no provision for workers to leave, a laundry list of worker violations with no corresponding list for employers, and a minimal possibility of worker redress for what offenses existed.⁵³ This law was far harsher than its predecessor in the “range of offences constituting breach of contract by a servant, as well as the severity of the penalties thus incurred” (Bundy 1975: 39).

Indigenous South Africans were affected by the law in part because they preferred working their own small plots of land and hiring themselves out as day labor if necessary to low-wage long-term contracts with no possibility of exit (Bundy 1975: 39). They were also far from oblivious to the provisions of the law. A petition from seventy residents of Hankey, a missionary station occupied by Khoisan in the Eastern Province, claimed that were the bill to become law “it

⁵¹ CA LCB 278/5, 278/11, 278/13, and 278/17.

⁵² CA CCP 1/1/3. The text of the bill can be found in CA CCP 6/2/1/1, Act 15 of 1856.

⁵³ CA CCP 6/2/1/1, Act 15 of 1856. Servants could seek wages unpaid or cancel the contract if they won a dispute; if an employer won a dispute the servant would be sentenced to a month or more of hard labor and solitary confinement.

would in many of the remoter parts become an instrument for oppression, while in those parts in which the servants are more enlightened they would be driven by the greater severity of its penalties to avoid contracts of service altogether, and to seek their livelihood from every other source.”⁵⁴ The advent of representative government at the Cape saw the calcification and consolidation of a repressive labor regime that would culminate in the stifling laws of mid- and late-20th-century apartheid. The British imperial government was supposed to be the final guardian of the rights of indigenous peoples in the Cape, but by this time, the Colonial Office had already retreated from its liberal humanitarianism of the earlier 1800s across the empire, allowing anti-vagrancy and Masters and Servants legislation in the Caribbean as well as the Cape (Keegan 1996: 125). Indeed, Keegan (1996: 247) puts it most clearly: “The white colonists as a whole...saw no reason why they should not use their newly acquired voting powers to secure the sort of repressive legislation that they had been seeking for years for the better control of the colony’s working classes.”

State-building

[Note to readers: this section is very much in its earliest stages, as I am still in the process of analyzing archival data from Israel and the United Kingdom.]

Lastly, I turn to the Zionist colonization of Palestine to explore the role of the desire for state-building in motivating the creation of elected representative institutions. Proto-Zionist efforts to colonize Palestine began in 1882 with the arrival of Jewish settlers from Europe. These and subsequent settlers to about 1903 would later be characterized as the first *aliyah*, or the first wave of immigration. The settlers, by and large, were interested in working agriculturally but found it difficult to maintain themselves autonomously; many left Palestine within a few years of

⁵⁴ CA LCB 278/60, Hankey, Uitenhage, with 70 signatures.

arriving, and those that were remained were sustained by outside philanthropy. One of the chief philanthropists, Baron Edmund de Rothschild, borrowed from Algerian colonial agriculture and funded monocultural cash-crop plantation colonies: vineyards, citrus orchards, almond groves, and other crops grown for export to the international market (Shafir 1989: 51). These plantations relied on Jewish management and predominantly indigenous Palestinian Arab labor.

But in 1904, a new wave of immigration from Europe (the so-called “second *aliyah*”) began that prized working on the land and Jewish-owned-and-operated farms. Their battle for so-called “Hebrew labor”—that is, an exclusively Jewish labor force—was, in the long term, unsuccessful, but the structural conditions of Jewish settlement in Palestine by 1917 and the close of World War I were highly informed by this struggle. The Jewish community of Palestine was multifaceted; new immigrants were divided between the capitalist-nationalist earlier immigrants and the socialist-nationalist later immigrants, each side preferring different outcomes in the land and labor structure of the settler movement. In addition to these, a sizable population of Orthodox non-Zionist Jews already lived and continued immigrating to Palestine, as well as a large indigenous Jewish population that was frequently ignored by the new settlers in designing the institutions of their movement. Thus, by 1917, when Great Britain pledged its support for a Jewish “national home” in Palestine in the form of the Balfour Declaration, the Jewish community was divided along class, ethnic, and religious lines, and these cleavages did not neatly overlap.

From 1917 to 1920, a heterogenous coalition of various forces in the Zionist settlement attempted to form an elected representative assembly that could organize the Jewish community in Palestine as a whole and represent it to the new British colonial rulers. In November 1917, shortly after British troops conquered much of southern Palestine from the Ottoman Empire,

local Zionist leaders called a meeting in Petah Tikvah, a plantation colony (*moshava*) outside of Jaffa/Tel Aviv, to begin the process of building such an elected body.⁵⁵ This assembly formed a temporary body, the Provisional Committee for Palestinian Jewry, which called three successive Preparatory Assemblies to plan the electoral and regulatory structure of the representative institution. After a series of internal battles—primarily centering on the rights of women to vote and to be elected and debates over the institutionalization of “Hebrew labor” as a policy—and external battles—with the World Zionist Organization over the very existence of the assembly—elections were held in April and May 1920. The Elected Assembly (*asifat hanivharim*) would elect a National Council (*va'ad leumi*) out of its members to act as the “government” while the Assembly was not in session.

In this section, I will leave the struggles that led to the formation of the Elected Assembly aside and explore the battle that consumed it for its first eight years: the effort to be recognized by the British and to gain the legal power to tax the Jews of Palestine. The Elected Assembly proclaimed itself the “supreme institution for the organization of the public and national issues concerning the Jewish people in Eretz Israel [Palestine] and is its sole representative internally and externally.”⁵⁶ But this representation meant nothing if its rulings could not be binding on the community the assembly sought to lead. In contrast to other settler movements, which sought to transform existing institutions or create new ones within the state apparatus, the Zionist settlement movement in Palestine developed its own organization independent of the colonial state and then sought to arrogate major elements of state power, in this instance the power to tax, to this organization. To do so, the settlers first had to agree that they wanted the power to tax—

itself a difficult task—and then had to convince the British to give up aspects of sovereign

⁵⁵ Resolutions of a meeting at Petah Tikvah, Central Zionist Archives (CZA) J1\6313.

⁵⁶ Proceedings of the first session of the first Elected Assembly, CZA J1\7203\2.

power. This process took eight years with the promulgation of the 1928 Religious Communities Ordinance and was not fully implemented until the 1933 elections to the third Elected Assembly.

While the Zionist settler movement had met successively, at times with British sponsorship, from 1917 to 1920, and while it held elections successfully in 1920, when the Assembly tried to meet in May of that year, the British forbade it from sitting.⁵⁷ This was an early sign that while the British might be formally committed to establishing a Jewish “national home,” it did not immediately follow that Zionist settlers would be able to create state-like institutions, at least in the short run. The military administration then governing Palestine argued that “political laws and constitutional privileges are as a matter of course suspended during occupation.” In October 1920 the new Civil Administration, headed by Herbert Samuel, removed the prohibition, and the Assembly met from October 7th to 11th.⁵⁸ In doing so, Samuel “made the recognition of the Assembly and its committee [the National Council] conditional upon no resolutions being adopted or submitted which will be contrary to the terms of the mandate.”⁵⁹

When the Assembly met, it declared itself to be the “supreme, popular, legitimate, and general elected representative of the settlement.”⁶⁰ Yet it was immediately beset by some of the same struggles that delayed its formation: fights between the capitalists and the labor movement, and between the secularists and the ultra-Orthodox. Like other settler-colonial institutions, the Elected Assembly was a venue both for debating preferred policies—in this case, the optimal land and labor regimes—and for determining a budget to fund ongoing colonial expenditures and, in the case of the Zionist settlement project, state-building activities like education, health, and welfare. But if the capitalist landowners lamented the factionalism of Zionist politics, the laborite workers were equally vocal in calling for a taxation regime. Shlomo Shiller, a center-left member of the workers’ party *HaPoel HaTsair*, said that the National Council must be able to

⁵⁷ Storrs to Eder, 13 May 1920, CZA L3\240.

⁵⁸ Samuel to Curzon, 8 November 1920, TNA FO 371/5124/85/E14806.

⁵⁹ Ibid.

⁶⁰ Jacob Tahon, in the proceedings of the first session of the first Elected Assembly, CZA J1\7203\2, p 5.

raise taxes, preferably “a progressive tax on income.”⁶¹ Yitzhak Tabenkin, one of the founders of Ahdut ha’Avodah (Brotherhood of Workers), linked the taxation law to recognition by the British government.⁶² But the centrists and right-wing were deeply fearful of granting taxation powers to the new institution. The teacher Chaim Bograshov, while saying that “we need to collect taxes,” also warned that “the left must feel that the right is needed.”⁶³ Rabbi Moshe Ostrovsky, head of the right-wing Mizrachi ultra-Orthodox movement, castigated the left-wing for having the audacity to seek power after only living in Palestine for a decade.⁶⁴

The centrist capitalist landowners and the right-wing ultra-Orthodox were not opposed to taxation itself, but to its potential use by the left to expand its influence through an expansion of powers allocated to the National Council. Based on the comments of left-wing delegates, their fears were justified. Yitzhak Ben-Zvi, a young activist in the workers’ party *Poalei Zion*, said “they [the right] accuse us [the left] of suggesting a program too broad for the Elected Assembly and the National Council, but is there a program too broad for a people that wishes to create for itself a homeland?...This institution must be a power. A power more than was possible in any other country. A power that has a role not just today and for a moment. A power that needs to be supreme over all...What kind of National Council will we have if we don’t give it the power to regulate the other committees in the country, if we don’t give it the power to raise taxes?”⁶⁵ And yet the capitalists were unconvinced: they wrote a statement arguing that “this Elected Assembly is not capable of electing a National Council with broad powers.”⁶⁶ The implication was that the Assembly could not raise taxes. At the end of its session, however, the plurality of the labor

⁶¹ Shiller, in *ibid.*, p 63.

⁶² Tabenkin, in *ibid.*, p 70.

⁶³ Bograshov, in *ibid.*, p 48.

⁶⁴ Ostrovsky, in *ibid.*, p 71.

⁶⁵ Ben-Zvi, in *ibid.*, pp 89-90.

⁶⁶ Statement of the farmers, Sephardic Jews, and non-partisans, in *ibid.*, p 80.

movement rammed through resolutions as ultra-Orthodox delegates walked out of the room; one of these was an instruction to the National Council to “work on a general taxation law” for submission to the next session.⁶⁷

In such a fractious environment, it should come as no surprise that the National Council faced difficulties collecting even voluntary contributions to pay its own expenses, much less imposing taxes that would fund a broader state-building agenda. In the National Council’s first meeting, it discussed the budget of 3,000 Egyptian pounds allocated to it by the Elected Assembly and its inability to institute an income tax. Instead, the delegates opted to ask the Elected Assembly delegates to collect money from their localities and to ask private institutions for contributions.⁶⁸ Unsurprisingly, however, the Council found it difficult to get these voluntary contributions. The archives are full of letters to various municipalities demanding the payment of taxes with few responses of any kind. A letter from the National Council to its Assessment Committee put the situation in dire terms: “either the National Council will exist...or it does not need to exist. It’s important for you to understand that in this situation, when there is no aid from any quarter, when even our close friends don’t wish, when it comes to money, to come to our assistance—you tie our hands.”⁶⁹

It is unsurprising that in this situation the Zionist movement in Palestine turned to the colonial state for assistance. The local British civil administration in Jerusalem was friendly to efforts to establish taxation powers; its chief officials, from High Commissioner Samuel to Colonial Secretary Wyndham Deeds and Attorney General Norman Bentwich, were sympathetic to the Zionist cause of the national home. When the National Council reached out to Bentwich to

⁶⁷ Resolutions, in *ibid.*

⁶⁸ Proceedings of the first meeting of the National Council, first session, 26 October 1920, CZA J1\7224, pp 16-20.

⁶⁹ National Council to Assessment Committee, 12 June 1922, CZA A46\25.

inquire about gaining taxation powers alongside their recognition, Bentwich suggested that taxes could be separated into two categories, lay and religious. The National Council could directly collect the first taxes.⁷⁰ Samuel wrote to the Colonial Office in London with a draft statute drawn up by the National Council formally recognizing the Elected Assembly and National Council in July 1922. The statute would also have given the Jewish community the legal authority to tax itself, and Samuel believed that “the enactment of this Statute will strengthen in large measure the unity and cohesion of the Jewish Community which in former times has been greatly lacking.”⁷¹ The implication was clear: the Jewish community could not successfully collect voluntary contributions; thus, in order to further the goal of the Jewish “national home,” it must be allowed to compel their payment with the force of law.

The submission of this draft to the imperial authorities followed a pattern that would be repeated in subsequent efforts to gain taxing powers for the Jewish community in Palestine. At first, the Colonial Office staff seemed nonplussed by the statute and suggested that the statute might be approved. They compared it to an earlier order establishing the Supreme Muslim Council, a government-created body that administered Muslim religious property in Palestine, but some realized that this ordinance went much further in granting organization to the Jewish community as a whole.⁷² Then, higher-level staff expressed broader concerns and backed away from supporting the effort.⁷³ The Colonial Secretary, Winston Churchill, wrote to Samuel in August raising numerous concerns, among them the taxation powers and the politics of granting the Zionists a representative body while (presumably) denying Palestinian Arabs the same, and

⁷⁰ Second meeting of the National Council, second session, 24 May 1922, CZA J1\7225, p 2.

⁷¹ Samuel to Churchill, Confidential, 21 July 1922, TNA CO 733/23/319.

⁷² Minute by Mills, 14 August 1922, in *ibid.*

⁷³ Minute by Young, 22 August 1922, in *ibid.* Young’s exact words were “I do not like this at all.”

asking for a revised draft.⁷⁴

The local administration supported Zionist efforts to gain taxation powers, but the imperial government was skeptical of granting sovereign characteristics to non-state actors. The local administration brought Churchill's concerns to the National Council in November 1922, but the National Council rejected any changes to the ordinance, arguing that "without the right to impose taxes the community can't exist."⁷⁵ In subsequent communications Churchill suggested that Samuel bring the matter up in front of the to-be-elected Legislative Council, which would have contained ten government officials, two elected Jewish members, two elected Christian members, and eight elected Muslim members.⁷⁶ The National Council rejected this idea as well, and pressed the local administration to argue that since the Jews had been constituted as a religious community with the right to organize themselves internally under the Ottoman Empire, the community should still be allowed to organize itself, with the addition of taxing authority.⁷⁷

The imperial administration in London was not persuaded by this new argument. "As regards the analogy of Turkish 'millets' (1) the system is a thoroughly objectionable one," wrote Gerard Clauson in the Colonial Office. "The fact that it and hundreds of other abuses flourished in Turkey is no reason at all why we should perpetuate them in Palestine."⁷⁸ The new Colonial Secretary, the Duke of Devonshire, replied to the Palestine administration that

to exercise compulsion with the object of holding together a racial or religious community which either because [of] lack of interest or on the better ground of the breadth of wider sympathies is tending to disintegrate is not only contrary to the spirit which should animate the administration in mandatory territories but seems doomed to failure in the long run.⁷⁹

⁷⁴ Churchill to Samuel, Confidential, 28 August 1922, in *ibid.*

⁷⁵ Proceedings of the fifth meeting of the National Council, second session, 27 November 1922, CZA J1\7226.

⁷⁶ Churchill to Samuel, Confidential, 28 October 1922, referenced in Keith-Roach to Churchill, Confidential, 30 November 1922, TNA CO 733/27/418.

⁷⁷ Deedes to Churchill, Confidential, 28 December 1922, TNA CO 733/28/500.

⁷⁸ Minute by Clauson, 15 January 1923, in *ibid.*

⁷⁹ Devonshire to Samuel, 23 January 1923, in *ibid.*

Again the local Zionist settlement movement was stymied, but it and the local British administration were preoccupied with elections to the Legislative Council. These were a colossal failure in 1923, not only because of a successful boycott by Palestinian Arabs on the grounds of underrepresentation and the inclusion of the Balfour Declaration in the Palestine Constitution, but also because of lack of interest on the part of the Zionists in engaging in an institution that threatened to overrule some of their interests.⁸⁰ The National Council took the additional step of threatening a boycott of the elections—though they backed down from this threat—over the refusal to enact the ordinance providing for the organization of the Jewish community in a meeting with Samuel in February 1923.⁸¹ With the British administration’s planned representative institution in shambles, Zionist attention returned to gaining taxation powers for their assembly. This time, the National Council argued that refusing their desire for self-government was inconsistent with Britain’s promise to further the “national home” for the Jewish people in Palestine. Samuel stressed his view that “to continue to refuse this modest degree of recognition of the Jewish Community in Palestine is in the highest degree impolitic.”⁸²

As in the past, the imperial administration did not find this argument convincing. The bureaucrats in the Colonial Office noted that “the question of raising money...so immediately touches the liberty of individuals” that communities seeking to do so ought to have members opt in, not be compelled.⁸³ The Colonial Office’s legal adviser, Burke, concisely pointed out that Samuel’s proposals “contemplate the permanent separation of the Jewish from the non-Jewish community in Palestine” and that they amount to setting up “a Government within a

⁸⁰ See proceedings of the fourth meeting of the National Council, second session, 11 September 1922, CZA J1\7225.

⁸¹ Samuel to Devonshire, Confidential, 16 February 1923, TNA CO 733/42/538.

⁸² Ibid.

⁸³ Minute by Moody, 27 February 1923, in *ibid.*

Government.”⁸⁴ Finally, the undersecretary of state John Shuckburgh wrote that the proposals would seem as though “notwithstanding all our assurances to the contrary, we are in fact aiming at converting Palestine into a Jewish state, and that we are taking the first step in this direction by according privileges to the Jews that we deny to other people.”⁸⁵

The Colonial Office had come to realize the true substance of the Zionists’ proposals for taxation powers: the building of a state apparatus that could effectively exercise sovereignty apart from the colonial administration. At this point when subsequent protests were sent by the National Council the Colonial Office barely condescended to respond. As Sydney Moody wrote, this “correspondence...has now reached the stage of vain repetition. It is simply boring and banal.”⁸⁶ The National Council now took action to invoke other allies: the Zionist Organization’s⁸⁷ Executive in London, which had good relations with the Colonial Office.⁸⁸

Without the power to tax, they wrote,

very early we shall find ourselves threatened with the complete ruin of our inner life; the lack of organisation...robs the Yishub (sic) of the possibility of remedying defects and of overcoming obstacles of relieving the unemployment situation and of proceeding with the upbuilding of the country.⁸⁹

When High Commissioner Samuel traveled to London in July 1923 to discuss policy, however, the Colonial Office laid down the law: “no power was to be given to the Jewish community to levy dues.”⁹⁰

Samuel was instructed to prepare a new draft allowing for some degree of cultural and

⁸⁴ Minute by Burke, 6 March 1923, in *ibid.*

⁸⁵ Minute by Shuckburgh, 23 March 1923, in *ibid.*

⁸⁶ Minute by Moody, 6 June 1923, in TNA CO 733/45/183.

⁸⁷ This body became the World Zionist Organization in 1960.

⁸⁸ Letter from National Council to Samuel, 19 June 1923, in Clayton to Devonshire, Confidential, 26 June 1923, TNA CO 733/46/661.

⁸⁹ *Ibid.*

⁹⁰ Minute by Young, 16 July 1923, in TNA CO 733/46/661.

religious autonomy but expressly not granting the power to tax. He sent a new draft back to the Colonial Office in April 1924, by which point in time the Conservative government had fallen and a short-lived Labour government took power. Samuel contended that due to the Jewish community's "highly developed communal life" it would be necessary to grant its institutions "large powers." By contrast, he claimed, among Palestinian Muslims, no such communal life existed.⁹¹ Despite instructions to the contrary, Samuel also added a power to levy a tax for education. Again the Colonial Office was not convinced, and argued that it was by no means obligated to grant the Zionists taxation powers under the Mandate. Such an ordinance, in the minds of the bureaucrats, would create a question of overlapping and unclear sovereignty, in which disputes could be adjudicated and legislated for by multiple overlapping and potentially contradicting bodies.⁹² "It is clear," wrote an unnamed official, "that the High Commissioner's proposals involve just the kind of 'imperium in imperio,' a Jewish authority with taxing powers conferred by statute, which we were bent on avoiding."⁹³

How, then, were taxation powers eventually won? The efforts by the National Council to invoke the assistance of the outside Zionist Organization worked. In July 1924 Chaim Weizmann, head of the Zionist Organization, wrote to the new Colonial Secretary, James Henry Thomas, arguing that the "Jewish Community Ordinance...represents a first step towards the formal establishment of the Jewish National Home in Palestine."⁹⁴ Later that month Thomas and Weizmann met, and the former decided "to accept the local Government's proposals in their main outline."⁹⁵ Weizmann's intercession, along with a fortuitous change at the head of the

⁹¹ Samuel to Thomas, Confidential, 24 April 1924, TNA CO 733/67/460.

⁹² Minute by Keith-Roach, 16 May 1924, in *ibid.*

⁹³ Anonymous minute, 28 May 1924, in *ibid.*

⁹⁴ Weizmann to Thomas, 18 July 1924, in *ibid.*

⁹⁵ Minute by Shuckburgh, no date, in *ibid.*

Colonial Office, accomplished what the combined efforts of the National Council and the Palestine Government could not: the admission of taxation powers to the Jewish community. When the Labour government fell in November 1924 and was replaced by a Conservative government, the new Colonial Secretary, Leo Amery, refused to overturn the decision of his predecessor despite the strenuous objections of the Colonial Office staff.⁹⁶

[Future versions of this paper will include details of the final ordinance approved in 1928 as well as the use of taxation powers by the National Council and Elected Assembly.]

The struggle for taxation powers was contentious, and in attempting to arrogate sovereign powers to a self-constituted body, the Zionist settler movement was on uncertain and unprecedented grounds. While its institutions gained valuable allies in the local Palestine administration, their combined advocacy was insufficient to win taxation powers from the imperial government in London, which stubbornly held to its interpretation of the British Mandate. But when they enlisted the support of outside allies in the Zionist Organization, they were able to win these capabilities. While the Elected Assembly and National Council would—because of internal squabbles within the Jewish community in Palestine and, ironically, because of the strength of the outside Zionist Organization—end up playing second fiddle to the unelected Jewish Agency in representing the Zionist movement to the British authorities, these institutions were the direct parents of the current Israeli parliament, the Knesset. The struggle to gain aspects of sovereign power, one not accorded to Palestinian Arabs throughout the twenty-five years of the Mandate,⁹⁷ had a lasting and crucial legacy.

Conclusion

In settler-colonies, the advent of elected representation is not associated with greater

⁹⁶ Minute by Amery, 3 July 1925, in Samuel to Amery, Confidential, 22 May 1925, TNA CO 733/93/107.

⁹⁷ The Palestine Mandate went into force in 1923 and ended in 1948.

equality for all residents of the colonial space, but rather a limited equality for settlers and an increasingly institutionalized inequality for indigenous peoples and other imported populations. In arguing that settlers seek to form elected representative institutions in order to protect their property claims and accumulate more wealth, I have sought to demonstrate in this paper three economic motivations for settlers to create elected representative institutions. Settlers press for representative institutions to safeguard existing landholdings from threats by indigenous populations and the enforcement of settler-unfriendly rules by ruling powers. They advocate for elected assemblies to secure low-wage labor sources to power the settler economy. And they create parliaments that are not simple representative assemblies, but ones with teeth: the powers to tax and spend. For non-settler residents of the colonies, the word “self-government” was far from meaning an increase in freedom and equality. Instead, it was certainly a “treacherous” gift.

Works Cited

- Bundy, Colin. 1975. "The Abolition of the Masters and Servants Act." *South African Labour Bulletin* 2 (1): 37–46.
- Keegan, Timothy J. 1996. *Colonial South Africa and the Origins of the Racial Order*. New Africa Books.
- Martens, Jeremy. 2015. "Decentring Shepstone: the Eastern Cape Frontier and the Establishment of Native Administration in Natal, 1842–1849." *South African Historical Journal* 67 (2): 180–201.
- Shafir, Gershon. 1989. *Land, Labor, and the Origins of the Israeli-Palestinian Conflict, 1882-1914*. Cambridge: Cambridge University Press.