

Equal subjects, unequal rights

Indigenous people in British settler colonies, 1830s-1910

JULIE EVANS, PATRICIA GRIMSHAW,
DAVID PHILIPS & SHURLEE SWAIN



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1830–1910

Julie Evans, Patricia Grimshaw,
David Philips and Shurlee Swain

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GENERAL EDITOR'S INTRODUCTION

It is a welcome development that we have now moved beyond the nationalistic approach to the history of the former 'dominions', the territories of white settlement of the British Empire. Canada, Australia, New Zealand and South Africa (from 1910) have many points of similarity in their emergence as countries in which indigenous peoples were dispossessed by a series of white dispersals extending from the sixteenth to the twentieth centuries. Until 1776, the American colonies were in the same category, but this book is concerned with the four that remained within the British orbit. Apart from its comparative approach, what marks this book out is the fact that it deals with political rights, essentially parliamentary representation and the extension of the franchise. This is innovative, for in the past, land and other social and economic rights have figured more prominently in the concerns of historians.

In many respects, the question of political rights boils down to the contrast that was sometimes drawn between subjects and citizens. Although these two concepts were often discussed, the British Empire never formalised them. The French did, and the status of *sujets* and *citoyens* was carefully defined, with attendant rights and responsibilities. For the French a *citoyen* had abandoned indigenous social organisation all together. The *citoyen* had become a black Frenchman, educated as such, accepting French cultural norms, usually living in cities, and thereby liable for military service as well as having a right to vote. The centralisation of the French imperial system was symbolised by the fact that the *citoyens* secured representation in the French Assembly in Paris. The British always retained dispersed political authority, but, in effect, some of the indigenous people of the British white dominions aspired to a similar status, particularly those who were products of the missionary environment.

What is striking about the conclusions of this work is the stress that the authors place upon an anti-progressive history. As devolved political institutions were granted to whites, partly as a direct fear of further revolutions along the American model, the treatment of indigenous peoples was often retained as an imperial prerogative in London. But as representative government developed into responsible government, and then into full dominion status, the imperial government in London was very reluctant to exercise such authority. In effect, white power over indigenous peoples was devolved by default. And the spread of white liberties often meant the restriction of indigenous freedoms and a reluctance, partly born of political fear, to extend political rights to the native peoples. The chapters here demonstrate how carefully nuanced our awareness of this check upon indigenous rights should be: it was sometimes related to the concept of the empty land or absence of legal rights; to the continuation of allegedly incompatible notions of communal 'tribal' organisation; to the development of pseudo-scientific racism; to ideas about labour, educational attainment, supposed economic contribution, and also to aspects of gender.

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In all these respects, the four territories offer different emphases and varying speeds of response on the part of both white and indigenous people. We should also note that similar checks were taking place in colonial territories where there were no white settlers. In West Africa, tasks undertaken by Africans in respect of the administration, of medical work, and missionary endeavour in the mid-nineteenth century, became the prerogative of expatriate whites by the 1890s. In India, there were also checks to advancement in the professions and into the bourgeois status implied in the French *citoyen*. As in the dominions, such checks were designed to inhibit indigenous advancement, to protect white rule from threat, and to slow down rates of political activism. Ironically, such barriers probably did more than anything to foment nationalism and the demand for decolonisation in those territories.

Although this book does not deal with the United States, some parallels should be noted. The Declaration of Independence did not lead to the distribution of political rights to native Americans, Afro-Americans, or women. When slavery was finally abolished with the Civil War of the 1860s, black rights received a severe set-back through legislative and repressive social action. Segregation and discrimination remained prevalent in many states until the 1960s, and even now registration of black voters and the ability of such voters to cast their votes can be restricted, as in Florida in a recent presidential election. The battles for indigenous and black rights in the United States, as in the former dominions, are not yet over.

John M. MacKenzie

NOTES ON AUTHORS

Julie Evans was born in Australia and obtained degrees in politics, women's studies and history from La Trobe University and the University of Melbourne, where she is Australian Research Council postdoctoral fellow in the Department of History. Her teaching and research interests centre on nineteenth-century British colonialism and she has published work on Australia, South Africa and the Caribbean. She is currently completing a book the methodological approach of which casts new light on the career of Colonial Governor Edward Eyre. Her postdoctoral research focuses on the rule of law in the colonial encounter.

Patricia Grimshaw was born and grew up in New Zealand at a time when the country considered itself the model of a society in which Indigenous and White people lived together harmoniously. She obtained degrees in history and English from the University of Auckland and a doctorate from the University of Melbourne, where she currently holds the Max Crawford Chair of History. She teaches and researches in the areas of Australian, Pacific and western United States' history, with particular interests in the comparative histories of gender, colonialism and 'race'. She is the author of a number of studies, including *Women's Suffrage in New Zealand* (rev.edn, 1987) and *Paths of Duty: Missionary Wives in Nineteenth-Century Hawai'i* (1989), co-author of *Creating a Nation* (1994) and co-editor of *Women's Rights and Human Rights: International Historical Perspectives* (2001).

David Philips was born and grew up in South Africa under the apartheid regime. He obtained degrees in history and English from the University of the Witwatersrand and Oxford University before coming to the Department of History at the University of Melbourne. He has taught courses on modern British social history, South African history, colonial Australian history, and comparative colonial history – from the last of which the idea for this book arose. He has published extensively on the history of crime, law and policing in nineteenth-century England and colonial Australia, and a little on modern South Africa in the apartheid period.

Shurlee Swain was born in Australia and obtained degrees in history and social work from the University of Melbourne. She is an associate professor and reader in history at the Australian Catholic University and a senior research associate in the Department of History at the University of Melbourne. Her research and teaching have encompassed Australian social history, the history of women and children, and comparative colonial history. Her most recent monographs are *Single Mothers and Their Children* (1995) and *Confronting Cruelty* (2001).

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This book has been a collaborative endeavour by the four authors, who consulted each other on its major elements. Primary responsibility for individual chapters was distributed as follows: Julie Evans, the Introduction; David Philips and Patricia Grimshaw, chapter 1; Shurlee Swain, chapters 2 and 5; Patricia Grimshaw, chapters 3 and 6; Julie Evans and David Philips, chapters 4 and 7; David Philips, the Conclusion.

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In 1841, Herman Merivale, professor of political economy at Oxford University and soon to be appointed under-secretary of state for the colonies, made the following remarks about the nature of colonisation:

The history of the European settlements in America, Africa, and Australia, presents everywhere the same general features – a wide and sweeping destruction of native races by the uncontrolled violence of individuals, if not of colonial authorities, followed by tardy attempts on the part of governments to repair the acknowledged crime.¹

At the beginning of the new millennium, Herman Merivale's mid-nineteenth-century characterisation of colonies of settlement at once confirms and challenges a 'commonsense understanding'² of colonialism. The work of revisionist historians has ensured that Europeans can no longer claim ignorance of the devastating impact on Indigenous peoples of this particular type of colonial enterprise. But the alleged disorder and pragmatism of its administration, so candidly asserted as 'irregular and arbitrary' by one of its major protagonists, is perhaps less immediately brought to mind.³

In this book, where we trace the general and particular circumstances in which political rights were accorded or denied to Indigenous peoples in Canada, Australia, New Zealand and South Africa, from the 1830s to 1910, Merivale's twin observations emerge as particularly pertinent. By situating the violence and upheaval of dispossession within a comparative perspective, we hope to identify shifting modes of British and settler rule over time as British governments and colonial elites adopted more 'respectable' means of establishing and then entrenching settler dominance and privilege, in lands that were inhabited by others. Part of securing that dominance, as well as of attempting to repair 'the acknowledged crime' of colonisation, would include consideration of how surviving Indigenous peoples were to be incorporated within the political systems that were unfolding.

We turn our attention to this specific aspect of colonial rule in these newly forged aggregations – to how first British and then settler governments addressed the question of Indigenous peoples' political rights. In demonstrating critical links between similar types of colonial formation in vastly different parts of the Empire, we argue that the ways in which Britain and the individual colonies responded to this question, while varying significantly, conformed nevertheless to the general

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economic requirements of settlement. Previous valuable collections have tended to view the franchise purely as part of legal or political history.⁴ In putting forward a comparative study of the franchise within the distinctive social context of settler colonialism, we address a significant gap in the historiography that we hope will clarify understanding of enduring injustices and inequalities in these contemporary settler states. Rather than simply listing the terms and provisions of the franchise when these states were being formed, we demonstrate their historical relation to the wider economic, social and political imperatives that framed those interactions in Canada, Australia, New Zealand and South Africa. We identify major players in these encounters whose distanced or intimate engagements with decisions over who would and would not be included as full members of the colonial polity laid bare some of the central issues at stake in settler-colonial rule.

Traditional Marxist and more recent postcolonial theorists have established and elaborated the pervasive and persistent effects of *colonialism*. While not questioning its overall coherence as a political project, we have adopted an analytical framework that views colonialism as unfolding in specific fields of struggle and its modes of government as both formulated within and responsive to variable and shifting balances of power. We focus our attention in this instance on a distinctive form of colonial domination – British nineteenth-century settler colonialism – and offer an examination of these four localised sites of its various manifestations. In so doing, we are indebted to the work of recent scholars who have asserted the need to counter an enduring view of colonialism as undifferentiated, as an ‘oddly monolithic, and surprisingly unexamined, notion’,⁵ and to foster instead analysis of its operations ‘through its plural and particularised expressions’.⁶

To that end, we foreground here certain features of settler colonialism central to an understanding of the nature, the terms and the timing of the political rights conferred upon Indigenous peoples in each of our sites. These common features, variously experienced and expressed, hold together a comparative analysis that is otherwise vulnerable to the substantial differences between its component parts. Further, they establish the historical connection between the ways British and colonial governments of the mid- to late-nineteenth century assessed the political rights of Indigenous peoples and both the overt violence-coercion of other modes of settler-colonial rule and the entrenched discrimination that continues to characterise settler societies today.

Colonialism had a particular face in colonies such as Canada, Australia, New Zealand and South Africa where large numbers of British and other European settlers claimed a stake in the land. In colonies of exploitation, such as India, economic interests were vested in

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the richness of their resources and in exploiting the labour of their Indigenous or imported inhabitants in extracting their surplus value. In colonies of settlement, on the other hand, economic interests were vested primarily in securing permanent control of the land. While the labour of Indigenes – and of others, as we shall see – may also have been indispensable in certain times and places, maximising settler access to land, and converting that land to property, remained of paramount importance. Moreover, where individual Europeans in colonies of exploitation were more likely to be adult males who would eventually return 'home', increasing numbers of women and children were included among the settlers, a population that intended to stay and make the country a homeland for future generations. Establishing British systems of law and government would be central to that process – and to the subsequent launching of the independent states which would follow if settler hegemony could be achieved.

It is clear that the land figured, and continues to figure, prominently in relations between settlers and Indigenes in these societies. It follows, then, that indigeneity also assumed, and continues to assume, a heightened significance, signalling as it does alternative claimants to the land, the exclusive possession of which by the settlers would remain the primary object of settlement. While we focus here on Indigenous peoples' political rights, it is important to emphasise that it was the land of Indigenous peoples, not the people themselves, that was the driving concern of the colonisers. Indeed, the presence of Indigenous peoples seriously confounded colonial intentions, presenting to various groups among the colonisers – colonial entrepreneurs, settlers and their different factions, metropolitan and local officials, missionaries, humanitarians and other observers – a major problem to be solved. It was no accident that in settler-colonial discourse the 'Aboriginal Problem', or the 'Native Question', assumed a particular urgency that resonated in profound ways with what amounted to a basic economic concern – how to deal with impediments to gaining exclusive access to the land. At the theoretical level, at least, a sovereign Indigenous presence was incommensurable with permanent European settlement.⁷ In practice, attempts to orchestrate its demise, both materially and discursively – through violent coercion of Indigenous peoples, legal denial of their property rights or attempts to assimilate them out of existence – promoted sustained, and continuing, resistance by Indigenous peoples and troubling ethical, legal and political debates among British and colonial governments, colonial entrepreneurs and local settlers.

As far as the justification of dispossession was relevant in the face of outright force, British lawyers and politicians had long had recourse to European codes and practices relating to the rights and responsibilities

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of conquest and discovery that were themselves enmeshed in international rivalries between imperial powers.⁸ As Barbara Arneil has observed, English liberalism, as developed by J. S. Mill and others, was (and is) 'plagued by the powerful colonial interests within which it is rooted'.⁹ In particular, liberalism became infused with Lockean notions which recognised proprietary rights in land on the basis of its improvement, specifically by mixing land with labour. In Arneil's assessment, '[t]he definition of property evolved with the changing modes of colonialism, from ownership through discovery or conquest to actual possession and occupation of a territory'.¹⁰ Over time, rights of ownership could therefore also be *legally* denied to those deemed not to have improved the land sufficiently – a characteristic concomitantly signifying immature cultural development – as well as to those whose claim had been forfeited by conquest or cession. Although apparent in other sites and times, the effectiveness of this discursive construction would become particularly clear in the Australian context, where the legal doctrine of *terra nullius*, or land belonging to no one, gradually underwrote dispossession as the nineteenth century unfolded and the pastoral frontier expanded.

That we centre discussion here on the long period of contestation over political rights testifies to the massive physical and ideological odds Indigenous peoples faced from the very beginnings of settlement. In outlining the protracted nature of that struggle, it is important to reiterate that we are dealing with attempts to establish what was essentially a European political order, one which attempted to define the terms of an *individual's* participation in affairs of government. In effectively rejecting alternative forms of engagement with the state, such prescription worked against, and, indeed, can be said to deny, the interests of Indigenous as a *people* whose relation to the land in settler societies rendered, and renders, them distinct from others in the community. Our analysis focuses on this process of legitimising particular forms of political action and canvasses the range of ways British and the settler governments of the four sites in question held out to Indigenous peoples the prospect of a voice in matters of state once certain levels of 'civilisation' had been attained. Although undeniably dominant, this assimilationist and developmental model did not, and does not, encompass the full range of Indigenous peoples' responses to dealing with settler states. While we cannot address these issues here, we acknowledge their enduring salience. As Garth Nettheim has observed, particularly in relation to Canada and Australia:

Indigenous peoples' organizations today are claiming not just short-term special measures to allow them to integrate; they are claiming long-term differential status as distinct peoples, with their own base on land or

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other resources, and the ultimate right of self-determination of their political destiny.¹¹

Given the range of oppression experienced by Indigenous peoples throughout the nineteenth century and beyond, we perhaps should clarify why we have selected the franchise as the subject of our analysis, especially when enfranchisement can undoubtedly be seen as a measure of incorporation in an imposed political order. Put simply, in the putatively democratic societies that were developing in these different colonial communities, not having the vote would have extraordinarily serious implications, particularly once they became independent nations. Those without the franchise would not be considered full members of the ordinary civil society and, accordingly, their eligibility for associated civil rights that the endowment of political rights foreshadowed and protected would also be impaired. From the outset of these new democracies, therefore, those who were excluded were subject to discriminatory provisions that would be embedded in the founding documents of the new nations, a political decision that would have profound consequences for decades to come. Crucially, while exclusion from the vote did not prevent Indigenous peoples from pursuing alternative courses of action outside of the mainstream political system, it locked them out of the only decision-making body that, on the macro level, would ultimately control the way they could live their lives in the new nations.

It is significant that any such franchise rights as were accorded in the numerous colonies that eventually amalgamated into these four nations were generally dependent, at least in the first instance, upon the possession or occupation of individual private property – and not of communal land – a critical nexus between the economic and the political that formalised Indigenous incorporation within the settler economy. Its conversion into property illuminates the pivotal role of land in settler colonialism, and we engage in this project with individual settlers and local and metropolitan governments who were fully immersed in the early years of its alienation as a commodity to be bought and sold on the open market. The new meanings that were being attached to land contrasted starkly with those they displaced. Throughout the period we study, and as settlement expanded in each of our sites, settler desire for land-as-property, which could be possessed under individual title and could accrue value in the market economy, promoted the transfer of vast amounts of land previously held on a communal basis – and valued in entirely different ways – by Indigenous peoples.

As we examine in more detail the shifting terms under which

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political rights were conferred, withheld or withdrawn in these settlements, however, it is important to note that the different franchise provisions cannot be read simply as a measure of colonial concern for Indigenous participation in the affairs of government or the economy. They also reveal the extent to which settlers felt secure in their authority and their claims to sovereignty over particular regions and over the land as a whole. It was clear that the taking of the land would not alone secure settler dominance if there were enough Indigenous survivors whose consent to the colonial order could not be assumed. The demographic balance in individual colonies therefore emerges as a vital variable when comparing their different suffrage qualifications. We alert readers to the significance of the associated issue of differentiation, though it lies beyond the scope of our present analysis. Who would count as Indigene and who as settler was a question that would preoccupy the new nations as they sought, through strategic racial classifications, to control the impact of miscegenation and the resulting birth of children of mixed descent.¹²

At the base level, a qualified male property suffrage in the colonies served as much as a measure of compliance with bourgeois values, as it did in Britain where, although the Reform Act of 1832 had enfranchised middle-class (propertied) men, the perceived threat from 'radical' working-class men (and, at that stage, from all women), whose individual stake in the country was less apparent, delayed their enfranchisement for many decades.¹³ In both the metropole and the colonial peripheries, then, an increasingly democratic franchise, which moved over time from property to manhood to universal suffrage, could be seen to indicate an increasingly entrenched and naturalised social, economic and political structure. In the colonies, however, we shall see that significant exceptions would be made to these qualifications, exceptions that were designed to contain perceived threats to settler authority. These threats were increasingly framed within the language of *race* rather than that of class – while both these categorisations intersected in complex ways with gender, as attempts were mounted to manipulate the electorate in favour of the colonial order. Although carefully worded to counter Colonial Office concerns about discriminating on the basis of race, these legislative safeguards for preserving settler dominance and privilege simply coded race in other ways. The complex reasons underlying this contradiction between the rhetoric and the practice of British and settler governments inform the title of this book, *Equal Subjects, Unequal Rights*.

Far from being simply imposed from above, then, the establishment and maintenance of settler control were fraught with tensions that were apparent both within the individual colonies and between the

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colonies and the metropole. The dynamic nature of settler colonialism consistently encroaches upon any retrospective attempt to cast it in purely prescriptive terms. We hope to indicate, in particular, the rawness and fragility of some settler regimes, notably in the early period of settlement, when the extent of the colonial authority they claimed was under challenge and the very survival of the colony was placed in jeopardy, often prompting massive coercion. The option of using outright force by local and imperial troops, as well as by individual settlers, to uphold and enforce British and settler authority in the face of sustained Indigenous resistance would eventually become untenable. But its exercise at crucial stages of colonial rule would prove as vital to the later emergence of these 'democratic' nations as were the conventions of respectable men who eventually oversaw their official constitution as the century drew to a close.

By the late 1830s, however, the point at which we begin our study, the interest of powerful humanitarians of the day in the welfare of 'native races' magnified the problem of a sovereign Indigenous presence. Attending now to a different type of colonial engagement from the one that had prompted their fight for abolition, the humanitarians' exposure of the dire predicament of Indigenous in settler colonies, most notably in the 1837 *Report of the Select Committee on Aborigines*, made the contradictions within English liberalism once more glaringly apparent. Although we start at this point of humanitarian concern, and focus overall on attempted political solutions to the problem, neither our period nor our focus can be divorced from preceding and continuing official and unofficial attempts at 'clearing the field', which, as recognised by Merivale, were far less 'respectable'.

It is important to emphasise, too, that the mid-late nineteenth century witnessed a number of different phases of settler-colonial rule in each of the four sites. Large numbers of Indigenous peoples had been killed as a result of the initial onslaughts, which had involved the violence of brutal and disorderly land expropriations, as well as stresses arising from the influx of resultant refugee populations and the effects of the diseases they brought with them. But the gradual extension of the frontier in some colonies, and/or belated decisions to press for even more land (and its resources) in others, meant that such destruction could move in waves across a country over many decades. Consequently, considerable variation in both the specific nature of the interaction between settlers and Indigenous peoples and in the mode of colonial governance could occur *within* and *between* colonies as the century unfolded. The issue of who would be full members of the polity promoted debates that invoked broader and shifting concerns, indicating the complexity of the colonial field within which such decisions were framed.

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Along with the influence of the humanitarian lobby that was at its peak in the 1830s, the effects of the granting of self-government also reverberated throughout our four sites during these years. Following the recommendations of the Durham Report, the decades from the 1830s to 1910 saw the gradual extension to the settlers first of representative government, then of responsible government and, finally, after the colonies had travelled their separate roads to nationhood, of greater independence as British Dominions. This shift in power from central to more localised control by European systems of law and government was welcomed by settlers, who were keen to exercise their individual rights and to entrench their institutions; but it had serious consequences for Indigenous peoples. Their recognition of this danger often prompted appeals to the Crown to abide by British justice, forcing the British Government of the day to respond to their concerns independently of the local authorities.

This increasing fragmentation of political power further complicated the struggle over political rights in the colonies and marked the ongoing contestation that surrounded attempts at resolution. When we first encounter these struggles, new constitutions were being offered to the colonies as government devolved and as the terms under which political rights could be granted to Indigenous peoples began to be considered. Although settlement may have been instigated in Britain, the 'mother country' increasingly distanced herself from local policies and practices despite her professed concern about several significant issues, including the welfare of Indigenous populations throughout her settlements. British governments and Colonial Office administrators commonly justified this stance by explaining that a commitment to just democratic practice prevented metropolitan interference with decisions passed by representative majorities in colonial legislatures.

Meanwhile, humanitarians, missionaries and other critics of government policies and/or settler practices deployed similar discursive strategies to reconcile the contrary ends implicit in their concern for Indigenous peoples' welfare and their support for the economic objects of settlement. Throughout the century, and across our four sites, these vocal commentators advocated the importance of reforming colonial policies. But in asserting the responsibility of governments to encourage religious instruction and education programmes, and to allow some limited economic opportunities in order to ameliorate the condition of colonised peoples, the 'civilising mission' conducted, nevertheless, to colonial ends by endeavouring to train compliant subjects and a small elite of middle-class professionals.

We acknowledge the innovative scholarship on Indigene–European relations in each of the countries whose experiences we pursue.¹⁴ This

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work has been invaluable to our understanding of the particular colonial contexts in which decisions about political rights for Indigenous peoples unfolded. For the foray into cross-country analysis that we have attempted here, we owe a debt to that ground-breaking work. We have drawn freely throughout the book on primary sources such as Colonial Office correspondence between local governors and the British government and its officials, internal colonial correspondence, parliamentary debates, legislation and reports, missionary reports, newspapers, letters and petitions. We hope this gives appropriate recognition to the human side of what can sometimes be read historically in more mechanistic ways. Individuals were involved on all sides of these struggles, and individuals made decisions and lived their lives amid the turmoil and the resulting order. In all of this, we can only gesture towards the differences between the perspectives of ministers or bureaucrats in London and those of settlers, missionaries and Indigenous peoples in the colonies, differences that would be crucial to decisions affecting all those who inhabited those settlements. In the end, these distinctively colonial cultures produced distinctively colonial solutions to the 'problems' they faced.¹⁵ We hope to evoke some of the immediacy that surrounded debates about political rights in the four sites by bringing to the fore not only their social, economic and political contexts but the varied thoughts and emotions that underscored their common and particular discursive formulations. To this extent, we hope to emphasise that this period was indeed a formative one, a period when the *process* of defining and installing privilege and exclusion was taking place.

It is crucial, then, both to catalogue Indigenous peoples' political rights and to investigate the manner of their constitution at the level of discourse. Colonial discourses produced racialised understandings of Indigenous (and other colonised) peoples that were far from uniform, and their particular congeniality to different colonial ends saw their varied and arbitrary appropriation through distinct sites and times across the Empire. Most importantly for our purposes, in settler colonies in the mid-late nineteenth century, colonial assessment of Indigenous peoples' political rights correlated with the discursive formulation of the – now familiar – associations of whiteness with privilege, on the one hand, and non-whiteness with discrimination, on the other. These associations would later become entrenched both in the legislative, administrative and legal systems of the colonies and in the constitutions and institutions of the independent nations they generated. They also came to inform and justify the common understandings that emerged within the settler populace about the different groups which inhabited the colony/nation and the various rights to which they were entitled.

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Consequently, this comparative analysis of Indigenous peoples' political rights contributes to the ongoing task of denaturalising the idea of race, which has worked so effectively to authorise enduring inequalities in settler societies, by demonstrating its formulation within specific colonial contexts and in accordance with defined economic interests. Indeed, at certain points it will be obvious that in trying to use contemporary terms for what was occurring we have found the signification of those terms changing before our very eyes. While we cannot pursue here a detailed elaboration of this vital historical task – of identifying '*race*' as it was being forged – we acknowledge the recent work of Indigenous and non-Indigenous critical commentators who are bringing to bear on existing scholarship an increasing awareness of the construction of whiteness as an invisible but crucial pillar of race.¹⁶

Part I canvasses the extent of the 'second' British Empire after the loss of the American colonies and the subsequent reappraisal of colonial administration that occurred in the mid-late 1830s. Part II consists of three chapters, grouped as 'Establishing settler dominance', in which we consider early political developments in the Canadian and Australasian colonies as well as the two British colonies in Southern Africa, from the late 1830s to around 1870. Then in Part III, 'Entrenching settler control', a second group of three chapters, covering the years from the 1870s to 1910, establishes the political outcomes consequent upon this period of intensified appropriation of Indigenous lands.

The story that unfolds is detailed and varied, but its overall reliance on the key features of settler colonialism outlined above has allowed some significant observations to emerge about this particular type of colonial enterprise and its enduring ramifications throughout our four sites. In particular, given the link between land and political rights, it clarifies how the concerns of Indigenous peoples in these societies today are directly related to the economic structures that initially framed their formation as colonies of settlement and which continued (and continue) to inform their social and political development as independent nations.

In bringing to a close this introductory discussion, we draw attention to the following observation to emphasise the importance of bringing a comparative perspective to bear on colonial history:

In these days much is written about the supposed injustice done to the original inhabitants by allegedly dispossessing them of this country by force, and driving them out of it, partly at the establishment of this settlement and partly in subsequent times.

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This statement comes from a public lecture, in which the speaker claimed to refute the charge that colonists from Europe had dispossessed Indigenous inhabitants by unjust means, on the grounds that the land had formerly belonged to no one. The Indigenous inhabitants, he said, did not possess the land – they simply ‘wandered’ over it; and ‘their assemblage into tribes resembled more closely that of the fishes and the birds of the air than that of a society of men held together by common ties’. This is an argument that Australians have in recent years learned to recognise as the legal doctrine of *terra nullius* – the claim that, prior to the arrival of colonists, the Indigenous peoples had no recognisable legal title to the land the colonists subsequently took. Until it was overturned by the Australian High Court in the *Mabo* judgment in 1992,¹⁷ this had been, since 1788, the formal legal position governing British colonisation of Australia.

The lecturer in question was not talking about Australia, however; nor was his lecture delivered in the twentieth century. It was the argument forwarded by an Afrikaner lawyer in the Cape Colony in 1838, and it concerns the dispossession of the Indigenous Khoisan peoples by the Dutch colonists from 1652 onwards.¹⁸ The similarity of these claims to the argument long used to justify dispossession of Aboriginal peoples in Australia¹⁹ suggests that there is considerable value in approaching these issues comparatively. Such is our aim in this study of Indigenous political rights in the colonies which eventually formed the nations of Canada, Australia, New Zealand and South Africa.

Capitalisation

In accordance with increasingly common practice in recent colonial historiography, we have chosen to capitalise the words Indigenous, Black, White and Coloured. Colonial provincial and national governments and parliaments are referred to with lower-case initial letters to distinguish them from the British Parliament and the Government of the day.

Notes

- 1 Herman Merivale, *Lectures on Colonization and Colonies*, delivered at the University of Oxford in 1839, 1840 and 1841, 2 vols (London: Frank Cass, 1967; first published London: Longman, Green, Longman & Roberts, 1841; reprinted 1861) (Lecture 18), p. 490.
- 2 N. Thomas, *Colonialism's Culture: Anthropology, Travel and Government* (Melbourne: Melbourne University Press, 1994), p. 1.
- 3 Merivale acknowledged that ‘no plan has been matured, no principles aimed at, in the long course of our colonial experience: our measures, when at last we have been obliged to act, have been irregular and arbitrary, and merely adapted to the wants of the moment’: *Lectures on Colonization and Colonies* (Lecture 18), p. 505.

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- 4 See, for example, Paul Havemann (ed.), *Indigenous Peoples' Rights: In Australia, Canada and New Zealand* (Auckland: Oxford University Press, 1999); see also, D. Kirkby and C. Coleborne (eds), *Law, History, Colonialism: The Reach of Empire* (Manchester: Manchester University Press, 2001).
- 5 P. Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London: Cassell, 1999), p. 1.
- 6 Thomas, *Colonialism's Culture*, pp. ix–x. Generally, see: R. Pares, 'The Economic Factors in the History of Empire', in R. A. and E. Humphreys (eds), *The Historian's Business and Other Essays* (Oxford: Clarendon Press, 1961), pp. 49–76; D. Denoon, *Settler Capitalism: The Dynamics of Dependent Development in the Southern Hemisphere* (Oxford: Clarendon Press, 1983); D. Stasiulis and N. Yuval-Davis, *Unsettling Settler Societies: Articulations of Gender, Race, Ethnicity and Class* (London: Sage, 1995); R. Weitzer, *Transforming Settler States: Communal Conflict and Internal Security in Northern Ireland and Zimbabwe* (Berkeley: University of California Press, 1990); and D. Pearson, *The Politics of Ethnicity in Settler Societies: States of Unease* (Basingstoke: Palgrave, 2001).
- 7 See Wolfe, *Settler Colonialism*, Introduction, and chapters 1 and 6.
- 8 For a convenient summary that refers in more detail to the doctrines of Grotius, Pufendorf and Locke in the seventeenth century and Wolff's and Vattel's eighteenth-century refinements, see A. Frost, 'New South Wales as *Terra Nullius*: The British Denial of Aboriginal Land Rights', in S. Janson and S. Macintyre (eds), *Through White Eyes*, special edition of *Australian Historical Studies* (Sydney: Allen & Unwin, 1990), pp. 65–76.
- 9 B. Arneil, *John Locke and America: The Defence of English Colonialism* (Oxford: Clarendon Press, 1996), pp. 210–11.
- 10 *Ibid.*, p. 203.
- 11 G. Nettheim, "'Peoples" and "Population": Indigenous Peoples and the Rights of Peoples', in J. Crawford (ed.), *The Rights of Peoples* (Oxford: Clarendon Press, 1988), pp. 107–26, at 126.
- 12 See P. Wolfe, 'Land, Labor, and Difference: Elementary Structures of Race', in *American Historical Review*, 106:3 (2001), pp. 866–905, at 894.
- 13 See C. Hall, 'Rethinking Imperial Histories: The Reform Act of 1867', *New Left Review*, 208 (November–December 1994), pp. 3–29.
- 14 We cite here a few representative samples from a growing body of literature in each country. For Canada, O. Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Dons Mills and Ontario: Oxford University Press, 2002); J. R. Miller, *Skyscrapers Hide the Heavens: A History of Indian–White Relations in Canada* (Toronto: University of Toronto Press, 2000). For Australia, the work of Henry Reynolds, including *The Other Side of the Frontier: Aboriginal Resistance to the European Invasion of Australia* (Melbourne: Penguin, 1982) and *The Law of the Land* (Melbourne: Penguin, 1987), and also J. Chesterman and B. Galligan, *Citizens Without Rights: Aborigines and Australian Citizenship* (Melbourne: Cambridge University Press, 1997). For New Zealand, A. Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand* (Auckland: Auckland University Press, 1995) and J. Belich, *Making Peoples: A History of the New Zealanders: From Polynesian Settlement to the End of the Nineteenth Century* (Auckland: Penguin, 1996) and *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000* (Auckland: Penguin Press, 2001). For South Africa, T. Keegan, *Colonial South Africa and the Origins of the Racial Order* (Charlottesville: University Press of Virginia, 1996) and S. Marks and A. Atmore (eds.), *Economy and Society in Pre-Industrial South Africa* (London: Longman, 1980).
- 15 For detailed engagement with settler cultures as distinctively colonial, see D. Kennedy, *Islands of White: Settler Society and Culture in Kenya and Southern Rhodesia, 1890–1939* (Durham, NC: Duke University Press, 1987).
- 16 See, for example, K. Malik, *The Meaning of Race: Race, History and Culture in Western Society* (Houndsmills, Basingstoke: Macmillan, 1996) and C. Guillaumin,

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'Race and Nature: The System of Marks', *Feminist Issues*, 8:2 (1988), pp. 25–43. See also R. Frankenberg, *White Women, Race Matters: The Social Construction of Whiteness* (Minneapolis: University of Minnesota Press, 1993); I. Hanley-Lopez, *White By Law: The Legal Construction of Race* (New York: New York University Press, 1996); R. Frankenberg (ed.), *Displacing Whiteness: Essays in Social and Cultural Criticism* (Durham, NC: Duke University Press, 1997); A. Moreton-Robinson, *Talkin' Up to the White Woman: Aboriginal Women and Feminism* (St Lucia: University of Queensland Press, 2000); and T. K. Nakayama and J. N. Martin (eds), *Whiteness: The Communication of Social Identity* (London: Sage, 1999).

- 17 *Mabo and Others v. The State of Queensland [No. 2]* (1992) 175 CLR 120 (High Court of Australia)
- 18 Advocate J. De Wet, 'Something About the So-Called Earlier Right of Ownership to This Country of the Hottentots' (translation into English of a lecture, delivered in Dutch, 1838), in A. Du Toit and H. Giliomee (eds), *Afrikaner Political Thought: Analysis and Documents* (Berkeley: University of California Press, 1983), vol. 1, document 5.4b, pp. 212–13.
- 19 See for example Reynolds, *The Law of the Land*.

PART I

Claiming a second empire

CHAPTER ONE

Imperial expansion and its critics

In May 1910 Edward VII, king of Great Britain and Ireland and emperor of India, who had assumed the throne on the death of his mother Queen Victoria in 1901, died at the age of 68. He had worn the Crown which held together an Empire of formidable extent that ranged across a quarter of the globe and included over 300 million people.¹ Of these, nearly 19 million were settlers, most of British origin, in the White Dominions of Canada, Australia, New Zealand and the newly united South Africa, the economic transactions of which constituted 16.5 per cent of Britain's overseas trade.² Edward's son and successor George V had visited all of these Dominions, a feat not matched by his father and grandmother. King George's coronation, scheduled for 22 June the following year, provided a suitable occasion for the prime minister of Britain, H. H. Asquith, to call together Dominion representatives for an Imperial Conference. The first Imperial Conference had coincided with Queen Victoria's Golden Jubilee, in 1887, and several mutually advantageous meetings had occurred subsequently, the most recent having been in 1907.³ At this juncture, with international tensions brewing, the most urgent business for the British Liberal Government was to unite the Dominions around issues of defence.

And so in May 1911 the prime ministers of the Dominions, flanked by their appropriate ministers, set foot in the British capital, all apparently pleased, if not flattered, to be there to receive the applause of the press and the assiduous attentions of the senior ministry and royal family. From the newly united South Africa came its first prime minister, General Louis Botha, recently commandant-general of the defeated Boer army. The long-serving French-Canadian Liberal Prime Minister Sir Wilfred Laurier represented Canada. Also from Laurier's sphere, but separate from Canada, was Sir Edward Morris of Newfoundland, which had stayed outside the Confederation. From the Commonwealth of Australia came Mr Andrew Fisher, the first Australian Labor Party man

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to reach the highest office since the colonies had federated, in 1901. Sir Joseph Ward arrived from the most ostentatiously loyal Dominion, New Zealand, the island group east of Australia that, like Newfoundland, had decided to go it alone. On arrival in London Ward spoke probably for them all when he declared that New Zealand stood for 'the old flag, a White country, an invincible Imperial Navy, with an adequate share of responsibility, extension of trade within the Empire, and representation on an Imperial Council'.⁴

Whatever the ostensible business of the sessions, the Imperial Conference of 1911 was an unashamed celebration of White supremacy in these sites of settler colonisation. Asquith opened the Imperial Conference on the morning of 23 May, Empire Day, in an atmosphere, according to *The Times*, that was without pomp though not without dignity. Matters affecting 'the whole future of our race' depended on the wisdom and statesmanship of the six prime ministers, Asquith declared. Two features that were unique to this Empire were the rule of law and the combination of local autonomy with loyalty to a common head. He observed also with particular satisfaction 'our common trusteeship for the interests and fortunes of those of our fellow-subjects who have not yet attained, and some of whom may never attain, to the full estate of self-government'.⁵ Fisher congratulated the mother country on the first of these points when he said: 'The British Empire alone had been able to develop self-governing institutions which were associated by almost unseen, but none the less real, ties of loyalty with the British people.'⁶ But Fisher did not engage with the morality of 'common trusteeship': Australia's interests lay in gaining delegates' backing on exclusionary policies grounded in race. He wanted no direct allusions to the civil rights of Aborigines, and sought overt imperial sympathy for keeping borders closed to non-European migrants, whether from countries of the Empire or not. Ward agreed. From New Zealand's point of view, he said, 'the matter of racial purity' ranked in importance with defence.⁷ Lord Crewe, the British colonial secretary, was hesitant. He advised that the administration of such laws ought to be mild in case Australia's ability to enforce them should diminish: 'to make them needlessly irritating in the meantime would be a blunder worse than a crime'.⁸

Outside this gathering, but closely monitoring its proceedings, was a group of men from an organisation that had long-standing concerns (dating back to the 1830s) for Indigenous peoples across the Empire. The men from the humanitarian Anti-Slavery and Aborigines' Protection Society (ASAPS) grasped the opportunity to make personal contact with General Botha in order to object to the franchise provisions in the new Union of South Africa. Almost all Indigenous Africans were explicitly

excluded from the franchise – and *all* from representation in the Union's Legislature. The men from ASAPS reminded Botha that every member of the imperial Parliament who had spoken in the House of Commons' debate on the Act of Union of 1910 had protested about 'the provisions known as "the colour bar"'. The Society earnestly hoped that the electorate and the government of the South African Dominion 'may soon see their way to such amendments . . . as will remove this grievous blot on a great instrument of justice and conciliation', thus opening the way for 'the enfranchisement of all classes of His Majesty's subjects in South Africa, subject only to such conditions of capacity as may properly be applied to all alike, without distinction of colour or descent'.⁹ The ASAPS men sought to make personal contact with General Botha, but he left town abruptly.¹⁰ The Society's members contented themselves with some discussion of the South African 'Native Question' with W. P. Schreiner, KC, a senator in the South African parliament and a former prime minister of the Cape who was coincidentally in London for the Universal Races Congress. Schreiner was notable in humanitarian circles as one politician who had resisted the colour bar in the Union Constitution, albeit unsuccessfully.

None of the prime ministers would have welcomed reminders of social justice and equity issues relating to their Indigenous peoples in countries the whiteness of which they asserted at every turn. The leaders of Australia, Canada and New Zealand all presided over political arrangements that, as in South Africa, indicated unfavourable political status for Indigenous peoples, however cleverly the situation was rationalised. This might seem scarcely unexpected, given the ruthlessness of British and other European settlers' appropriation of Indigenous peoples' land, labour and livelihoods throughout the nineteenth century. But it is important to note that the settlements over political rights in place by the early twentieth century were the outcome of considerable negotiations between competing groups, each with a vital stake in the nature of the so-called democratic governments that these Dominions supported. Close attention to the critical moments in imperial history in the 1830s will clarify our understanding of the new directions of the Victorian age. To the fore were twin tensions between those players with humanitarian and liberal ideals, on the one hand, and those whose job it was to pursue pragmatically the smooth implementation of British governmental policies, on the other.

First, however, we trace the story of the expansion of the British Empire up to the mid-1830s and, in particular, Britain's gradual acquisition of settler colonies as men and women of European origin appropriated Indigenous peoples' lands in North America, southern Africa and Australasia.

Imperial expansion to the 1830s

The loss of the eastern Atlantic seaboard colonies that constituted the United States of America following the War of Independence posed merely a temporary setback to British imperial expansion. It did, however, mark a shift in the response of British governments to settler demands for local control of areas in those colonies where considerable numbers of British settlers congregated. Undoubtedly India with its riches constituted by far the most important of Britain's possessions, with the Caribbean Islands perhaps second. Yet by the mid-1830s the sites of White occupation, where the British sought to form permanent settlements, were already assuming significance as they grew in prosperity and confidence, whatever the divisions among settlers themselves. The different colonies had by that date already widely varying background histories of their foundations and experiences of settler relationships with Indigenous peoples.¹¹

The Indigenous people of the area that would become Canada had a substantial history of trading relationships with Europeans before they faced any threat to their lands.¹² Although contact brought some diminution in Indigenous populations through the impact of displacement and disease, conflict was muted as both fur-traders and fishermen needed to seek the co-operation of local residents in order to survive and profit in the harsh climatic conditions. This dependence lessened with the establishing of permanent settlements by the French, beginning with Port-Royal, Nova Scotia, in 1605. While the informal colonisation of Newfoundland, which commenced in 1610, was to take a heavy toll of the local Beothuk people, on the mainland Indigenous people found a place in the new order by forming military alliances with competing French and British forces. Britain gained its first colony in what would become Canada in 1713, when the French ceded Nova Scotia under the Treaty of Utrecht, although few immigrants arrived in the new colony until Halifax had been established by Colonel Edward Cornwallis and 2,600 European Protestants in 1749.

It was only with the deportation of the original French settlers, the Acadians, following the resumption of war in 1754, that substantial immigration of English speaking colonists, both from Britain and New England, began. In 1758 the British took possession of Île St John which in 1769 was separated from Nova Scotia to become the Prince Edward Island Colony, with land distributed among individuals who had earned merit during the Seven Years' War, on the condition that it be leased to Protestant settlers. With the signing of the Treaty of Paris in 1763 the remaining French territory came under British control. New France became the British colony of Quebec (known after 1791 as Lower

Canada), its population predominantly of French descent but with a small settlement of English merchants and traders at Montreal. By the time Newfoundland formally became a British colony in 1824 the Beothuk had been subjected to what amounted to genocide.¹³ As settlement advanced in other areas a similar fate seemed likely for the Indigenous peoples who were being progressively displaced. Between the 1790s and the 1820s smallpox, tuberculosis and measles took a heavy toll among the bands resettled around the Great Lakes, a pattern that would be repeated as settlement spread across the country.

With the cessation of conflict the British need for continuing military alliances with Indigenous peoples declined. The basis on which the country was to be shared was set out in the Royal Proclamation of 1763 that defined the boundaries of the new colonies, closing all other lands to settlement except through treaties negotiated between 'Indian' or First Nations' peoples and the Crown. Under this agreement the Indigenous people located outside the new colonies were subject to intrusions from both traders and missionaries but they ruled themselves and remained in possession of their lands. This position began to change dramatically with Britain's loss of its American colonies. In the 1783 Treaty of Versailles, the British surrendered all claims to lands south of the new border, whether held by their Indigenous allies or the American rebels. Needing to provide land for dispossessed Loyalists, and anxious to increase the population in their remaining territories in order to resist further American intrusion, they began to exercise the land transfer provisions implicit in the Royal Proclamation, negotiating with Indigenous peoples adjacent to the existing settlements to exchange their large tracts of land for secure reserves.

Even before such transfers could be arranged, incoming colonists 'squatted' on lands not yet ceded at the limits of settlement, establishing a claim that later governments would prove unwilling to contest. New settlements in New Brunswick, separated from Nova Scotia in 1784, Upper Canada (Ontario) in 1791, and Red River (subsequently Manitoba) in 1811 provided further centres from which European influence could expand, increasing the pressure on Indigenous lands and sovereignty. The rest of the vast territory remained under the control of the Hudson's Bay Company, which, while trading with Indigenous peoples, left them otherwise little disturbed. Missionaries, however, were increasingly active in the territory, Catholics expanding from their original base in New France and Protestants, particularly American Wesleyans, moving in advance of Loyalists into the new territories. Indigenous leaders were active in negotiating with such missionaries, seldom completely rejecting the 'civilising mission' but

anxious to keep control of the changes that were being wrought in their communities.

European colonisation in Southern Africa was almost as long established as in British North America. It had begun in 1652, when the Dutch East India Company (VOC) established a small settlement with a fort at Table Bay on the Cape peninsula in the extreme south-west of the country to serve as a 'refreshment station' for its ships rounding the Cape on their way to and from the Dutch East Indies. Here they came into contact with the Indigenous Khoisan peoples, comprising the Khoikhoi (nomadic pastoralists whom the Dutch called *Hottentots*) and the San (hunter-gatherers, whom the Dutch stigmatised as 'bushmen'). Over the next century-and-a-half, the settlement gradually expanded northwards and eastwards out of the peninsula. The VOC was concerned only to maintain Cape Town and the harbour on Table Bay for their ships, and had no interest in moving into the interior; but the free settlers who arrived from the Netherlands (with some Germans and Huguenots from France) craved land for themselves and their cattle, and kept moving away from VOC control in Cape Town into the interior. Arid climatic conditions along the west coast and the semi-desert of the Great Karoo limited the extent of their northward penetration; the main movement of small groups of *Trekboers* (travelling farmers) during the eighteenth century was eastwards, along the coastline and parts of the inland plateau not too far from the coast. As they moved away from VOC control, these Dutch settlers began to refer to themselves as *Afrikaners* (Africans) and the dialect of Dutch which they spoke as *Afrikaans*.

The initial effects on the Indigenous peoples were disastrous. When the Khoi realised that the Dutch intended to stay permanently, they resisted militarily, but – with the Dutch having the use of firearms and the Khoi able to muster only relatively small and poorly armed bands for fighting – they were fairly easily defeated in two wars in 1659 and 1673–76. The devastating effect of these defeats, and of the land dispossession which accompanied them, were compounded by another weapon which the Dutch, as also the French and British in North America, had brought with them – disease: the Khoi were decimated by a smallpox epidemic in 1713, against which they had little resistance. And the damage was completed by the devastating effect of Dutch gin and brandy on people unused to distilled liquors. By the end of the eighteenth century, the Khoi had lost most of their independent communal structure. They were now found working mainly for the Dutch – as servants on farms or colonial soldiers in a 'Hottentot' regiment under White officers – eking out a living on the fringes of Cape Town, or living and working on one of the few mission stations which had

been set up in the interior. Use of their language declined as well, being replaced largely by Afrikaans. The fate of the San was even worse. They resisted the invading farmers by guerrilla warfare, with small-scale attacks on farmers and their cattle; in return, they were hunted down like vermin and killed when the farmers' commandos could find them. They were gradually driven north, into the Namib and Kalahari Deserts.

The VOC further complicated the ethnic mix of the colony by transporting slaves – about 60,000 of them brought, between 1652 and 1807, by the VOC from the Dutch East Indies, the Indian Ocean and parts of the east coast of Africa – to do most of the work in Cape Town and the farms of the Cape peninsula. Masters sometimes freed individual slaves, but the system of slavery remained intact at the Cape until 1834. Out of this complex ethnic mix – Khoisan, slaves and ex-slaves, and the children of sexual union between Dutch men and Indigenous or slave women – came the distinctive group who came to be known, by the 1830s, as the 'Cape Coloured people'. These men and women lived mainly in the western Cape, in and around Cape Town, speaking their own distinctive brand of what became the Afrikaans language.

The late eighteenth century brought two crucial changes to the course of developments in the VOC colony. First, in the 1770s, the eastward movement of the Trekboers was brought to a sudden halt around a number of rivers in the eastern Cape, when they ran into the forward groups of a large people, the Bantu-speaking Xhosa.¹⁴ Like all the Bantu-speaking peoples, and unlike the Khoisan, the Xhosa were agro-pastoralists, keeping cattle on a large scale and also growing crops. Though politically divided into a number of major groups – the Gqunukhwebe, Ndlambe, Ngqika and Gcaleka Xhosa, the Thembu and Mpondo – their overall number was large, and they were in dense occupation of their territory, competing with the White farmers for access to the same pasture and water resources. They also presented a far more formidable military opposition than the Khoisan had done; in the event of war, they could mobilise large numbers of relatively well-disciplined men, armed with iron spears. As an opposing force they could not be easily brushed aside by the farmers, greedy to take their land. The result was the development of what became known as the 'Eastern Frontier' of the Cape, as a series of wars broke out, the first in the years 1779–81 (the area would see no fewer than nine such frontier wars).¹⁵ The various Xhosa-speaking groups put up a formidable resistance: the nineteenth century wars lasted for a number of years and required the use of large numbers of regular British troops to defeat them – but the superior technological and logistical basis of the colonial forces ultimately ensured their victory in each war (see chapter 4).

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The second significant change was in the European control of the colony, which passed from the Dutch to the British. During the French Revolutionary and the Napoleonic Wars, the British took the Cape from the Dutch – in 1795 (but handed it back, as part of the Truce of Amiens, in 1803) and again in 1806. The second time, British rule was there to stay: at the end of the wars, in 1815, Britain was granted permanent rule over the colony. By the time at which we begin our examination of the colonies of settlement – the mid-1830s – Britain had been governing the Cape Colony for two decades. British missionaries from the London Missionary Society (LMS) had established themselves in Southern Africa, as had Methodists, all of whom joined German Moravians to convert and offer Western education to Indigenous peoples.

British settlement in the southern Pacific occurred subsequent to Britain's loss of its North American colonies and directly as a result of that loss. The colonies of Virginia and Maryland had been the repository for convicted offenders in an attempt to relieve overcrowded British jails. Following the loss of the war with the American colonists, the British needed to look elsewhere, and for their alternative penal colony chose a site on the eastern coast of the island continent of Australia. It had been the English explorer Captain James Cook whose voyages in the late eighteenth century brought the continent of Australia to British attention, along with neighbouring islands including those of New Zealand. In January 1788 the first British officers and convicts reached the east-coast harbour they named Sydney, just one year after the drafting of the American Constitution. The first British settlement was thus backed by a contingent of marines (none of the early governors had many troops in Australia, especially as compared to the larger number used in South Africa and New Zealand). The officers carried British Government orders to deal peaceably with any Aborigines they encountered, though they expected few. Reports from Cook's officers, especially Sir Joseph Banks, suggested few Indigenous inhabitants, and these few as 'wanderers', hunter-gatherers with no established attachment to the land.¹⁶ Friendly gestures ceased at the initial sign that Aborigines might repel the British as intruders and enemies, and the first killing of an Aborigine took place. Over the next few decades more convicts arrived, as did more soldiers, and some free settlers. The cautious but persistent spread of settlement up rivers into the hinterland and across the Bass Strait into Van Diemen's Land (proclaimed a separate colony in 1826 and subsequently called Tasmania) was accompanied by armed reprisals against Aboriginal resisters; as in Newfoundland, the result was near-genocide. Settlement proceeded in which the colonial authorities tolerated the appropriation of land with

no thought of negotiations, treaties or compensation. Aboriginal bands were small and isolated, comprised of men and women, young and old – not a match for settlers' firepower. The warfare resulted in the death of some settlers and of hundreds of Aborigines; European diseases again wreaked havoc. The pattern was repeated throughout the 1820s as pastoralist entrepreneurs, or 'squatters', and their convict workers, with herds of sheep and cattle, broke through the official bounds of settlement to pour across the plains beyond the Blue Mountains, killing some Aborigines, terrorising others. Aborigines were rapidly turned into unwelcome impediments to the progress of British settlement, enemies of the British Crown that now claimed ownership of all their country. The missionary societies that had operated in the Pacific Islands from 1797 – the London Missionary Society, the Church Missionary Society (CMS), the Wesleyan Methodist Missionary Society (WMMS) – could scarcely sustain a foothold on the continent of Australia to provide protection or advocacy for the Indigenous groups which had become their protégés. The missions were swamped by the fast moving frontier of settler occupation, as missionaries saw their protégés decimated before their eyes.¹⁷ By the mid-1830s similar tragedies were in train as voracious settlers set foot in new areas, including the Port Phillip District (later Victoria) to the south and the new colony of South Australia.¹⁸

As early as the end of the 1780s convicts had left New South Wales to try their luck beyond the reaches of the British law in the islands of New Zealand across the Tasman Sea. Other adventurers arrived to stay, and also missionaries, following the visit of the New South Wales chaplain the Reverend Samuel Marsden to the northern Bay of Islands in 1814. White settlement was slow. Maori, horticulturalists, were not only numerous, but firmly in control of fertile ground and organised into hostile clans. They turned on Europeans with ferocity if conventions were breached. Maori acquired guns through trade with ships' crews, faced no military force, and remained in control. Some responded to missionary teaching, became Christians and learned to read and write in their own tongue. A number of adventurers lived with Maori, found sexual partners in young Maori women, and wrote for a British audience with a degree of sympathy towards Maori culture. Reports of Maori problems with unruly visitors led the British Government to consider placing New Zealand under the distant oversight of the governor of New South Wales, but Maori chiefs remained in control of their separate tribal areas. In 1832 the Colonial Office appointed James Busby as British resident at the Bay of Islands, and in 1835 with his assistance thirty-five northern chiefs signed a declaration of independence to prevent yet other nations from intruding. But they

could not remain isolated from the colonising project that had gripped the coast of Australia. Back in England the New Zealand Company, urged on by Edward Gibbon Wakefield, began preparations to launch a 'planned' colony in the southern portion of the North Island.¹⁹ The Maori had thus far been spared the atrocities that had marked the settlement of New South Wales; but that reprieve would be only temporary were the rapid unregulated colonisation to continue.

How was the burgeoning population of British abroad – and other Europeans now occupying lands claimed as part of the British Empire – to be governed? Having learnt from its American experience, the British government was sensitive to a model of colonisation that recognised the right of incoming compatriots to have a substantial voice in decision-making and administration at the local level within settler colonies. The colonies in Canada had received representative government in the late eighteenth century. From 1758, Nova Scotians had the right to vote for a council to assist the governors, based on a substantial property franchise. That arrangement was extended to Prince Edward Island in 1773, New Brunswick in 1785, and Lower and Upper Canada in 1792. While the chiefs of the various First Nations could still represent their claims to the governor in his guise as protector and military commander, the elite among the colonists now had more immediate access through their role in the newly established legislatures.

Throughout the early decades of the nineteenth centuries, it was the Colonial Office in London that conducted the day-to-day administration of the Empire. The British Government established the Colonial Office in 1801 as the administrative department that would deal with the Empire's affairs.²⁰ The secretary of state for the colonies (initially for war and the colonies), from this time a senior minister in the Cabinet, served at the head of this department, assisted by a junior minister or parliamentary under-secretary. From 1825 onwards a civil servant served as a permanent under-secretary. Gradually, as their business expanded, to the extent that their workload became a burden, the officers were likely to tend towards support for the colonies' self-government in local affairs rather than engage in a struggle for control, and usually accepted the advice of the governors in place.

Very near the start of our period, in the later 1830s, British imperial policies towards the rights of the Indigenous peoples of the Empire, and towards the political rights of settlers, made as they were from the Empire's centre in London, showed a degree of uniformity, from which the settler colonies would later diverge. We can illustrate the key tensions from which these differing paths emerged by examining the content, recommendations and subsequent implementation of two influential reports, both emanating from the British Parliament of the 1830s. Both

reports offered useful information on the state of British colonies at the time, and set much of the pattern for tensions in the government of the settler colonies' development over the next decades. These are the *Report of the Select Committee on Aborigines*, of 1837,²¹ and the *Report on the Affairs of British North America*, or the Durham Report, of 1839.²²

British humanitarians and imperial injustices

The British may have had concerns about their fellow-subjects abroad in the 1830s, but first they had major antagonists who confronted them close to home. These were groups of evangelicals who, during the 1830s, organised around imperial and international concerns, and who had strong allies in the missionaries who had left England to carry a Christian message abroad. The humanitarians gathered in two lobby groups with overlapping memberships and concerns: the Anti-Slavery Society, founded in 1823, and particularly the Aborigines' Protection Society, founded in 1837. The enormous energy generated by the evangelical revival of the late eighteenth century which had led to the formation of the missionary societies had great impact also within Britain. Above all, William Wilberforce inspired the anti-slavery campaign taken up by a number of leading evangelicals who had similarly worked towards the ending of slavery in the British Empire. After the 1833 Act that provided for the phasing out of slavery – influential above all for the Caribbean, but also for Africa, including the Cape – evangelicals, led now by Sir Thomas Fowell Buxton, began to turn their attention to another pressing scandal: the position of Indigenous peoples, or 'Aborigines', across the British Empire.

The *Report of the Select Committee on Aborigines* was largely the work of evangelical MPs.²³ The Select Committee's chairman was the prominent evangelical Sir Thomas Fowell Buxton,²⁴ who had taken over the leadership of the anti-slavery movement when William Wilberforce retired, and had succeeded in 1833 in getting through Parliament an Act to abolish slavery throughout the British Empire. Buxton moved smoothly, in a logical progression from anti-slavery to the cause of the protection of Indigenous peoples within the British Empire. He induced the House of Commons to set up the Select Committee in 1835; and in 1837, the year in which the Committee handed down its *Report*, he founded the Aborigines' Protection Society (APS), with its London base in Exeter Hall and branches established in the colonies. Buxton filled the Committee with like-minded evangelical MPs, who could be counted on to advocate policies to deal with the adverse impact of British colonisation on the Indigenous peoples of the British colonies.

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The late 1830s was an auspicious time for Buxton and his Committee to be advocating such policies, since, for a short time, the formation and implementation of British colonial policy was under considerable evangelical influence. Charles Grant, the son of Charles Grant of Wilberforce's original 'Clapham Sect', was created Lord Glenelg and appointed colonial secretary in April 1835; his parliamentary under-secretary was Sir George Grey, an active evangelical and member of the Select Committee. James (subsequently Sir James) Stephen, son of James Stephen of the 'Clapham Sect', became permanent under-secretary at the Colonial Office in 1836; during what would be eleven years in that post, he became known as 'Mr Mother Country', and he exerted a very strong influence over all aspects of British colonial policy.

The Select Committee took a great deal of evidence, from witnesses and from correspondents; and it produced a large report, in which its members evinced considerable concern at the adverse impact of White settlers on the Indigenous peoples of the British colonies of settlement.²⁵ The bulk of the witnesses – missionaries, military men and administrators – gave detailed evidence about the Cape Colony in South Africa. The evidence about the Cape focused on two issues in particular: the decline in the state of the Khoikhoi people (to whom the Committee referred as 'Hottentots') under White colonisation; and the violent 'Eastern Frontier', where the colonists and the Xhosa people (whom the Committee called *Caffres*) had fought no fewer than six bloody frontier wars since 1779, the most recent being in 1834. The Committee also showed concern about the Australian colonies, and the near-genocide of the Aborigines of Van Diemen's Land in just three decades of British settlement of that island. Witnesses and the Committee's *Report* highlighted the fate of the original Tasmanians as horrific, both in itself and in its implications for the impact on the Indigenous peoples of further settlement in the Port Phillip district of New South Wales from 1835; the foundation of the new colony of South Australia in 1836; and the likelihood of imminent British colonisation of New Zealand and possibly of other islands in the south Pacific. And they made some mention – more briefly, but still with some substantial evidence – of developments in 'British North America' (Canada) and in the south Pacific, including New Zealand.

The *Report* betrays an uneasy awareness that, thus far, the effect of British colonisation on Indigenous peoples, in widely separated parts of the world, had been disastrous:

It is not too much to say, that the intercourse of Europeans in general, without any exception in favour of the subjects of Great Britain, has been, unless when attended by missionary exertions, a source of many calamities to uncivilized nations.

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Too often their territory has been usurped; their property seized; their numbers diminished; their character debased; the spread of civilization impeded. European vices and diseases have been introduced amongst them, and they have been familiarized with the use of our most potent instruments for the subtle or violent destruction of human life, viz. brandy and gunpowder.²⁶

The evangelicals were strong believers in Providence – the conviction that God actively intervened in human affairs for His own purpose. Surely He could not have intended these evil consequences to follow from colonisation?

The British Empire had been signally blessed by Providence, the *Report* continued, and ‘her eminence, strength, wealth and prosperity, her intellectual, her moral and her religious advantages, are so many reasons for peculiar obedience to the laws of Him who guides the destinies of nations’:

They were given for some higher purpose than commercial prosperity and military renown . . . ‘Can we suppose otherwise than that it is our office to carry civilization and humanity, peace and government, and, above all, the knowledge of the true God, to the uttermost ends of the earth?’ He who has made Great Britain what she is, will inquire at our hands how we have employed the influence He has lent us in our dealings with the untutored and defenceless savage, whether it has been engaged in seizing their land, warring upon their people, and transplanting unknown disease, and deeper degradation, through the remote regions of the earth; or whether we have, as far as we have been able, informed their ignorance, and invited and afforded them the opportunity of becoming partakers of that civilization, that innocent commerce, that knowledge and faith with which it has pleased a gracious Providence to bless our own country.²⁷

It was through this argument that the evangelicals of the Committee reconciled themselves to, and justified, the continued existence and progress of the British Empire. Its purpose was to bring to the Indigenous peoples the blessings of true ‘civilisation’, and in that way do God’s work. With this in mind, the Select Committee framed a series of recommendations to facilitate the spread of Christianity among the Indigenous populations of the Empire by sending missionaries among them. The missionaries were there, above all, to preach the gospel; but they were also expected to educate the Indigenes; and to get them to adopt European forms of clothing, housing and a capitalist work ethic. In particular, the missionaries should encourage their converts to drop their ‘uncivilised’ ways of life – a nomadic hunter-gatherer economy or communal forms of property – and move to the ‘higher’ and more ‘civilised’ economic and social norms of individual

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property, English property laws and a settled form of agriculture within European-style villages.

The outstanding example of such a development, held up for admiration in the *Report*, was the Kat River Settlement of 'Hottentots', Khoisan people within the Cape Colony, to whom land on the colonial frontier was allotted that had been taken from the Indigenous Xhosa people. The 'Hottentots' are reported to have worked hard to cut canals and to have grown

an abundance of pumpkins, Indian corn, peas, beans, &c.; they have enthusiastically taken to churches, schools and temperance societies; they now cost the government nothing and pay taxes like the settlers; and they even help to make the frontier of the colony safe, having repulsed the Caffres on every occasion on which they have been attacked.²⁸

Lieutenant-Governor Stockenstrom emphasised the extent of their assimilation of European ideas of property and property law with a somewhat bizarre compliment: 'Instead of apathy or indifference about property, they become (now that they had property to contend for) as covetous and litigious about land and water as any other set of colonists.'²⁹ Similar examples are used to describe the success of missionaries among the people of the south Pacific³⁰ and among the 'Indians' of Canada.³¹

The Reverend William Ellis, one of the LMS group stationed in the south Pacific, for example, stated approvingly:

Christianity condemned indolence, *required industry*, and supplied inducements to labour; and the natives, since they embraced Christianity, have acquired a knowledge of a number of useful manual arts . . . they have been taught to build neat and comfortable houses, and to cultivate the soil . . . But now they have new wants; a number of articles of clothing and commerce are necessary to their comfort, and they cultivate the soil to get them.³²

A British missionary collaborating with Americans in the mission in the Sandwich Islands (Hawai'i) similarly testified that missionaries taught their converts 'useful trades', with the result that

instead of their little contemptible huts along the sea beach there will be a neat settlement, with a large chapel in the centre capable of containing 1,000 or 2,000 people, a school-house on the one side, and the chief's or the missionary's house on the other, and a range of white cottages a mile or two miles long . . . so that their comfort as well as their happiness is increased, and altogether their character is elevated.³³

An informant from the North American colonies described the effect of conversion to Christianity upon the 'Missisaguas' (Mississaugas) and

'Chippeways' (Ojibwas) as being that 'they became industrious, sober and useful'. The Christian 'Chippeways' were said to have abandoned their 'wandering state, living in wigwams', and settled down in houses of wood and brick with domestic possessions, where they cultivated the soil for vegetables and fruits. Conversion to Christianity was said to have changed the Mohawks from the most 'drunken, ferocious and vicious' of the Six Nations to become 'changed in their dispositions, and reformed in their lives, teachable, sober, honest and industrious; and [they] are improving in the arts of civilization, and cultivating the virtues and charities of Christian life'.³⁴

The Committee was concerned also to protect Indigenous peoples against unrestrained slaughter and dispossession by colonists, and also against gross injustice or exploitation at White hands.³⁵ The *Report* recommended that Indigenous peoples should have their persons and property protected by the executive (colonial governors or the British government) rather than by local legislatures dominated by settlers. It recommended that the considerable revenues which the colonies received from the sale of Indigenous peoples' lands should be used to provide Indigenous peoples with education, religious instruction and protection. In the case of Australia, specifically, it recommended the establishing of 'Protectors of Aborigines'³⁶ – which would result in such protectors being appointed for the areas of South Australia and the Port Phillip district (in which British colonisation was beginning at the time the Select Committee was sitting) and in the colony of New Zealand.

The members of the Committee were critics of the impact on the lives of Indigenous peoples of unrestricted colonial expansion, and they wanted colonists to be prevented from acquiring any new territory without the sanction of an Act of the British Parliament. But their focus of concern was framed firmly within the context of the British Empire; they did not normally recommend contracting the boundaries of the Empire or returning land to its Indigenous owners. A rare exception was in relation to the eastern frontier of the Cape when they commended the Colonial Secretary Glenelg's order to Governor D'Urban to abandon Xhosa territory that the governor had annexed at the conclusion of hostilities in 1835, to which he had given the name 'Queen Adelaide Province'. Glenelg had insisted on the return of the land to the Xhosa, with withdrawal of settlement to the previous frontier of the Great Fish River.³⁷

Overall, the evangelicals saw the righteousness of the 'civilising mission' as justification enough for expansion of White settlement provided proper procedures were sustained. As Dr John Philip, a leading missionary in the Cape and major witness to the Select Committee, had put it a few years earlier:

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While our missionaries beyond the borders of the colony of the Cape of Good Hope are everywhere scattering the seeds of civilization, social order and happiness, they are by the most unexceptional means, extending British influence and the British empire. Wherever the missionary places his standard among a savage tribe, their prejudices against colonial government give way; their dependence upon the colony is increased by the creation of artificial wants; so confidence is restored, intercourse with the colony is established, industry, trade and agriculture spring up; and every genuine convert among them made to Christian religion becomes the ally and friend of the colonial Government.³⁸

It is clear that the Select Committee was concerned that Indigenous peoples should be regarded and treated as human beings, with legal rights to be protected – not to be treated as animals to be shot, or as part of the natural landscape to be cleared away in the name of progress. But this does not mean that – though they later modified their views – they advocated full racial equality for Indigenous peoples in terms of acceptance of their existing cultures and societies. Nor did they advocate complete respect for, or protection of, the rights of all Indigenous peoples to their land.³⁹ The general political orientation of the evangelicals of the Select Committee was one of paternalism.⁴⁰ As clear as they were that Indigenous peoples were fully entitled to be protected from harm, the evangelicals were equally clear that they needed to be treated like children, to be guided, educated and told what to do by their ‘natural superiors’. Once in the process of being transformed Indigenous people could acquire the rights of full citizenship.

The evangelicals saw the world in terms of the ‘four-stage scheme of history’ propounded by the Scottish Enlightenment. Stage one was the world of nomadic hunter–gatherers; second came the stage of nomadic pastoralism; third, subsistence agriculture; and the final stage was their own world of mercantile capitalism. Each successive stage required a greater division of labour and a more complex social organisation, and hence represented an advance in civilisation.⁴¹ The scheme involved the belief that European history had actually passed through these four stages over the course of centuries; in addition, as Europeans ‘discovered’ new areas of the world to be colonised, those who developed the scheme tended to identify the Indigenous peoples whom they encountered in terms of one of these stages, according to their economic practices and social structures. Since none of the Indigenous peoples of the British colonies of settlement had yet developed mercantile capitalism, the evangelicals of the Select Committee tended to rank them in a hierarchy of stages one to three, regarding as the ‘most civilised’ those who practised the subsistence agriculture of stage three, and the ‘least civilised’ the nomadic hunter–gatherers.

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This is best illustrated by the *Report's* remarks about the Australian Aborigines. Early on, the *Report* stated, in a context which clearly included Australia:

It might be presumed that the native inhabitants of any land have an incontrovertible right to their own soil: a plain and sacred right, however, which seems not to have been understood. Europeans have entered their borders uninvited, and, when there, have not only acted as if they were undoubted lords of the soil, but have punished the natives as aggressors if they have evinced a disposition to live in their own country.⁴²

This would appear to be an unambiguous statement that the Aborigines had a clear right to their land, which had been unjustly taken from them. But the *Report* subsequently stated, about all the Indigenous peoples in the British Empire: 'To this variety in their circumstances must be added a variety as great in their moral and physical condition. They are found in all the grades of advancement, from utter barbarism to semi-civilization.' In its specific 'Suggestions' for Australia, it described the Australian Aborigines as 'forming probably the least-instructed portion of the human race in all the arts of social life'. It went on to say:

Such, indeed, is the barbarous state of these people, and so entirely destitute are they even of the rudest forms of civil polity, that their claims, whether as sovereigns or proprietors of the soil, have been utterly disregarded. The land has been taken from them without the assertion of any other title than that of superior force and by the commissions under which the Australian Colonies are governed Her Majesty's sovereignty over the whole of New Holland is asserted without reserve.

This statement – that the land was simply taken from the Aborigines without any legal title and in disregard of their ownership of it – would seem to imply that it should now be restored to them; but the *Report* in fact continued:

It follows, therefore, that the Aborigines of the whole territory must be considered as within the allegiance of the Queen, and as entitled to her protection. Whatever may have been the injustice of this encroachment, there is no reason to suppose that either justice or humanity would now be consulted by receding from it.⁴³

Unlike the recommendation about withdrawal from occupied Xhosa territory on the Cape frontier,⁴⁴ the *Report* did not recommend any withdrawal from the British claim to own the whole of Australia – even though none of it had been formally acquired, by conquest, treaty or sale, from its Aboriginal owners. The Select Committee was certainly concerned to protect the Indigenous peoples of the Empire against gross

exploitation or violence; but their protection was essentially one of paternalism, which did not at this stage concede full equality.

The Select Committee's recommendations were made for all the colonies that it considered; and its members had some concrete influence on British colonial policy in London, and on some colonial officials, in relation to policies towards Indigenous peoples in Australia, Canada, South Africa and New Zealand. However, the extent and importance of that personal influence at this time should not be overstated. They were most pronounced when the evangelical influence over British colonial policy was at its height, in the late 1830s and the 1840s; but that influence would wane thereafter. On the other hand, the notion that, once 'civilised', an Indigene deserved full citizenship was an ideal that persisted beyond the evangelicals' temporary hold on the Colonial Office, and the evangelicals acted as a goad to British governments to uphold this principle. In 1847 the APS founded its journal *Colonial Intelligencer; or Aborigines' Friend* to convey to church people 'interesting intelligence concerning the Aborigines of various climes; and articles upon colonial affairs; with comments upon the proceedings of government and of colonists towards native tribes'.⁴⁵ This journal would go out monthly to the faithful in Protestant churches across the country and to humanitarians in the colonies, and would sustain a critique of the Colonial Office and its administration that would not be without effect.

An important factor in the sharp boundaries placed on the implementation of even humanitarians' limited ideals in settler colonies was the impact of the second report that affected ideas about colonists' political rights: the Durham Report, of 1839.

The Durham Report

The Durham Report arose out of the so-called 'rebellions' of 1837 in Upper and Lower Canada in which first certain French settlers and then a group of British settlers sought to wrest control of their affairs away from the British administration. Once the unsettling movement had been crushed, the British Parliament suspended the Legislative Assembly of the French-inhabited Lower Canada (Quebec) for two years, and sent out a governor-general and high commissioner with the brief of solving the problem of the future form of government in Upper and Lower Canada. The man chosen for the role was Lord Durham, a minister in the Government of his father-in-law Lord Grey that had passed the First Reform Act, and popularly known as 'Radical Jack' for his support of parliamentary reform.⁴⁶ Durham lasted only five months in the post before resigning in a huff and returning to England. But he

took with him to Canada two British radicals concerned with the reform of colonial government, Charles Buller and Edward Gibbon Wakefield. Once back in England, Durham or, more accurately, Buller – with some help from Wakefield – wrote the famous Report, which Durham presented to Parliament in January 1839.⁴⁷

Unlike the Select Committee's *Report* of only a couple of years before, Durham's showed no concern at all for the rights or conditions of the Indigenous peoples. When, in the opening passages, he wrote about Canada, 'I expected to find a contest between a government and a people; I found two nations warring in the bosom of a single state; I found a struggle not of principles but of races', Durham was referring, not to a struggle between European and Indigenous Canadians, but to the conflict between French and British settlers.⁴⁸ Durham's preoccupation was with the White settlers of Canada, and how they might be prevented from following the American example and demanding independence from Britain.

His solution – initially for Canada, and subsequently extended to all the other British colonies of settlement – was to grant political rights of self-government to the settlers. This was to be done constitutionally in two stages. First should come 'representative government', under which the White settlers were able to elect a legislature, but the executive continued to be a governor appointed by the British Crown. At the second stage would follow 'responsible government', under which principal authority and power would lie (as in the British Parliament) with an executive of prime minister and cabinet chosen by, and responsible to, the elected legislature.

Even under 'responsible government', although the colonists would be given almost full control of their own internal affairs, the British government would retain control of: the colony's political constitution; the colony's foreign relations and trade with Britain, other British colonies and foreign nations; and the disposal of public lands (which in Canada involved 'Indian' policy) in the colony. But, with those exceptions, the colonists would govern themselves. The essential argument was that giving the White settlers powers of self-government, but still under the British Crown, would keep them loyal to the Empire and prevent another American-style revolution against British rule. To solve the French–British 'race' problem, the Report recommended that Upper and Lower Canada should be united into a single colony, to ensure a British settler majority. This would be done almost immediately, by an Act of 1840.

The Report's recommendation that the British Government should extend responsible government to the existing colonies – Upper Canada (Ontario), Lower Canada (Quebec), and the maritime colonies of Nova

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Scotia, New Brunswick, Prince Edward Island and Newfoundland – was not immediately acted upon. But in 1847, the Whig Government, with the third Earl Grey (son of the former prime minister and brother-in-law of Lord Durham) as secretary of state for the colonies, granted Nova Scotia responsible government. This became the model for subsequent colonial development: during the second half of the nineteenth century, all the British colonies of settlement followed this pattern of development, at different periods, depending on their date of foundation as colonies, and the nature of their social, economic and political structure and problems.

A crude model of what happened to Indigenous political rights in British colonies of settlement in the second half of the nineteenth century might go something on these lines: as political power was devolved from London to the separate self-governing colonies, the political rights of the Indigenous peoples were accordingly diminished. We move from the Select Committee's 1830s' concern, to apply a single moral standard for the treatment of Indigenous peoples throughout the Empire, to the early twentieth-century White politicians, in the different colonies of that Empire, passing laws for their own local criteria to be applied in deciding whether or not to admit Indigenous peoples to full political rights. The basic explanation of how this happened lies in the grant of responsible government to these colonies, which removed the Indigenous peoples of those countries from the salutary protection of the single policy emanating from the Colonial Office in London.

That schematic model, however, would over-simplify a more complex set of developments. First, as we have shown, even when the evangelicals of the Select Committee exercised substantial influence over policy throughout the Empire, they did not advocate complete equality or full political rights for Indigenous peoples unless and until they resembled culturally the colonists, who remained the standard of human development. Second, as we show in the chapters that follow, developments across the colonies of settlement were uneven, in both timing and outcome. The Colonial Office continued to maintain a general principle against placing explicit colour bars in the colonial legislation governing political rights; but the settler colonies differed markedly in their willingness to observe that principle, and in the sincerity with which they tried to carry it out or evade its effects. A few colonial governments were prepared to depart from this principle even in theory, and most of them departed from it in practice, in their handling of the issue of political rights for the Indigenes of their colonies.

The Durham Report was silent on the issue of the effect on Indigenous political rights of the extension of powers of self-government to settlers of European origin. As things worked out between the 1830s and 1910,

the admission of Indigenous peoples to formal political rights was related to the extension of representative and responsible government in the colonies – but unevenly and irregularly so: there was no uniformity of development. By 1910, the extent of the political rights secured by Indigenous peoples varied considerably according to the country or colony in which they lived. One of the purposes to which settlers could put their powers of self-government was the control of political rights for their local Indigenes. Events and issues particular to each colony could influence the local outcome; where significant, these are discussed in the specific chapters on each country.

We commence with a review of the introduction of self-governing institutions in the settler colonies, from the late 1830s' debates of the evangelicals and the Durham Report through to 1870.

Notes

- 1 See Andrew Porter, 'Introduction: Britain and the Empire in the Nineteenth Century', in Andrew Porter (ed.), *The Oxford History of the British Empire*, vol. 3: *The Nineteenth Century* (Oxford: Oxford University Press, 1999).
- 2 *Ibid.*, p. 5. See also: R. Hyam, 'The British Empire in the Edwardian Era', in Judith M. Brown (ed.), *The Oxford History of the British Empire*, vol. 4: *The Twentieth Century* (Oxford: Oxford University Press, 1999).
- 3 See G. Martin, 'The Idea of "Imperial Federation"', in Ronald Hyam and Ged Martin, *Reappraisals in British Imperial History* (London: Macmillan, 1975).
- 4 *The Times*, 25 April 1911.
- 5 *The Times*, 24 May 1911.
- 6 *The Times*, 18 May 1911.
- 7 *The Times*, 22 April 1911.
- 8 *The Times*, 22 June 1911.
- 9 *Anti-Slavery Reporter and Aborigines' Friend*, October (1911), pp. 106–7.
- 10 *Ibid.*
- 11 For summaries of early settlement in Canada, Australia and New Zealand, see the chapters by Ken Coates, Henry Reynolds and M. P. K. Sorrenson in Paul Havemann (ed.), *Indigenous Peoples' Rights in Australia, Canada, and New Zealand* (Wellington: Oxford University Press, 1999), pp. 123–80.
- 12 For a general history see J. R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada* (Toronto: University of Toronto Press, 2000 [1989]).
- 13 *Ibid.*
- 14 The Bantu-speakers of Southern Africa are divided into two broad linguistic groups – the Nguni-speakers (Xhosa, Zulu, Swazi, Ndebele) and the Sotho-Tswana group (North and South Sotho, Tswana). The Dutch, and then the British, tended to refer to the Xhosa (and, subsequently, to all Black Africans) as *Kaffirs* – derived from the Arabic *kafir* (unbeliever); sometimes spelt 'Kafir' or 'Caffre'. It is not an African word, and generally carried (and still carries) a derogatory connotation.
- 15 M. Wilson, 'Co-operation and Conflict: The Eastern Cape Frontier', in M. Wilson and L. Thompson (eds), *The Oxford History of South Africa*, 2 vols (New York: Oxford University Press, 1969), vol. 1, pp. 233–71. For frontier wars, see Noel Mostert, *Frontiers: The Epic of South Africa's Creation and the Tragedy of the Xhosa People* (London: Jonathan Cape, 1992).
- 16 See A. Frost, 'New South Wales as *Terra Nullius*: The British Denial of Aboriginal Land Rights', in S. Janson and S. Macintyre (eds), *Through White Eyes* (Sydney: Allen

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- & Unwin, 1990); R. Hunter, R. Ingleby and R. Johnstone (eds), *Thinking About Law: Perspectives on the History, Philosophy and Sociology of Law* (Sydney: Allen & Unwin, 1994); K. Neumann, N. Thomas and H. Ericksen (eds), *Quicksands: Foundational Histories in Australia and Aotearoa New Zealand* (Sydney: University of NSW Press, 1999).
- 17 See for example Niel Gunson (ed.), *Australian Reminiscences of L. E. Threlkeld, Missionary to the Aborigines, 1824–1859*, 2 vols (Canberra: Australian Institute of Aboriginal Studies, 1974).
 - 18 For the early history of the Australian colonies see: Donald Denoon and Philippa Mein-Smith, *The History of Australia, New Zealand and the Pacific* (London: Blackwell, 2001); Ann McGrath (ed.), *Contested Ground: Australian Aborigines Under the British Crown* (Sydney: Allen & Unwin, 1995); Henry Reynolds, *The Other Side of the Frontier: Aboriginal Resistance to the European Invasion of Australia* (Townsville: James Cook University Press, 1981).
 - 19 For the early history of New Zealand see: Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830–1847* (Auckland: Auckland University Press, 1977); James Belich, *Making Peoples: A History of the New Zealanders* (Auckland: Allen Lane, 2001); Claudia Orange, *The Treaty of Waitangi* (Wellington: Allen & Unwin, 1987).
 - 20 See D. M. Young, *The Colonial Office in the Early Nineteenth Century* (London: Longmans, 1961); Peter Burroughs, 'Imperial Institutions and the Government of Empire', in Porter (ed.), *The Oxford History of the British Empire*, vol. 3; J. H. Rose, A. P. Newton and E. A. Benians (eds), *The Cambridge History of the British Empire* (Cambridge: Cambridge University Press, 1929–36), vol. 3 (1933): *Empire–Commonwealth 1870–1919*.
 - 21 *Report of the Select Committee on Aborigines (British Settlements) with Minutes of Evidence*, British Parliamentary Papers (1836, vol. 7, Evidence; 1837, vol. 7, Report) (hereafter: Report).
 - 22 *Report on the Affairs of British North America*, British Parliamentary Papers (1839), vol. 32, pp. 1–690 (hereafter: Report). The Report has also been published in a number of editions, such as *Lord Durham's Report: An Abridgement of the Report on the Affairs of British North America*, ed. G. M. Craig (Toronto: McClelland & Stewart, 1963).
 - 23 See: I. Bradley, *The Call To Seriousness. The Evangelical Impact on the Victorians* (London : Jonathan Cape, 1976); F. K. Brown, *Fathers of the Victorians* (Cambridge: Cambridge University Press, 1961); E. M. Howse, *Saints in Politics. The 'Clapham Sect' and the Growth of Freedom* (London: Allen & Unwin, 1953); B. Hilton, *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1795–1865* (Oxford: Clarendon Press, 1988).
 - 24 See Thomas Fowell Buxton, in C. Buxton (ed.), *Memoirs of Sir Thomas Fowell Buxton* (London: John Murray, 1855).
 - 25 See Z. Laidlaw, 'Integrating Metropolitan, Colonial and Imperial Histories: The Aborigines Select Committee of 1835–37', in Tracey Banivanua-Mar and Julie Evans (eds), *Writing Colonial History* (Melbourne: RMIT Publishers, 2002); Alan Lester, *Imperial Networks: Creating Identities in Nineteenth-Century South Africa and Britain* (London: Routledge 2001), pp. 106–23; R. Milliss, *Waterloo Creek. The Australia Day Massacre of 1838, George Gipps and the British Conquest of New South Wales* (Ringwood, Victoria: Penguin, 1992), pp. 123–7, 226–33.
 - 26 Report, British Parliamentary Papers (1837), vol. 7, p. 5.
 - 27 *Ibid.*, p. 76.
 - 28 *Ibid.*, pp. 61–4.
 - 29 *Ibid.*, p. 62.
 - 30 *Ibid.*, pp. 51–8.
 - 31 *Ibid.*, pp. 47–50.
 - 32 *Ibid.*, p. 50 (emphasis in original)
 - 33 *Ibid.*, p. 56.
 - 34 *Ibid.*, p. 49.

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- 35 This point was made powerfully, again by Lieutenant-Governor Stockenström, in relation to his recommended ways of dealing with the Xhosa on the eastern frontier of the Cape: 'the main point I would have in view would be trade, commerce, peace and civilization. The other alternative is extermination; for you can stop nowhere; you must go on; you may have a short respite when you have driven panic into the people, but you must come back to the same thing until you have shot the last man': *Report*, British Parliamentary Papers (1836), vol. 7, p. 244: Evidence of Stockenström, 1 March 1836.
- 36 *Report*, British Parliamentary Papers (1837), vol. 7, pp. 83–4.
- 37 *Ibid.*, p. 18.
- 38 John Philip, *Researches in South Africa* (1828), pp. ix–x, quoted in Stanley Trapido, "'The Friends of the Natives": Merchants, Peasants and the Political and Ideological Structure of Liberalism in the Cape, 1854–1910', in S. Marks and A. Atmore (eds), *Economy and Society in Pre-Industrial South Africa* (London: Longman, 1980), pp. 247–74, at 249.
- 39 The Australian historian Henry Reynolds calls the Select Committee and its recommendations 'the First Land Rights Movement' in relation to Australia in his *The Law of the Land* (Ringwood, Victoria: Penguin, 1992 [1987]), chapter 4. A serious examination of the Select Committee and its recommendations simply cannot sustain this view – see below.
- 40 Bradley, *Call to Seriousness*; D. Roberts, *Paternalism in Early Victorian England* (London: Croom Helm, 1979).
- 41 See Adam Smith, *Lectures on Jurisprudence*, ed. R. L. Meek, D. D. Raphael and P. G. Stein (Oxford: Clarendon Press 1978); P. G. Stein, *Legal Evolution: The Story of an Idea* (New York: Cambridge University Press, 1980).
- 42 *Report*, British Parliamentary Papers (1837), vol. 7, p. 5.
- 43 *Ibid.*, pp. 76, 82–3.
- 44 *Ibid.*, p. 18.
- 45 *Colonial Intelligencer; or Aborigines' Friend* (hereafter: *Colonial Intelligencer*), April (1847), p. 1.
- 46 See M. Brock, *The Great Reform Act* (London: Hutchinson, 1973).
- 47 On the historical context of the Durham Report, and its subsequent reception and influence, see: J. R. M. Butler, 'Colonial Self-Government 1838–1852', in J. H. Rose, A. Newton and E. A. Benians (eds), *The Cambridge History of the British Empire*, 2 vols (Cambridge & New York: Cambridge University Press, 1938–40), vol. 2, pp. 335–87; G. Martin, *The Durham Report and British Policy. A Critical Essay* (Cambridge: Cambridge University Press, 1972).
- 48 See Craig's Introduction (p. iv) to *Lord Durham's Report: An Abridgement*; and K. McNaught, *The Penguin History of Canada* (New York: Viking Penguin, 1988), p. 94. That particular usage, by imperial observers, of 'races' to describe the conflicts between two White colonial nationalities applied not only to French–English hostilities in Canada, but subsequently to English–Afrikaans conflicts in South Africa.

PART II

Establishing settler dominance

CHAPTER TWO

Canada: 'If they treat the Indians humanely, all will be well'

In 1840 the Aborigines' Protection Society (APS) produced an advice manual for the Colonial Office, a set of model laws for the governance of the 'Native' peoples of the Empire. Published by John Murray of London under the title *Outline of a System of Legislation for Securing Protection of all Countries Colonized by Great Britain; Extending to Them Political and Social Rights, Ameliorating Their Conditions, and Promoting Their Civilization*, the model laws laid down general principles of legislation based on 'the indefeasible rights of every people . . . the natural rights of man . . .', which entailed a people's rights as an independent nation the sovereignty of which could be justly obtained only by fair treaty and consent, and of which every individual had a 'right to personal liberty, and protection of property and life'.¹ On rights of property, the model laws decreed that the land must be obtained by treaties, which would be unacceptable unless there were adequate reserves for Aborigines. Indigenes should possess all the privileges of British subjects, and be taxed and treated by law as such. In systems of justice, everything should be done in negotiation with and by the consent of Aborigines who, where settled in large numbers, should adjudicate minor offences committed among themselves. All Aborigines living under the sovereignty of Great Britain should have the right of inheriting and holding real and personal property, and of disposing of it by will or transfer. In civil and criminal cases, the evidence of Aborigines should be admitted in British courts of justice and not invalidated because their customs prevented them from taking an oath.

The model laws had a particular relevance in British North America where Governor-General Lord Sydenham was being asked to advise on future relations between settlers and Indigenous people. He had few precedents to follow in undertaking this difficult task. To Indigenous peoples, governors represented the great Father/

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Mother over the seas who had guaranteed their protection. Sydenham, however, was also charged with responsibility for negotiating settler demands for increased autonomy and access to lands. In moderating these demands the governor knew that he could expect little support from a Colonial Office anxious to rid the British taxpayer of the cost of the annual distribution of gifts, as required under the treaties, while avoiding criticism from humanitarians and evangelicals, ashamed that the progress of civilisation seemed always to be accompanied by Indigenous decline.² While Colonial Secretary Lord John Russell had forwarded the APS's advice he assured Sydenham that it was far from binding, commenting: 'How far any of the suggestions in this Pamphlet may be worthy of adoption in Canada is a question which you have better means of determining than I possess.'³

By 1840 there were four colonies in mainland British North America, clustered in the south-eastern corner of the vast Canadian land mass, the rest of which remained under the administration of the Hudson's Bay Company. Representative government had been introduced during the last quarter of the eighteenth century, beginning with the maritime colonies of Nova Scotia (1758), Prince Edward Island (1773) and New Brunswick (1785), and extending to Upper and Lower Canada, the constituent parts of the new province of Canada, in 1791 (see Map 2.1). Property qualifications varied according to local circumstances, but were sufficiently liberal to render agitation for extension of the franchise non-existent.⁴ In both Upper and Lower Canada a small number of Indigenous men of mixed descent, living a settled life, had been able to qualify, and Mohawk Chief John Brant had, in 1832, been briefly elected to the Legislative Council as member for Haldimand.⁵ Most Indigenous peoples, however, were little concerned with settler political institutions, continuing to regard themselves as allies rather than subjects of the Crown.⁶

Although the Colonial Office had direct oversight only of relationships with the Indigenous peoples in the colonies of Upper and Lower Canada, practices developed in these colonies were influential in both the maritimes and, later, in the new west-coast colonies of Vancouver Island (1849) and British Columbia (1856). These practices were encoded in legislation passed by the Assembly of the Province of Canada after it had assumed responsibility for Indigenous peoples in response to the announced intention of the British Government to cease its maintenance of the Indian Office in 1860.⁷ When the colonies entered into confederation in 1867, it was these policies that determined the status offered to Indigenous peoples in the new nation.

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Guardian . . . [they] can do no legal act of their own'.⁹ As the wealth, power and potential threat of Indigenous peoples declined, protection slipped into coercion, compelling the decimated and increasingly isolated bands to trade land for the promise of security, and to move towards European models of civilisation and self-sufficiency. Addressing a delegation of the Iroquois who had come to England in January 1830, Secretary of State for the Colonies Sir George Murray warned that

the White population, by the habits of cultivation, were spreading everywhere over the Country like a flood of Water; & . . . unless the Indians would conform themselves to those habits of life, & would bring up their children to occupy Farms & cultivate the Ground in the same manner with the White people . . . they would be gradually swept away by this Flood, & would be altogether lost; but by accepting Grants of Land & cultivating Farms, they would gradually increase their numbers & their wealth, & retain their Station in a Country in which they were so well entitled to have a share, & in which he [Murray] had a very sincere wish to see them prosperous & happy.¹⁰

While a similar protective policy was also applied to the first Black immigrants to the maritime provinces – refugees from slavery in the United States – for Indigenous people the tutelage became permanent.¹¹ In order 'to promote the disposition amongst the Indians, to assume the habits of Civilization', plans were drawn up to individuate reserve lands, and to provide the heads of families with the 'location tickets' which were later to prove central to the claim for enfranchisement.¹² The refusal of Indigenous peoples to accept such provisions, and their insistence on holding land in common, were read as evidence of 'wildness' or 'savagery', reinforcing the need for continued 'protection'. As Britain sought to free itself of ongoing obligations to its former allies, governors were instructed to persuade settler legislatures to take responsibility for the peoples whom they had dispossessed.¹³ Although the instructions issued to new governors continued to require them to protect Indigenous peoples while promoting religion and education among them, they were increasingly deprived of the resources that would have enabled them to implement such policies without settler support.¹⁴

The only other substantial group with an interest in safeguarding the rights of Indigenous peoples was the missionaries, all of whom, despite their theological and denominational differences, advocated a process of gradual civilisation. Settlement, evident in the cessation of 'wandering', was central to their understanding of this process, its side benefit – freeing the land for sale – was promoted as the means of financing the transition to an agricultural lifestyle. 'It would be very advantageous',

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wrote the Roman Catholic lord bishop of Quebec in 1828, 'could they be induced to solicit the application of these funds to building houses in their villages and a good school house, which might serve as a place of worship till a Church could be built'.¹⁵ Thirteen years later the Protestant missionary to the Mi'kmaq assured the Nova Scotia legislature that local bands 'appeared' willing to hand over most of their land in exchange for assistance in farming the remainder for their own support. 'It seems neither wise nor just', he concluded, 'to allow in our midst, another race to remain permanently inferior, a burden and misery to themselves, and a barrier to the general progress of the whole community'.¹⁶

Until the process of civilising was complete missionaries were keen to present themselves as protectors of Indigenous peoples whose safety and well being were being threatened by rapacious settlers. Often working in isolation, beyond the limits of White settlement, Roman Catholic and Wesleyan missionaries reporting to home societies in France and the United States had the capacity to highlight Britain's failure to protect its Indigenous subjects. Such reports would later be seized on by the APS, anxious to add 'waning loyalty' to its list of evils consequent upon the failure of the Colonial Office to act in defence of Indigenous peoples across the Empire.¹⁷

To the settlers, the missionaries' campaign for continuing protection of Indigenous peoples was evidence of the failure of the civilising mission. Positioning themselves as pioneers, their claim to the land based on their willingness to labour, the settlers reacted angrily to any suggestion that their taxes should be used to support Indigenous landholders, whose attachment to land was standing in the way of further expansion. In their version of settlement history, the 'humane' course of action was to induce 'the Indians by offers of compensation, to remove quietly to more distant hunting grounds, or to confine themselves within more limited reserves, instead of leaving them and the white settlers exposed to the horrors of a protracted struggle for ownership'. Canada's 'peaceable settlement', they argued, had left 'the Indians . . . in possession of advantages which far exceed those of the surrounding white populations, and which afford them the means under a proper system of mental improvement, of obtaining independence and even opulence'.¹⁸

Anxious to gain access to more land, settlers decried such 'special treatment', arguing that Indigenous peoples should be compelled rather than merely encouraged to become self-sufficient.¹⁹ Claiming a knowledge born of familiarity, they argued that 'the longer the Indian is kept in a comparatively helpless condition, and treated as a child, the less inclined he will be to assume the responsibility of providing for or

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taking care of himself', insisting instead that, 'like his white neighbour', he should be forced to rely entirely on his own exertions.²⁰

'If, on the one hand', Sir George Murray observed, 'there existed a disposition with the aboriginal Inhabitants to cling to their original habits & mode of life, there was a proneness also in the new occupants of America to regard the Natives as an irreclaimable race & as inconvenient neighbours, whom it was desirable ultimately wholly to remove'.²¹ Although members of local legislatures liked to boast of the superiority of Canadian Indian policy as compared to that of the United States, even they were prepared to admit that if full responsibility was vested in settler governments 'it would lead to dissatisfaction and difficulty'.²²

The Indigenous' understanding of this changing situation was more evident in action than in word, yet there is no sense in which they were silent victims. Band councils continued to function, retaining considerable autonomy within the reserves and serving as the first point of contact for government and colonial officials. The Council of the Six Nations, the largest Indigenous group in the province of Canada, consistently argued that its people remained allies not subjects of Britain, living under the uneasy supervision of the Indian Department. Other bands, however, were prepared to explore the possibilities which 'subject' status offered. In their exchanges with representatives of the Colonial Office individual chiefs expressed their wish to embrace some of the benefits of civilisation. Addressing a gathering at Drummond Island in 1827, Potagunnsar Band member Ashagashe had declared:

Our great Father at York has given our Brethren the means to cut up the ground (plough) and has taught them to cultivate the land, how they are favoured; we wish he would favour us in the same way . . . we have arms as well as the whites but we don't know how to use them - Our hearts are dark we want them made white (become Christians) how we should laugh to see our Daughters milking Cows and washing dresses for us, and to see the Young men beating Iron and making shoes for each other.²³

Behind the elaborate language lay a clear intent to define an Indigenous subject status, different from but not inferior to that enjoyed by settlers. Through their band councils Indigenous peoples in Lower Canada resisted attempts to have revenues derived from their land diverted to fund educational facilities that in settler communities would have been provided out of government revenues.²⁴ All Indigenous communities argued for the right to retain their remaining land on their own terms, and, as contact with settler communities increased, Indigenous leaders were quick to protest the inconsistencies they saw in the new status to which they were being assigned.²⁵ Petitioning the Crown in 1854, the Mi'kmaq people declared:

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We have no power to maintain our rights against the encroachments of the whites. They are more numerous and powerful than we, and have more knowledge . . . everywhere and by all classes the poor Indian is despised. Because of our poverty we are despised. But who, we could ask, has made us poor? Who has taken our property from us? Because of our ignorance we are despised, and alas! we are despised and degraded because we are *Indians*. But in the light of that great bright sun which shines upon us all alike; and in the presence of that Great Creator who made us all, we would ask whose fault is it that we are Indians? And who gave the white man a right to deceive and despise and oppress us simply on the ground that the color of our skin is somewhat different from his own?²⁶

The move to responsible government

By 1840, however, the British Government was far more preoccupied with settler interests. The responsible government recommended by Lord Durham had been little theorised, leaving colonial governors to negotiate its implementation with local legislatures. Beginning with Nova Scotia in 1847, responsible government spread to the province of Canada and New Brunswick in 1848 and Prince Edward Island in 1851. Settler politicians were quick to seize the advantage, demanding control of patronage, and positioning the governor essentially as their servant. Governor-General Sir Charles Metcalfe, in a private despatch to Secretary of State for the Colonies Lord Stanley, observed:

The Governor is now I conceive in a false position, his responsibility to the Home Government and to the People of the Colony being alike impaired, and his own power of usefulness, if he possesses any, frustrated by the scarcely avoidable necessity of lending his weight to a party, instead of acting with exclusive attention to the Public Good.²⁷

The distinction between 'party' and 'public good' reflected the governor-general's awareness that, although there had been no agitation for extension of the franchise in any of the colonies, not all of those for whom he was charged to care were effectively represented under the prevailing arrangements. Reporting on the political rights of Indigenous peoples to Governor Sir George Arthur in 1839, Mr Justice Macauley had written: 'if possessed of sufficient property to qualify them, then competency to vote at elections or fill municipal offices if duly appointed thereto, could not be denied'.²⁸ Given that their land continued to be held in common it was unlikely that Indigenous people would be able to qualify, but even that slight possibility was negated by the passage of the Crown Lands Protection Act later in the same year, designating all Indian land as being vested in the Crown.²⁹

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The rare voices in local legislatures urging the removal of barriers to Indigenous participation, were usually arguing for the removal of all elements of their 'special status'. Speaking in the Legislative Assembly of the United Canadas in 1843 Colonel Prince argued that the exclusion of '[the r]ed man . . . while the coloured man was indiscriminately allowed the privilege . . . was both unjust and illiberal'.³⁰ Ten years later he was agitating 'to put the Indians on the same footing as the white . . . [taking] some of the privileges which they had superior to those of the white men, such as the privilege of hunting at unseasonable times . . . [and] the privilege under some circumstances of not paying their debts'.³¹

The knowledge that Indigenous people had the right to become full citizens was not widespread. Officials of the increasingly locally controlled Indian Department, justifying their continued employment by reconstructing themselves as 'protectors' of Indigenous peoples, had long argued that political participation was the privilege of the civilised subject. Indigenous people, they had consistently claimed, could not be 'admitted individually, to the rights His Majesty's other subjects enjoy' until 'further improvement be made in their moral condition by the Instruction and Education of their Youth, leading gradually to the attainment of sufficient knowledge to enable them to manage their own affairs, to cultivate with advantage their own lands'.³² However when the issue was canvassed by the Commission of Inquiry into Indian Affairs in 1844, Chief Superintendent Jarvis set out to demonstrate that the situation envisaged by the Macauley judgment was far from being attained. Although 'the natural abilities of the Indians . . . if cultivated would render them as fit for the enjoyment of all the civil and political rights as nine tenths of the lower classes', they were disqualified from exercising such privileges by their lack of education.³³

The missionaries who responded to the same questionnaire were unaware of the Macauley judgment. Dr Adamson, Wesleyan missionary to the Mississauga of the River Credit, cited lands held in common and exemption from property taxes as the reasons why Indigenous people were not allowed to vote. However, he did not consider their disqualification justified, arguing that although they were not 'actual British subjects . . . many of the Indians have now sufficient knowledge and ability to exercise all the political and civil rights of the whites and that all would have so if properly educated'.³⁴ There was no sense in the missionaries' responses that they saw enfranchisement as an immediate goal. Indeed, the Reverend R. Flood, missionary to the Munsees and Chippewas of the River Thames, deplored any such possibility, arguing that bringing Indigenous peoples into the political process 'would have the tendency to bring them into contact with the demoralized portion

of the white population at political meetings when they might easily become the prey of the wicked and designing'.³⁵

The Gradual Civilisation Act

Settler governments were determined to exclude Indigenous peoples – increasingly condemned as a barrier to settlement, retarding improvement – from any widened franchise.³⁶ Nova Scotia, introducing manhood suffrage in 1854, excluded 'Indians' alongside paupers, arguing that those in receipt of government assistance were unable freely to exercise a vote, repealing this clause when property qualifications were reintroduced nine years later.³⁷ Legislators in the province of Canada, under increasing pressure from the Colonial Office to assume responsibility for the Indigenous peoples in their midst, developed policies grounded in the 1844 Commission of Enquiry understanding that, whatever their rights at law, such people needed to be educated or civilised before they could exercise the franchise.³⁸ The province of Canada legislated, in language which blended notions of protection and liberation, to establish both a distinct legal status for Indigenous peoples as wards of the government, located outside the privileges of full citizenship and the means by which they could be enfranchised.

Introduced in two pieces of legislation passed in the province of Canada in 1850 – An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada³⁹ and An Act for the Protection of Indians in Upper Canada from Imposition, and the Property Occupied or Enjoyed by Them from Trespass and Injury,⁴⁰ and elaborated more fully seven years later in what became known as the Gradual Civilisation Act⁴¹ – the concept was disarmingly simple. While Indigenous people remained in their 'uncivilized state' they could continue to enjoy the special status which treaties had guaranteed. However, to qualify for Canadian citizenship, a process described as 'enfranchisement', they had not only to demonstrate that they had become educated/civilised, but were compelled to renounce their rights to share in communal payments, to individuate their land and to disassociate themselves from their communities. This solution, developed in the province of Canada, was, after confederation, applied nation-wide by the Indian Act 1876.

Skilfully blending the controlled benevolence of the missionaries with the simmering resentments of the settlers, the representation of enfranchisement was that it offered a positive way forward, but even those Indigenous people who had been willing to engage with the notion of 'civilisation' rejected the terms on which it was being offered.

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As early as 1838, Wesleyan convert the Reverend Peter Jones (Kahkewaquonaby) had written to the APS arguing for access to the franchise as part of a process of 'coming together' that he saw as inevitable. 'Scattered & surrounded by the White people as the Indians are', he argued, 'it would be in vain for them to attempt to keep up a separate form of Government from their neighbours, who form the largest population.'⁴² Unlike the Six Nations, Reverend Jones's people, the Mississauga of the Credit, had fully embraced the civilising package of conversion, education and settlement. However, they had embraced civilisation without abandoning their Indigenous identity, requesting recognition of their status of landowners-in-common and the right to control their own affairs, without the necessity of individuation and assimilation.⁴³ Despite being eligible for enfranchisement under the new legislation, both Jones and his son refused to apply because they did not want to sever their connection with the rest of the band. Responding to a later revision of the legislation, in 1869, Jones's son Oronhyatekha explained:

I hardly conceive it to be possible to frame an Act which would remove or more effectually bar any Indian from seeking enfranchisement than it does. It is simply an ingenious provision by which an Indian has the liberty accorded to him of surrendering all his rights and privileges and the rights and privileges of his wife and children, for the inestimable boon of paying taxes and being sued for debt.⁴⁴

Despite the benevolence of its language, the Gradual Civilisation Act functioned to disenfranchise individuals, whose eligibility to vote, where they were suitably qualified, had not been questioned in the past. During the parliamentary debate, W. B. Robinson, who had negotiated the treaties that had opened to settlement lands around Lakes Huron and Superior, warned that the Bill would be 'very distasteful' to chiefs who did not understand themselves as being disenfranchised. 'At their Council meetings the Indians chiefs deliberated quite as sensibly as hon. members did in this House . . . They knew very well how to manage their own affairs' and understood that if they had land they would be eligible to vote.⁴⁵

Robinson's fears were realised ten years later when representative institutions were introduced in the Algoma region to the north of Lake Superior. Although candidates had been actively canvassing the Indigenous vote, the local returning officer made it clear that he would accept only the votes of those who had gone through the process of enfranchisement. A local resident, writing under the name 'One Who Knows', pointed out the inconsistency of this ruling. Indigenous people, he argued, did not need to be 'enfranchised' because they were

never slaves, and to demand that they be able to 'read and write fluently . . . [their] own and another language, either English or French', in order to register to vote was to set the bar too high. 'How many of our own people would forfeit a right we have always held most sacred, were this condition compelled at our elections? We all know not one-tenth of the population could vote.'⁴⁶

Despite having six legal opinions which argued that suitably qualified British subjects, 'irrespective of race or colour', were entitled to vote, the returning officer chose to act on the one recommending that Indigenous people seeking to vote swear an oath that they were not 'Indian' in the terms of the Act.⁴⁷ Believing their party to have been disadvantaged by this decision, Reform Party advocates argued:

We saw white men of the most degraded moral character, the very lowest degree of stupidity and ignorance, and without a dollar worth of tangible property to their names, sworn in as 'householders,' and voting. We saw the negroes, born nobody knows where . . . and without a semblance of property, house or anything else, sworn in as voters. And, we saw at the same polling place a fine, manly looking Indian chief, the owner of a good house, with cultivated lands, boats, nets and other valuable property . . . subjected to a process of badgering and insult by a pack of pert pettifoggers, and driven off from the polls, because he was an Indian⁴⁸

Such protests notwithstanding, practices introduced at Algoma became standard at elections as political parties increasingly identified with the settler population in their opposition to Indigenous 'privilege'. The possibility of Indigenous people having any political rights became increasingly contentious as settlers moved from an understanding of the franchise based on property to one based on individual (male) rights.⁴⁹ In revising provincial franchises after confederation, both Ontario and the new province of Manitoba identified as ineligible to vote specifically those 'Indians' in receipt of annuities.⁵⁰ In Ontario this disqualification was extended in 1876 to include all Indigenous people living on reserves⁵¹ and, eight years later, anyone living off the reserve but still in receipt of annuities.⁵²

British Columbia's introduction of a racial bar

In the colonies on the west coast, where Indigenous peoples greatly outnumbered settlers, the practice of excluding the majority population from citizen status was apparent in the earliest years of colonisation. In contrast to their European predecessors, Hudson's Bay Company employees who had intermarried with local people, Vancouver Island settlers defined themselves in opposition to the 'savages', increasingly depicted as external enemies who threatened the security of the colony,

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and pressured the local authorities to have Indigenous peoples removed from the settled districts.⁵³ 'Shall we allow a few vagrants to prevent forever industrious settlers from settling on unoccupied lands?' asked influential local newspaper editor Amor de Cosmos in 1861. 'Not at all . . . Locate reservations for them on which to earn their own living, and if they trespass on white settlers punish them severely.'⁵⁴

Although the colony's first effective governor, Sir James Douglas, had negotiated some land purchases with Indigenous people, the manner of land acquisition equated more to the practice in New Zealand than that of the rest of Canada where the amount of land left as reserves related directly to the number of families to be accommodated. Douglas used no set formula; but, importantly, he recognised 'native title' to such lands and did not vest them in the Crown.⁵⁵ Later dispossession occurred without even such minimal formalities. Although the practice of reserving small areas of land remained, neither the British nor the local legislature was prepared to bear the expense of treaty purchase, so the situation was left unresolved. As in the older colonies of the east, successive governors, as representatives of the Colonial Office, expressed increasing agreement with the missionaries that the solution to the 'Indian problem' lay in their 'settling' on their remaining lands, although with no guarantee that even there they would be free from further intrusion.

In 1866 the Colonial Office created the new colony of British Columbia, bringing the gold miners of the mainland and the more established settlers on Vancouver Island under a single administration which it hoped would move rapidly towards self-government. The incoming governor advocated the introduction of a selective franchise which, he argued, was 'absolutely requisite for the successful dealing with the large Indian population which becomes a greater source of anxiety and a more difficult problem daily'.⁵⁶ Local politicians, however, wanted manhood suffrage, with a libertarian minority willing to countenance a race-blind franchise if that would allow for the dismantling of what they saw as the unjustified system of Indian protection:

We are not among those who wish to see the Indian swept from the face of the earth; he was placed here for some wise purpose, owns the land we vauntingly call ours, and is entitled to a full measure of liberty and protection. To say that a man, because he has a red skin is not to be allowed the same rights that are accorded the man who wears a white skin is absurd. It is setting aside a recognized principle that an Indian is a responsible being and reducing him in the scale of humanity.⁵⁷

Opponents warned, however, that British Columbia would become the laughing stock of the Empire were it to adopt such a scheme. 'Some

ten thousand whites would have to contend at the polls with fifty thousand painted, whiskey-drinking "red-skin" voters . . . peradventure to sit in a Legislature in which the savage element largely predominated'.⁵⁸

While the Island retained a franchise restricting voting to landholding British subjects resident in the area for a minimum of three months, on the mainland near-manhood suffrage prevailed, except in the more closely settled district of New Westminster from which 'Indians' were overtly excluded. In 1870, however, the Colonial Office intervened, insisting that British Columbian voters had to be able to read and write English, a requirement that functioned to exclude Indigenous people – and the many non-European immigrants – without needing to make explicit mention of race.⁵⁹

Parliamentarians in British Columbia, who in 1870 had argued eloquently for their responsibility to represent, in Ottawa, the majority Indigenous population – 'who . . . contribute as much to the revenue as a Canadian . . . [and] are entitled to be represented as well as white men' – offered no resistance to the move.⁶⁰ Indeed, when granted responsible government on entering the Confederation in 1871 the same parliamentarians proceeded to revise their Local Franchise Act to exclude all 'Indians' (and Chinese) across the province, irrespective of their economic or citizen status. When the final property qualifications were removed, in 1875, the racial disqualification clauses were omitted for fear that the Bill would be disallowed by the governor.⁶¹ However, once this fear was set aside they were quickly reinstated.⁶² Hence it was the province of British Columbia, where the 10,000 settlers were clearly outnumbered by an estimated 40,000 Indigenous people, that marked the site in which racial exclusion was most central to the transition towards White democracy.⁶³

The Colonial Office response

The Colonial Office, which in 1837 had been adamant that it was not in the interests of Indigenous peoples to be entrusted to the care of local legislatures, was silent over, if not complicit in, their subsequent disenfranchisement. For the colonial authorities the appeal of the civilisation–assimilation solution was that, successfully applied, it would eliminate both Indigenous peoples' claims to special status and the costs incurred in protecting the rights associated with that status. Outlining, in 1841, a policy that was also embraced by the lieutenant-governors in the Atlantic provinces, Lord Sydenham had foreshadowed this solution. While the British government had a responsibility to intervene on behalf of those 'Indians who can still follow their

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accustomed pursuits . . . if they become settlers they should be compelled to fall into the ranks of the rest of Her Majesty's subjects, exercising the same independent control over their own property and their own actions, and subject to the same general Laws as other Citizens'. To attempt to maintain 'a system of pupillage' in the 'civilized parts of the Country' would lead to 'embarrassment to the Government, expense to the Crown, a waste of the resources of the Province and injury to the Indians themselves'.⁶⁴

Any doubts expressed about the impact of such a policy on the imperial responsibility to protect Indigenous peoples were dismissed as impractical. 'Any attempt to regulate the internal economy of Public Affairs in Canada, by directions from this Country, is daily becoming more and more hopeless', a Colonial Office official noted, 'as it respects the Indians this difficulty could probably prove insuperable. Practically & in truth every thing must be left to the local Authorities.'⁶⁵ Given that the local settlers had achieved control of their own affairs, they should assume the financial responsibilities as well.⁶⁶ Arguments that such a move would disadvantage Indigenous peoples were swiftly dismissed by Earl Grey, the secretary of state for the colonies:

The continuance of the existing system of presents is not really favourable to the civilization of the Indians, and I have merely to add the expression of my confidence that, in so far as any assistance is either due to them as compensation for lands, or demanded by a humane interest in their improvement, the Provincial Parliament will never be insensible to the claims which the former occupants of the Canadian territory have upon the consideration of the great and flourishing European community by which it is now inhabited.⁶⁷

His advisers, both at home and abroad, did not share his confidence. 'The Canadian Lre', noted Colonial Office clerk Blackwood, have 'never taken any steps themselves to improve the condition of the Indians'.⁶⁸ New Brunswick Governor Sir Edward Head agreed:

The covetous desire for land – the fearless energy which makes a man face the wilderness – the half sullen isolation in which he resolves to fence in, and maintain the bit of ground on which he has 'squatted' as a home for himself and his family – all these make an English settler unlikely nicely to weigh the claims, or conciliate the good will, of the native population – He establishes himself by repelling the aborigines, not by mixing with them, and when he has a vote it is easy to see which way his sympathies will direct its exercise.⁶⁹

This was advice which the secretary of state for the colonies, faced with the responsibility of justifying the continuing cost to the British taxpayer of supporting Indigenous people in colonies aggressively assert-

ing their independence, did not want to hear. Doubts about the willingness of settlers to assume this responsibility were transformed, over time, into anger directed towards the 'remnants of a dwindling race', who retained large landholdings which they were unwilling to capitalise. 'Why', asked Colonial Under-Secretary Elliot,

should this vast property be for ever left apart for the few Inhabitants of one or two villages, or perhaps eventually for the last red man of the Province? The legitimate use of the property is to supply training, education and indispensable subsistence and guardianship for these people until they can provide for themselves.⁷⁰

By transforming Canadian Indigenous peoples from perpetual children to proprietors of substantial estates, Elliot was denying their need for continuing protection, situating them instead alongside the politicians in control of the local legislatures as people unwilling to assume responsibility for their own support. While Elliot's superior, Permanent Under-Secretary Herman Merivale, did not substantially disagree with this analysis, he did attempt to moderate the message, advising colonial governors that the Colonial Office would 'be satisfied with any disposition arrangement which meets your approval, & at the same time is consistent with the full preservation of the faith of the Imperial Government so far as it may, be pledged to the nation'.⁷¹

The Colonial Office then proceeded to minimise the extent of that pledge. Appeals from governors, faced with accusations from Indigenous peoples that the imperial government was reneging on treaty responsibilities yet forced to plead with settler assemblies for any provision in response, were repeatedly rejected.⁷² It would be both impracticable and irresponsible, Lord Stanley argued, for the Colonial Office to attempt to intervene. 'The Canadians have become a nation, and upon them must depend the good management of everything within their Territory. If they treat the Indians humanely, all will be well; if not, the defect is not to be supplied by pitching an Annual sum of money across the Atlantic.' It was also, he noted, a matter of justice. 'Whilst the European Inhabitants of Canada are the only persons who have the power, it seems just that they should also bear the burthen of protecting the original possessors of the soil, for it is they who enjoy the profit.'⁷³

By 1860, Elliot was able to report: 'we at last have a formal acquiescence of the Canadian Government in the transfer from England to the Province of the expenses of the Indian Department. As they are to pay, it is quite fair that they also should manage.'⁷⁴ With responsibility for the Indian Department vested in the commissioner for crown lands it was clear that Indigenous peoples would in future pay for their own

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support, a decision in line with the policy Elliot had been pursuing, designed to mollify the resentments of tax-payers both at home and abroad yet fully in accord with the programme of civilisation advocated by both the missionaries and the APS.

Parallel priorities from the outset underpinned Indigenous policy in the new colonies in the west. Although incoming governors were still instructed to protect the interests of Indigenous people they were also informed that responsible government was a right to be extended to settlers in new colonies as swiftly as was practicable.⁷⁵ Their doubts about the scarcity of settlers 'attached to the British throne and constitution, and capable of appreciating the civil and religious liberty derived from that constitution', went largely unheard in a Colonial Office committed to reducing the costs of colonisation.⁷⁶ Once these colonial legislatures were empowered to design their own franchise they did so on the assumption that only settlers of Anglo-Saxon descent were equipped to exercise the political rights of the British subject. Although when the racially restrictive franchise provisions proposed for British Columbia came to the Colonial Office for approval, Blackwood, the clerk with responsibility for the North American colonies, cautiously suggested that these might be difficult to 'reconcile . . . with the Royal Instructions to Gov. Seymour', his superiors chose to ignore his concern; indeed the Colonial Office suggested means by which the desired result could be achieved.⁷⁷ While governors and governors-general continued to express their special concern for Indigenous peoples, because they were not represented in parliament, they were left with nothing but persuasive power to alter the Indigenes' conditions.⁷⁸

From colony to nation

Each of the Canadian colonies that entered into the Confederation (Ontario, Quebec, New Brunswick and Nova Scotia in 1867; British Columbia in 1871; and Prince Edward Island in 1873) retained its distinctive franchise, crafted in order to safeguard settler hegemony in their particular historical circumstances. Although each of these franchises effectively excluded Indigenous people, only in British Columbia was this exclusion overtly racial in its definition. In the older colonies in the east, where settlers were in the majority, legislation positioned Indigenous people, alongside other men in receipt of government assistance, as insufficiently free to exercise the franchise, ignoring the argument that Indigenous payments were dividends on lands surrendered or held in trust rather than charity extended to the indigent. Even if substantial numbers of Indigenes had surrendered such payments and

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individuated their land in order to be enfranchised, the retention of property qualifications ensured that the few who might have qualified would have shared both the status and ideologies of their fellow-voters and hence would not threaten the prevailing polity. The refusal of even the best qualified to seek enfranchisement allowed settler politicians not only to absolve themselves from accusations of discrimination, but, in fact, to blame Indigenous people for their own exclusion. By insisting on holding property in common, argued Nova Scotian David Mills, a Liberal member of the Canadian House of Commons, Indigenes were solely to blame for their diminished state.

They have all sunk, and necessarily so, to the level of the most indolent; and I fancy that, if the white population of any district were dealt with in the same way, if the consciousness of separate and independent property holdings was taken away, you would, in great measure, reduce them to the same barbarous condition in which the Indians are found at this moment.⁷⁹

Despite being vested with responsibility for Indigenous peoples the national government did nothing to contest such attitudes. Administering its new responsibilities through an expanded Indian Department, the government continued the policy of protection-coercion, negotiating treaties across the former Hudson's Bay Company territories in order to free land for White settlement. While these new settlers had easy access to Canadian citizenship, the displaced Indigenous peoples, confined on reserves, were compelled to embrace civilisation before they could enjoy the same privilege.

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CHAPTER THREE

Australasia: one or two 'honorable cannibals' in the House?

The first colonies on the Australian continent and the islands of New Zealand in the decades from the late 1830s to 1870 were notable for their swift movement politically from initial Crown colonies to virtual local self-government. As in Canada, the British Government first made arrangements for representative government based on a property franchise for all of these colonies, the already existing and the new, and then conceded responsible government to the colonists. Further, by 1860 the legislatures of the eastern and south-eastern Australian colonies had instituted full manhood suffrage. Formally, the Indigenous peoples of the Australasian colonies, Aborigines and Maori, were included in this rush along the path to self-government and democracy. Closer examination reveals that colonists on the Australian continent could afford to show contemptuous disregard of Aborigines' involvement in political processes. New Zealand settlers, by contrast, would need to surround their initially fragile dominance of the colony with safeguards against Maori potential to influence their political agendas. White Canadians explicitly and consciously enshrined in law that Indigenous political rights were dependent on 'progress' in 'civilisation'. In the Australasian colonies, that agenda also would never be far from the surface, interwoven with urgent settler imperatives grounded in their intensive pursuit of their own economic interests. The means by which colonists could acquire land and their subsequent usage of it would strongly influence Maori and Aborigines' entitlement to political citizenship and the likelihood of their exercising it.¹

'The aboriginal inhabitants are all British subjects and could qualify for the franchise equally with others'

At the time the Select Committee on Aborigines was sitting in Britain, in 1836, the principal British colony of New South Wales (NSW) was a

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huge expanse of territory extending from the north-eastern coastline to the south-east, with growing colonial sub-divisions, most notably in the Port Phillip district in the south and in the north around Moreton Bay. The other two colonies were the small island offshoot Van Diemen's Land (later Tasmania) and the struggling colony of Western Australia, huge in territorial extent but small in numbers of settlers. The situation was, however, changing quickly. Pastoralists had begun to drive their flocks into the hinterland of Sydney, taking over vast runs. By the end of 1836 the colony of South Australia had been founded by an independent company with a charter from the British government. Shiploads of eager colonists arrived at its port, Adelaide, while pastoralists from Van Diemen's Land had crossed the Bass Strait to establish themselves in the Port Phillip District, in the south-east, and soon commenced a campaign for separate recognition as the colony of Victoria.²

NSW was ruled directly by the Colonial Office and the Crown's local representatives, the governors. NSW had up to that time been denied representative institutions because of its origins as a convict settlement. Once its population of free settlers and ex-convicts had grown, they demanded elective institutions like 'freeborn Englishmen' elsewhere in the Empire. NSW settlers initiated the political pressure on governors, the Colonial Office and successive British governments, the results of which ultimately flowed on to other colonies. The arrangements devised first for NSW would flow on to Tasmania, South Australia and Victoria, and finally, in 1859, to the new colony of Queensland when it was carved out of the land of north-eastern NSW.³ But what was barely addressed, in the swift passage of these colonies from Crown colonies to near-self-governing democratic societies, was the place of Indigenous peoples in the political process.

British humanitarians put considerable pressure on the Colonial Office through the later 1830s and the 1840s to protect the Indigenous peoples on the continent of Australia – named by the generic title 'Aborigines' – hoping to avoid the disastrous near-genocide that seemed imminent in Van Diemen's Land. A protectorate was established, but one with feeble authority. The precedent was already set for settlers invading Aborigines' land without pretence of negotiation or treaty, unceremoniously using whatever force was necessary to accomplish their objective. The capacity of isolated governors on the spot and officials of the Colonial Office far away to contain the continuing ruthless expansion of settlement was heavily restricted, especially as none of them, however much they might decry the cruelty involved, wanted to put a stop to British colonisation. Unlike Canada, there was no acknowledgement of entitlement to land, no treaties and no thought of reserves in the initial phases of the frontiers. Perversely, it became easier to

allow colonists a greater say in governing themselves, and colonists were more eager to embrace democracy when they had had greater prior success in defeating 'the natives'. The British in Australia had fewer risks of potential military involvement.

The British Government ceased the transportation of convicts to NSW in 1840, removing a major obstacle to the extension of representative government. Colonists were well aware that Canadian colonies had representative assemblies, and also that Lord Durham had recommended bi-cameral institutions and considerable local responsibility. The NSW settlers wanted at least the first of these processes: that a body of colonists should advise the governors, elected by colonists themselves.⁴ In 1842 the British Parliament duly passed an Act granting representative government to NSW. There would be a Legislative Council of 36 men, 12 of whom would be nominated by the Queen and 24 elected popularly by men who owned property worth £200 or rented a dwelling-house with an annual value of £20. For the right to stand for election, the aspiring politician needed an estate of £2,000. Voters were to be men aged 21 years and over, and British subjects (by birth or naturalisation) who had lived for at least six months in their current location.⁵ It was 'race-blind' legislation, a term that would be much used in southern Africa: there was no clause that excluded Aboriginal men, but nor did anyone need to mention explicitly their possible exclusion.

Humanitarians were in no doubt that, whatever the political arrangements for the colony, Aborigines needed a range of protection to secure their lives and livelihoods. Legal rights would constitute one segment – the lynchpin – of what would have to be a range of protective steps. The APS, some British parliamentarians and Colonial Office officials were joined in the colonies by a small group of humanitarians – missionaries, 'protectors', some church people – and made spirited attempts to see some Indigenous rights to land accepted and acted upon. Aborigines' rights to compensation for land they ceded must be acknowledged, and reserves of land set aside specifically for their use; they should have access for hunting and food gathering on the huge pastoral leases. These policies were all the more urgent because the missions that might have offered Aborigines assistance were themselves under intense pressure. As fast as missionaries gained a foothold, the White frontier overtook them. Anxieties increased as they saw the previous pattern of murder and eviction repeated in the Port Phillip District, where Aborigines' numbers were swiftly reduced from several thousand to a few hundred survivors, despite the presence of 'protectors' under the oversight of Lieutenant-Governor Charles La Trobe.⁶ The editor of a Port Phillip newspaper wrote in 1840 in a derisory fashion of the British government's attempts to extend the rights of

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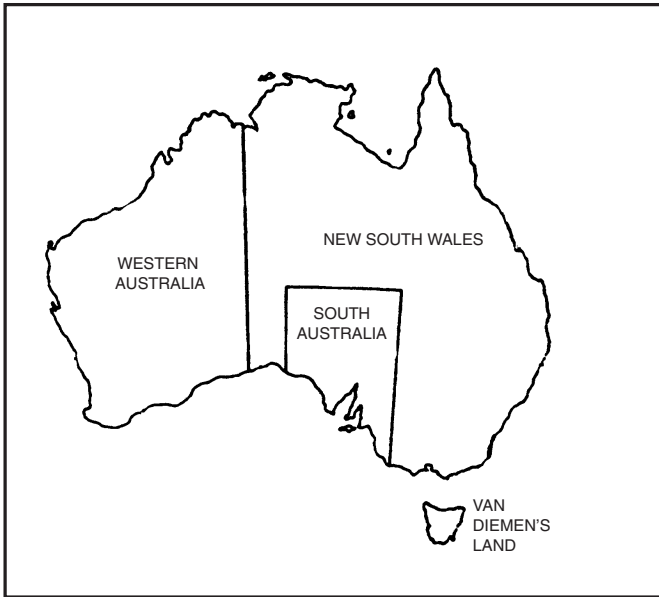
British subjects to Aborigines. The result was neither protection for the Aborigines nor security for the settlers. He declared that the settlers' needs must prevail: giving nominal rights to Aborigines was as absurd as giving the rights of manhood to infants. No satisfactory conclusion could ever be reached 'so long as the abstract right of the aborigines to their native soil, is entertained'.⁷

Aboriginal issues featured as matters of principle in settlers' negotiations with the British government. When the newly elected NSW Legislative Council met for the first time, in August 1843, much of the debate focused on provisions of the new Constitution which, members declared, challenged the rights of free British subjects. Members queried in particular the right of the imperial Parliament to appropriate money from the colonial revenue derived from land sales. This demand was enshrined in the 1842 Act for Regulating the Sale of Wasteland, which allowed the governor to appropriate a proportion not exceeding 15 per cent for the 'civilising mission' – that is, for the benefit, education and protection of Aborigines.⁸ Conversely, representatives championed the cause of the squatters – the very men who were systematically stealing Aboriginal lands – most of whom did not meet the qualifications necessary to vote.

Almost every aspect of the 1842 Constitution for NSW came under attack, and in 1844 the settler representatives passed a motion demanding responsible government. The governor referred the matter to the imperial Government, but told the Council that its demands could never be granted 'unless it be the pleasure of Her Majesty and Parliament, fundamentally and entirely to alter the relations in which the country now stands to the British Empire'.⁹ By 1850 the British Government had shown itself unwilling to allow humanitarian concerns any longer to get in the way of Australian colonisation and its relationship with the settlers. The Government took the first steps in meeting NSW colonists' objections, in relation to the high rate for qualification to vote, in the 1850 Act for the Better Government of Her Majesty's Australian Colonies. The Act liberalised the NSW provisions and provided similar constitutions for the colonies of South Australia, Victoria and Tasmania.

British humanitarians – anticipating quite correctly that colonists would swiftly thereafter demand greater autonomy, if not responsible government – pressed the Government to protect the rights of Aborigines in the new constitutions before it lost its last chance to exert any further real control. On 20 March 1850 a deputation from the APS secured an interview with the secretary of state for the colonies, and presented the APS's views on the draft of this Bill. The deputation expressed concern that the Government did not appear to have made any provision in the Bill 'for imparting to the Natives the privileges

AUSTRALASIA



South Australia added to New South Wales, Western Australia and Van Diemen's land (Tasmania) in 1836.



The addition of Victoria (1851) and Queensland (1859).

3.1 The colonies of Australia in 1836 and 1859

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enjoyed by British subjects'. It was essential, the APS claimed, to entrench Aboriginal rights in these new constitutions: Britain must not repeat its former errors in North America. The Bill should also provide for the Aborigines' possession of 'an adequate portion of the land of which they once had the undisputed possession'. Aborigines should feel secure in their right to give evidence in court, and in the recognition generally of their rights as men and citizens to full participation in all the privileges of the British subject, 'so that the distinctions of colour and race may no longer operate against them, and that effectual steps may be taken, both at home and in the Colonies, to effect their elevation in a moral, intellectual and political point of view'.¹⁰

The Colonial Office representatives had their answer ready. They blandly replied that 'the aboriginal inhabitants of the Colonies were all British subjects, and, as such, could qualify for the franchise equally with others'. The APS retorted that, while this statement was a token of the feeling of the Government with respect to 'native tribes', those who were closely acquainted with the real position of the Aborigines felt only increased anxiety to see this feeling entrenched explicitly in law. 'It may be literally true that the Aborigines have the power to acquire the franchise', it said; but that power was 'everywhere associated with conditions to which they alone are subject, and which incapacitate them from using it'. Some might consider the Aborigines of Australia to 'constitute so degraded and hopeless a portion of the human family, that it is in vain to contemplate them as possessing any claim to civil privileges', but the APS deputation, paternalists to a man, urged that 'in proportion to their inherent feebleness is the strength of their claim to the paternal care of the Government'. The dangers faced by Aborigines were doubled by the fact that 'the colonists to whom they were exposed were not restrained by the law'.¹¹

The deputation's voices did not prevail. NSW settlers rejoiced that Britain had lowered the property qualification for the franchise from £200 to £100, and included some leaseholders with three years to run on holdings of £10 annual value. The other three colonies received franchises at similarly modest levels.¹² The new constitutions contained no statement of human rights, and no specific entitlement for Aborigines to exercise the political rights to which they were formally admitted. The British ignored the fact that the vicious land-grab meant that Aborigines had been decreed to have no property rights, and therefore, under a franchise based on ownership or occupation of considerable property, no access to political rights. In a speech that clearly revealed where the British Government's heart lay, Secretary of State Earl Grey told the colonists:

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It is my earnest and confident hope that by this Act of Parliament, the foundation is laid upon which institutions may gradually be raised, worthy of the great nation of British origins which seems destined rapidly to rise up in the Southern hemisphere, and to spread our race and our language and carry the power of the British Crown over the whole of the vast territory of Australia.¹³

While Earl Grey gave no ground on the contentious issue of dedicated funds for Aboriginal needs, he alluded to the matter of finances in a conciliatory tone. His dispatch to Governor FitzRoy stressed that the new Act made no change with regard to expenditure on Aborigines, but 'Her Majesty's Government had no desire to exercise any control over the appropriation of this revenue beyond that necessary to insure its being extended on the objects to which it is legitimately applicable and in a manner consistent with justice towards those from who it is raised . . .'. He wanted the best arrangements for the protection and civilising of Aborigines, funded from the revenue 'derived from the appropriation of the lands of which they were the original inhabitants.' His dispatch to the lieutenant-governor of Van Diemen's Land noted that 'in Van Diemen's Land there is no longer occasion for any expenditure on account of the Aboriginal Natives'.¹⁴ In the 1850 Act, Grey reinforced his conviction that to effect 'the real civilisation of the aborigines' the means adopted should be directed, not to their improvement as a distinct race, but to their 'amalgamation', that is, assimilation, as soon as possible with the settlers.¹⁵

The NSW Legislative Council's 'Remonstrance' against the 1850 Act dealt extensively with Earl Grey's insistence on controlling funds from the sale of lands to spend on Aborigines. Soon, as members pressed for greater autonomy, the imperial Government allowed all four colonies local political control, conceding responsible government to NSW and Tasmania in 1855, to South Australia in 1856 and to Victoria in 1857. The colonial legislatures could now alter the franchise as they wished, and, noisily asserting their democratic credentials, the legislatures moved with alacrity to manhood suffrage. South Australia had manhood suffrage written into its Constitution in 1856. It introduced a thirty-six-member Legislative Assembly elected by the vote of any man over 21 years who had been on the electoral roll for six months. Victoria brought in manhood suffrage in 1857: 'Every male person of the full age of twenty-one years and not subject to any legal incapacity who shall be a natural born subject of Her Majesty shall be qualified to vote.' NSW followed suit in 1858.¹⁶ (Conversely, the colonies retained property qualifications or nominated members for their upper houses.) Aborigines, as previously, were not expressly excluded from the vote for the lower houses, and

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no one in any colonial legislature queried the implications for Aboriginal political rights as they took this step. Aboriginal men were simply included by default, without debate or question; many colonists, even those in parliament, appeared unaware of the situation.

On the face of it, Aboriginal men aged 21 years and over in NSW, Victoria, South Australia and Queensland – when it inherited the NSW Constitution in 1859 – had the right in law to vote and stand for the lower houses of colonial legislatures. The first constitutions had reflected the imperial Government's conviction that colour should be no bar, but that ownership of property signified a man with a stake in the country. Now the settlers, almost inadvertently, had left Aborigines provided for in the legislation extending the basis of the franchise. They moved to manhood suffrage without specifically raising or querying the inclusion of Aborigines.

This silence in the 1850s about Aborigines and manhood suffrage was broken just once, in a debate in the South Australia Lower House in 1859 on a Bill to amend some detail in the Electoral Bill. The member for East Torrens, Mr Glyde, suddenly intervened, just as the division was to be taken, to declare that 'he had been credibly informed [that] in the outlying districts there were a considerable number of the aboriginal inhabitants upon the electoral roll, and he wished to know if such were the case, whether the returning officer would be justified in receiving their votes'. The attorney-general replied that he did not know. 'His impression was that the aborigines were excluded by the Constitution Act.' If, however, it turned out that Aborigines were not excluded, he would have to insist that the returning officer would be bound to take the votes of anyone who appeared on the roll. Mr Glyde pursued the matter. If the Constitution did not prevent Aborigines from voting, the House should immediately alter the Constitution. Surely, 'if Germans who were not naturalised were prevented from voting [then] he certainly thought aborigines should be. He was desirous of preventing squatters from putting a number of aborigines on the roll in order to turn elections in a particular way.' The member for West Torrens, Mr Reynolds, now joined the discussion. He trusted that the Bill would not be postponed to implement Mr Glyde's wish, 'for if the condition of the Aborigines could be so improved by education as to enable them to exercise a proper discrimination, he could not see why they should be prevented from voting'. There was in his electorate 'a very intelligent fellow, who was upon the roll, though he voted against him (Mr Reynolds), and he could not see why they should be prohibited'. The Bill was then agreed to without further ado.¹⁷

Maori and the meaning of subjecthood

In the islands that the colonists called New Zealand and the Maori named Aotearoa Maori participation in White politics was, by contrast, a major source of contention from the first. New Zealand became an official colony of Britain in 1840. Church of England missionaries had worked among Maori since 1814, Wesleyans since 1823, and more recently, in 1838, Marist fathers had established a mission. Sealers, whalers, traders, adventurers of one kind or another – perhaps 2,000 souls – were spread out across the islands. New Zealand had a brief period, from 1837, under the wing of the governor of NSW, culminating in the appointment of Lieutenant-Governor William Hobson in 1839 with the duty of negotiating a treaty with Maori chiefs. In his advice to Hobson, Colonial Office Under-Secretary James Stephen suggested that the rapid ‘amalgamation’ of Maori into settler politics should be the aim, but first Maori would need some practical experience. Maori were not just ‘wanderers’ or herdsmen, ‘but a people among whom the arts of Government have made some progress; who have established by their own customs a division and appropriation of the soil; who are not without some measure of agricultural skill and a certain subordination of ranks; with usages having the character and authority of law’.¹⁸

Colonisation would not be a simple matter. Maori were numerous, decidedly more numerous than the White colonists. As horticulturalists Maori were firmly in possession of most of the harbours and river valleys, and of the good agricultural or pastoral land that was scarce enough in these volcanic islands; they would not easily make way for land-hungry new settlers. In addition, Maori tribal groups were organised politically, glorified the warrior, and had for decades experimented with European weapons. On behalf of the British Crown, Hobson signed the Treaty of Waitangi with numerous Maori chiefs in February 1840, by which the British believed Maori had conceded sovereignty in exchange for the rights and privileges of British subjects and the protection of their lands and resources. Britain declared New Zealand its newest colony: the North Island, where most Maori lived, by right of cession, and the South Island by right of discovery by Captain James Cook.¹⁹ While the British asserted their claims to ownership, their political control did not penetrate far into Maori-held domains and would not do so for several more decades.

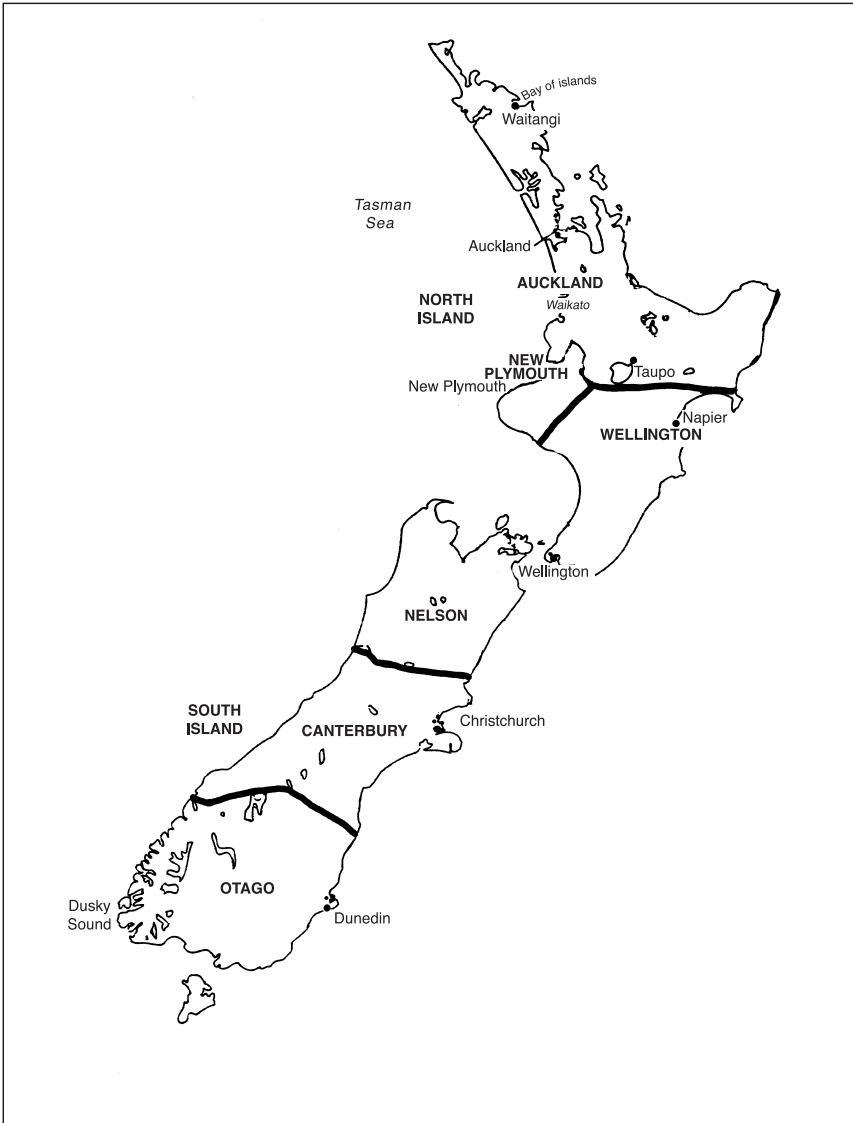
Maori had a different understanding of the terms of the Treaty of Waitangi, one that would increasingly fuel their anxieties about the future. Many chiefs knew full well the story of the British occupation of the lands of the Australian Aborigines. In 1840, Ernest Dieffenbach

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– naturalist with the New Zealand Company expedition and a corresponding member of the APS – made some pertinent observations on arrival at the new town of Wellington. Since the Select Committee's *Report* of 1837, he rejoiced, the British Parliament had insisted that colonisation could take place only if the interests of Aboriginal inhabitants were respected; Secretary of State Lord John Russell had undertaken extensive correspondence with the New Zealand Company on this matter. Dieffenbach watched Maori men during negotiations for the sale of their land and found them 'full of intelligence, eager to acquire knowledge, of a scrupulous honesty, and of a mild and cheerful temper'.²⁰ One chief and several of his tribe had been to Sydney and were well acquainted with what happened to the Aborigines there. One chief pointed to the mountains and the fine harbour, which, he said, could not be destroyed, but Maori would soon use up the tobacco the English offered in exchange: the pipes they received would be quickly broken and the clothes worn out. Maori wanted many of the advantages that Europeans possessed: 'But will the white man keep his promise? Look at Port Jackson [Sydney], and say, what has become of the natives? When the white man has built his house; and we come to his door, will he not say to us, "Be off"?'²¹ Would the same fate await the Maori as had befallen the North American Indian and the Australian Aborigine? Dieffenbach asked himself. Surely not: Maori were a different case. 'They are a people decidedly in a nearer relation to us, than any other; they are endowed with uncommonly good intellectual faculties; they are an agricultural nation, with fixed domicile, and have reached the farthest point of civilization which they possibly could, without the aid of other nations, and without the example of history.'²² Whatever happened, there was no going back now, as people from Sydney and Adelaide were at that very moment preparing to join the existing colonists, and some Maori were prepared to welcome them. But the chiefs had hitherto held the whip-hand in dealings with explorers, missionaries, seamen and visitors. Many began to sense that the stakes now were different. One chief panicked when he saw just how many colonists swarmed ashore, swiftly outnumbering his own people.²³

To control the acquisition of land and see colonisation proceed, settlers needed a say in the political decisions governing the colony. Almost immediately, they asserted their entitlement to representative government. But Maori, unlike Aborigines, put a brake on the settlers' – the *pakeha's*, or foreigners' – race for political hegemony. The British Government had to tread a wary path, fearful of the expense of protecting their ex-patriots, and of the dangers of defining Maori as outside, or inside, White politics. Their first effort to hand over some local say in government, the 1846 Charter, was never set in place, but is interest-

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3.2 White settlement in New Zealand in 1852

ing in that it foreshadowed compromises that would become familiar. This Act, devised by Earl Grey, divided New Zealand into two administrative areas, with voting for a legislature confined to men 21 years and over who were 'burgesses', or property-holders, and who demonstrated

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that they could read and write English.²⁴ These two provisions all-but eliminated any likelihood of Maori participation, even if they wanted it. The provisions were not ostensibly racially discriminatory, but because Maori tribal groups owned most land in common, had the British accepted as property-owners all male Maori who shared rights to land, then all chiefs and almost every Maori man could have laid claim to a vote. The British clearly had no intention of doing so. Further, missionaries had taught Maori to read and write in the Maori language, with the result that few of them, except some of the chiefs, were fluent in English. Earl Grey commended to the future assemblies 'the sacred duty' of watching over the interests, protecting the persons, and 'cultivating the minds of the aboriginal race among whom they and their constituents have settled'.²⁵ He clearly thought he had lit upon a race-blind franchise that nevertheless neutralised the power of Maori numbers.

Both British humanitarians and the new governor, Captain (later Sir) George Grey, found the Charter sadly wanting on these counts; the APS found that the Charter compromised the rights of the Natives, both as citizens and as landed proprietors. They told Earl Grey that 'the power of this great franchise of the representatives of the people may be perverted into an instrument for the oppression of the less civilized and less powerful races of men inhabiting the same colony . . .'.²⁶ Learning English was desirable, 'but is it just to make their ignorance of it a cause for withholding from them their civil rights in their own country?' Could not New Zealand stand as an example of a colony founded among 'Australian aboriginal tribes' without the sacrifice of their existence, their rights or their property?²⁷ To the shame of his race and country, almost all historical experience seemed on the side of 'the exterminating politician'. A Maori would need to be an angel or a dastard to give up his power to the British throne and his land to British colonists, and retire quietly into insignificance!²⁸ 'Every step which the native advances in civilization, without sharing in self-government', the APS warned, 'renders more certain the permanence of his exclusion.'²⁹

Governor Grey rejected the Charter for more pragmatic reasons – it endangered colonisation itself. On his arrival he promptly suspended the Charter for five years. He refused to give increased power to the colonists, on the one hand, and to virtually eliminate Maori, on the other. 'The aboriginal inhabitants are so numerous, and generally, I regret to say, are so much better armed than our own men, that no force which Great Britain could spare, could hold military possession of the country until after a long and expensive war . . .', Governor Grey argued.³⁰ Maori were too suspicious and warlike to be placed under a settler minority

or to be debarred from the franchise. He placed his hopes in an 'amalgamation' policy to close the gap between Maori and settler and thereby improve the chances of representative government succeeding. He rejected 'Native Districts' because they would confirm the power and authority of the chiefs. Grey wanted to reduce the chiefs' power which he saw as tending 'to draw back the mass of the native population to their barbarous customs'.³¹ As for Earl Grey's suggestions about courting the chiefs to acquire land, the settlers had a preference for much more direct methods. While Governor Grey disliked the missionaries for trying to exert too much influence in support of Maori, including their support for the protectorate, he encouraged missionary activities in the field and subsidised mission schools where teaching was in English. Mission teaching, 'whilst it is most effective, can neither irritate the pride nor offend the prejudice of the natives', he said.³²

Leading colonists kept up their pressure on the British Government for representative institutions, going over Governor Grey's head. In 1851 a group headed by William Fox sent a letter to the new Colonial Secretary Sir William Peel accusing Grey of misrepresenting colonists both to London and to Maori chiefs. The governor's dispatches to the home Government, published first in British Parliamentary Papers, and then circulated in the colony, fed Maori with alarm at the introduction of popular institutions. Colonists would not mistreat Maori if given greater responsibilities in government. Settlers, on the other hand, might not long tolerate taxation for Maori concerns without satisfactory representation.³³ These efforts facilitated the passage through the British Parliament in 1852 of the New Zealand Constitution Act, which provided a bi-cameral parliament: a Legislative Council nominated by the governor, and a House of Representatives elected on a low property franchise. Votes went to men 21 years or over, who owned property valued at £50 or held a lease of at least three years' duration on an estate with an annual value of £10 or more; or were householders occupying a house worth £10 in urban or £5 in rural areas. Section 71, to which Maori would return on many future occasions, permitted the governor to proclaim designated 'Native Districts', where Maori Law would continue if not repugnant to the laws of humanity. Earl Grey's literacy provision had disappeared, but almost all Maori were, in effect, disfranchised by the property provision. Large areas of the central and southern North Island were not included in the electorates at all.³⁴ Governor Grey made no attempt to proclaim 'Native Districts' and left New Zealand at the end of 1853 to govern the Cape Colony.

In his opening address to the first meeting of the legislature, in 1854, Acting-Governor Wynyard noted optimistically that conditions were 'happily favourable to the introduction of the representative principle

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into the government of the country', given that relations 'between the two races of Her Majesty's subjects' were friendly.³⁵ Through its prudence and moderation the Assembly would demonstrate its countrymen's fitness for representative self-government and free institutions, through their appreciation of the need 'to preserve and to advance in the scale of civilization the Native inhabitants of these Islands', while they acted as 'pioneers for its colonization by the Anglo-Saxon race'.³⁶ Settler representatives were not slow to show where their priorities lay. They recommended abolition of the position of native secretary since its principal object, they declared, had been to persuade Maori that the government was their friend and the settlers their enemies. They moved that the £7,000 vote in the Civil List for 'Native affairs' should be used exclusively to subsidise mission boarding-schools where Maori pupils would be taught in English. A motion to deny £650 for the Native Department was narrowly defeated.

The legislature's main grievance was that the Constitution denied responsible government: Earl Grey's advisers seemed not to understand the real meaning of constitutional government. Surely they should have known that to introduce representative government and not recognise the consequences would create an unnecessarily discordant system. One member referred darkly to the ill-effects that would flow from a struggle between settlers – 'the people' – and the British government.³⁷ Edward Gibbon Wakefield, who had accompanied Durham to the Canadian colonies in 1838 and was now a New Zealand politician, claimed special knowledge. He noted that some 'negroes' sat in the Assembly of Jamaica, and asked: '[I]f Her Majesty's Government think the Jamaica negroes fit for Responsible Government, surely the gentleman who now holds the office of Governor in this colony must think that the colonists of New Zealand are not less fit'.³⁸ Wakefield referred to the continuing British fear of settler ill-treatment of Maori, complaining that 'nothing could be more irritating than the reiteration of the calumny against the colonists, which had for so many years been made an excuse for depriving them of their rights'.³⁹

Only two members acknowledged that Maori might face problems if settlers operated under responsible government. When Maori consented to the establishing of British authority, one pointed out, they voluntarily agreed to rely upon the queen as their guardian and defender. 'Would they be satisfied with such an arrangement as that which proposes to transfer this power from the hands of the Queen to those of a party?'⁴⁰ Another declared that the only reason he supported an Upper House was its potential to safeguard the interests of the Maori. The Legislative Council would offer 'the benefit of second thoughts on many subjects more or less directly affecting the interests

of the large number who are unrepresented in the elections'.⁴¹ The majority prevailed. In 1856, the British Government gave way partially, and directed Governor Thomas Gore Browne to institute responsible government. The governor had no qualms, however, about retaining control of 'Native affairs', since in the event of hostilities with Maori it would be a British government that footed the bill. Settlers deeply resented being denied full responsibility in Maori affairs, involving as this did Maori lands, an issue that was the major source of settler complaint for the next six years. But in any case, given that Browne had few administrators and insufficient forces, and that the General Assembly now provided his main source of funds, his authority to control the settler government was sorely compromised.

The shame of 'the exterminating politician'

While Maori were effectively disfranchised, there were still sufficient numbers of Maori claiming eligibility to fuel settler fears.⁴² Demographically, Maori remained a substantial presence – just over 56 per cent of a total population of 115,000 in 1858. Rumours abounded that some North Island politicians had enrolled Maori voters in order to manipulate their votes. A letter from Superintendent Featherstone of Wellington Province to the colonial secretary in Auckland, late in 1856, neatly illustrated settler anxieties. Featherstone requested the central government's 'immediate notice' of the registration of thirty-five 'Native Voters'. This had been sponsored by local missionaries and seemed 'to indicate the existence of a scheme to swamp the Europeans at the next elections, and to place the whole representation of this Province in the hands of the Natives, or rather of certain missionaries'. Various descriptions of the registration of Maori voters as a 'plot' and 'a dangerous weapon', Featherstone pointed out that two parties could play at this game. The settlers, in self-defence against the dangerous weapon deployed against them, could just as easily register 'any number of Natives, on the Roll, and to bring them up like a flock of sheep'.⁴³ The colonial secretary responded, with moderation, that existing constitutional arrangements would effectively contain any political power Maori might legally exercise. He pointed out that the Constitution Act conferred the franchise 'without distinction of race', but added that 'having regard to the limited number of Natives who possess an Electoral qualification, it does not appear that if they were all registered any fear need be entertained'. Colonists needed above all to maintain the semblance of racial harmony to protect its newly won system of responsible government. With his thoughts perhaps more in London than in Wellington, Stafford expressed the hope that no political

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feeling in Wellington would 'mislead men of any party into the adoption of a course of proceeding calculated, from the inevitable results, so seriously to injure the cause of Self Government'.⁴⁴ In 1858 the General Assembly moved to exclude Maori householders from the franchise unless their land was held by a Crown grant – that is, land first alienated to the Crown and then purchased back. An opinion was sought from the Crown law officers in London, who ruled that a Crown grant was indeed essential.⁴⁵

Maori, sympathetic observers noted, appreciated that theirs was a false position, 'neither retaining the efficiency of their native laws, nor participating in the benefits enjoyed by the settlers as British Colonial subjects'. Through the 1850s Maori sought alternative means of making and administering law, since British law did not penetrate far into remote areas of dense Maori populations. Maori churches had established *komiti*, or parish committees, that dealt with a number of moral and practical issues at the local village level. Now more wide-ranging committees, called *runanga*, evolved to provide more extensive arrangements. They dealt with issues ranging from control of alcohol and drunkenness to trials of law-breakers involving serious offences – all, in theory at least, under the watchful eye of colonial officers, though there was no formal delegation of rights.⁴⁶

Such committees nevertheless could not touch the deep grievance of most Maori, 'friendly' to the government or not, about land. Some tribal groups proposed another novel means of Maori government: a Maori king.⁴⁷ The Maori King Movement could, supporters hoped, confront the insatiable greed for land of settlers, and their use of any means, including trickery, to acquire it. One chief said:

God is good. Israel were his people; they had a king. I see no reason why any nation should not have a King. It says, 'Honour the king; love the brotherhood.' Why should the Queen be angry? We shall be in alliance with her, and friendship will be preserved. The Governor does not stop fights and murders among us; a King will be able to do that. Let us have order, so that we may grow as the Pakehas grow. Why should we disappear from the country; New Zealand is ours; I love it.⁴⁸

The favoured candidate emerged, Te Wherowhero, who would be known as King Potatau I. Governor Browne could see this only as a step towards serious conflict. With foreboding he wrote to the Colonial Office: 'I assume that it would not be safe strictly to permit the election of a King, and the next question is what steps should be taken to render such an election either unsuccessful or nugatory.'⁴⁹ He observed: 'The natives have seen the lands they alienated for farthings sold for pounds; they feel that dominion and power, or, as they term it, "sub-

stance", went from them with the territories they alienated; and they look with apprehension to the annihilation of their nationality.⁵⁰ Browne could not understand how Maori could be so ungrateful: 'New Zealand is the only Colony where the Aborigines have been treated with unvarying kindness', he pleaded with the chiefs, the only colony 'where they have been invited to become one people under one law ...'.⁵¹

In 1860 open war broke out in Taranaki, on the west coast of the North Island. An inferior chief authorised a land sale; Browne insisted on the legality of the sale and sent in troops to disperse those Maori who resisted. In the fighting that ensued a number of chiefs stayed loyal to the queen, though even they spoke 'plainly of their wrongs and [the] unequal application of British laws'.⁵² The British Government recalled Browne and in his place brought back Sir George Grey from the Cape. It sent additional troops, and enlisted a local militia, enlarged by volunteers from Australia, where many spirited young men eagerly volunteered. To a great degree, observers noticed, Maori distinguished the colonists from the British troops, but once the colonists began assisting the soldiers and native villages were broken up, violence became mutually indiscriminate. In 1862 the secretary of state agreed to place the management of Maori under control of the New Zealand parliament, relying on Governor Grey's capacity to do what was best for their welfare. 'I cannot disguise from myself', the colonial secretary wrote, 'that the endeavour to keep the management of the natives under the control of the Home Government has failed. It can only be mischievous to retain a shadow of responsibility when the beneficial exercise of power has become impossible.'⁵³

In considering how to stop the fighting and reconcile Maori to White government, Grey opposed strengthening the *runanga* or appointing a permanent advisory council of chiefs: he wanted no rival to the central parliament. In 1862 a leading Canterbury colonist, James FitzGerald, proposed that the House should recognise the right of all Her Majesty's subjects, of whatever race, 'to a full and equal enjoyment of civil and political privileges'; that members of the Maori nobility should be admitted to the Legislative Council; that there should be a fair representation in the House 'of a race which constitutes one-third of the population'; and that the same principle should apply in all courts of law.⁵⁴ The House declared its support for equal political and civil rights for Maori, but reiterated that its ideal goal was 'amalgamation', which required no special provisions for Maori in politics. They expressed concern that the Maori representatives would be of 'poor' quality, or that settlers would manipulate their voting decisions. The House rejected the acceptance of direct Maori members by 20 votes to 17.⁵⁵

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Still, the margin was narrow. Rumours of FitzGerald's attempt to bring chiefs into parliament produced an enthusiastic response in some quarters. In 1864 a series of letters from 'friendly' Maori chiefs reached FitzGerald, requesting permission to enter the Assembly. 'Our word to you is that we native chiefs very much wish to go into your Assembly (to speak on native matters)', wrote two chiefs from Auckland. Another chief drew an evocative picture of Maori exclusion from settler politics: 'Let us be ushered in, so that you may hear some of the growling of the native dogs without mouths [i.e. no voice in public affairs], so that eye may come into contact with eye and tooth with tooth of both Maori and European.'⁵⁶

The chiefs' efforts came to nothing. It was, however, clear to most settlers that the central parliament would soon be forced to accept some form of Maori representation. The challenge remained as it had been for two decades, to introduce a system of participation that would satisfy Maori aspirations without endangering dominant settler interests. FitzGerald tried another route and proposed a Maori Provinces Bill in 1865, which would have accorded a very limited degree of Maori independence, but most representatives strongly opposed any suggestion of a separate Maori authority.⁵⁷ By the mid-1860s the worst of the hostilities were over, although supporters of the Maori King Movement still occupied the mountainous terrain in the centre of the North Island and defied colonial authority. The old system of effective Maori disfranchisement through a property qualification was clearly no longer tenable, however, in a climate that demanded some sort of political settlement between Maori and Europeans.⁵⁸

The crucial debate on Maori and political citizenship took place over the Maori Representation Bill of 1867. A member, Donald McLean, who had experience of dealing with Maori issues suggested adapting a measure (copied from the colony of Victoria) to give miners a special temporary vote for Maori. The islands would be divided into four large electorates, three in the North Island and one in the South Island. All Maori men of 21 years and over could vote in these electorates; Maori who satisfied the property qualification in the White electorates would keep their votes there along with settlers. McLean envisaged this as a temporary measure: as Maori land was converted into individual title, their numbers would increase among the normal electors until such special provisions were unnecessary. Only Maori would be permitted to stand in Maori seats: 'The fact of their presence alone should have more effect than either their advice or their votes in the House', a member argued. 'It would be putting them on an obvious footing of equality.' In addition, if Europeans were allowed to represent Maori they might see undesirable Whites, 'land jobbers, Maori traders,

and other go-between of the Natives and the Europeans' gaining the seats.⁵⁹

In introducing the Maori Representation Bill, in 1867, McLean neatly encapsulated the political realities faced by the settler government. He noted that Maori paid taxes, owned three-fourths of the territory of the North Island and that, perhaps more importantly, they were 'a people with whom the Government had been recently at war, and with whom it was desirous that peace should be established'. The House should 'use the means at its disposal for allaying any of the angry feeling or excitement that might still remain'. He had no doubt that 'honorable members would perceive there was a necessity for the adoption of such a measure as would direct the minds of the Natives in the proper channel'. From a colonial point of view, he concluded, the introduction of special representation for Maori 'would tend to the best interests of the whole colony'.⁶⁰ Unless Maori had some form of representation in the legislature their interests could not be conserved under the system of responsible government, where the colonists were daily looking eagerly for land and Maori interests were likely to be forgotten.⁶¹

Derogatory remarks about Maori peppered the debate. Had New Zealand been discovered 1,000 years later, quipped one member, there would not have been any Native difficulty to trouble the first colonists, because they would have eaten each other by then.⁶² What, asked another, would stop a rebel being elected, or what was the likelihood of seeing, next session, one or two, if not more, 'honorable cannibals' in the House? He could support such a measure only when he saw that Maori, through appropriate education, had learned to appreciate the privileges of a British subject. Since 'the Natives' had only partially emerged from 'savagedom', it would take very little to induce them to return to 'the barbarous habits which characterized the whole race when Europeans first settled in the Colony, and which still characterized it as a whole'.⁶³ But a protagonist for Maori countered with the caution that such remarks could effectively stop any healing process resulting from this acknowledgement of equal rights for Maori, a noble race. 'Barbarism had never stood in the presence of civilization with less to be ashamed of . . .'.⁶⁴ Another member said that he 'had always looked on the Europeans as intruders in New Zealand, and on the Maoris as the natural owners of the soil, and as such having a right to a full share in the liberties which we claim for ourselves in this country . . .'. Maori were well prepared for the task, since 'politics and war had been the history of their lives from infancy upwards'.⁶⁵

Members swung between schemes for special Maori representation and measures to hasten assimilation. A few revisited the idea of 'Native

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Districts' or an advisory council of chiefs; or the proposal that Maori who wanted political rights would be obliged to place their land under the Native Land Court, facilitating 'amalgamation' after the Maori elector had indicated 'his loyalty and good sense'.⁶⁶ All members concurred that introducing general manhood suffrage would be dangerous, lest Maori demanded it too. They toyed with restricting representation to those who could read and write English, but rejected that in turn. At last the majority came to favour the adoption of McLean's Act as a temporary expedient. It would hopefully keep Maori minds occupied in a healthy manner, since they would turn their attention to public affairs, and gradually initiate themselves in 'the knowledge of the institutions under which we live'.⁶⁷ Some Maori had been promised that they would take part with the pakeha in the government of the country; they looked forward to the time 'when their children should mingle with the pakeha and take their seats in the great Houses of Assembly'.⁶⁸

McLean thought having Maori in parliament would work well, referring by way of example to the Native deacons who sat at synods with Europeans, and worked satisfactorily with them. He wound up the debate by expressing the hope that

in the interests of the Native people – a highly interesting race of people, who have fought us in politics and war for seven years – that we should make an endeavour to do for them what has been successfully done for other people, and give them a voice in the administration of the Colony and make them feel that they have a voice in the management of public affairs. Let them have the wholesome excitement resulting from freedom of election to replace the excitement of war.

It would be a proud thing to have recorded, by the future historian of New Zealand, 'that the Anglo-Saxon race in this Colony had extended to its aboriginal inhabitants the highest privilege which it could confer, namely, a participation in the Legislature . . .'.⁶⁹ The Bill passed easily. Four dedicated Maori seats had come into existence.

Maori responses varied. Some were unaware of the new seats; many more were totally indifferent to them. Some were angry that the number was restricted to four, and wanted every tribal group represented. Elections were held, however, and four Maori representatives duly named. When the men took their seats in the new session of 1868, White members, who had assumed that the Maori would simply observe proceedings, were taken by surprise when they rose to speak – in Maori, which triggered a rush to find interpreters. A further unpleasant discovery was made: in a House of relatively small numbers and shifting factions, four Maori voting as a *bloc* could influence the fate of Bills, and even bring down a government.⁷⁰ Few settler politicians

in the future would ever wish to increase the number in the Maori ranks.

Pursuing the 'civilising mission'

Not long before the outbreak of the New Zealand wars a politician observed that there had been noticeable changes in Maori villages. The old Maori regime was falling into decay, he said, and in the administration of justice there was a shift towards British usages led by 'mostly young men of standing, educated at the Mission Schools . . .'.⁷¹ In the colonies of South-Eastern Australia, too, such slender opportunities as were offered to Aborigines to participate in settler political processes went to mission-trained men. Mr Glyde's Aboriginal acquaintance, who exercised his vote in South Australia, undoubtedly had received his education in one of South Australia's missions.⁷² Humanitarians continued to place great hope in the constructive role of missionaries in converting Aborigines into exemplary Christian citizens. Anne Camfield, of Albany on the south coast of Western Australia, reported that the eighteen native children were doing very well at her mission school, quite as well as the White children; and she enclosed a letter written by one of her charges.⁷³ At regular intervals, Camfield confirmed her success: it was incorrect that the Natives were 'so low in the scale of humanity, that it would be lost time and labour to endeavour to raise them': her school proved that 'the races are capable of great improvement'. She sent a letter by one 'pure' Aboriginal girl, Bessy Flower, who was 'equal in intelligence to any of the white girls here'.⁷⁴

There was also encouraging news of the 'success' of Aborigines living on mission stations in Victoria, whence Bessy Flower was despatched as a teacher.⁷⁵ With Aborigines reduced to a tiny number in Victoria, its government was the first colonial legislature to introduce state-supported missions, controlled through specific laws and administered by bureaucrats in conjunction with missionaries. Education would equip Aborigines for citizenship: knowledge of Western ways of praying, living, working, speaking, thinking, dressing, eating, marrying, giving birth, and burying the dead would also show their fitness for independent work and responsible citizenship. This alliance of Church and State in the civilising project – ostensibly aimed at 'improvement' – became increasingly ominous for the cause of Aboriginal rights. Aborigines saw small reserves and minimal assistance as some slight return for all they had lost; but settlers, politicians and bureaucrats saw Aborigines as charity cases, who should submit to White direction and surveillance while working towards independence through manual toil off the reserves. A clause in the franchise provisions of NSW and

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Victoria debarred 'paupers', people in receipt of charity, from voting. Some interpreted the clause to include those Aboriginal survivors who received assistance from the State. The solution offered was to turn Aborigines, as swiftly as possible, into self-sufficient labourers and sturdy housewives through conversion and training, ideally in concentrated groups, removed from their traditional countries.⁷⁶

In newer sites of Australian settlement further north, however, where the story of the bloody invasion of the south-east was being repeated, missions were not high on the settlers' list of priorities. Nor did settlers pay much attention to formal equality in political rights under the Constitution of the new colony of Queensland. As the frontier moved north and west, invaders faced fierce guerrilla resistance from the Aboriginal owners of land. But the settlers responded with methods so cruel that British humanitarians could scarcely believe the reports. A Bendigo cleric wrote to the APS that, ever since Columbus, the maritime nations of Europe had acted as if they would found a colonial empire 'on the mangled corpses of Aboriginal populations, and to cement its walls with their blood'. Aborigines in north-east Queensland would not receive humane or equitable treatment: unfortunately for the Aborigines, the influence of their foes would undoubtedly predominate in the Queensland legislature. Settlers who slew young and old escaped with impunity and did not even lose caste with their associates. 'To a legislature under the influence of such gentlemen it would be Utopian to look for fair treatment to the Aborigines.' Could not the imperial Government constitutionally interfere, at least to suggest to the colonial government that it adopt efficient means to guard Aborigines?⁷⁷

Pastoralists took up grazing land, miners opened fresh diggings, and maritime workers plied their trades along the northern coast. They brought in Pacific Islanders, many virtually kidnapped from their home islands, as contract workers on sugar plantations; this exacerbated racist views justifying unequal treatment of people of colour. British humanitarians, aware that their influence had waned as responsible government prevailed, nevertheless called on the British Government to intervene. Had it even tried, when it set up this new colony, to think of the Aboriginal inhabitants, thousands of defenceless natives? And 'did it endeavour, by a few philanthropic sentences[,] to awaken the officials of the new colony to a consideration of the difficult position in which they were about to be placed?'⁷⁸ Where natives were few and weak, as in Australia, 'they are speedily swept off the face of the earth', said one; where, as in New Zealand, they were numerous and powerful 'the colony gets involved in a war of subjugation'.⁷⁹

By 1870 the political situations of Aboriginal and Maori men in the

colonies of Australasia reflected this difference. In 1870, the crown colony of Western Australia received its first representative Constitution. As with the other colonies, a 'colour-blind' property qualification franchise enshrined ostensible equality; but it had little practical value for Aborigines faced with frontier violence. These ambiguities and tensions were in the same decades being played out in the Cape Colony and in the new colony of Natal in Southern Africa, to which we now turn.

Notes

- 1 For examinations of the political rights of Indigenous peoples in the Australasian colonies, see: John Chesterman and Brian Galligan, *Citizens Without Rights: Aborigines and Australian Citizenship* (Melbourne: Cambridge University Press, 1997); Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand* (Auckland: University of Auckland Press, 1973). For a general comparative overview of the colonies, see: Donald Denoon and Philippa Mein-Smith, *A History of Australia, New Zealand and the Pacific* (London: Blackwell, 2000).
- 2 See Ann McGrath (ed.), *Contested Ground: Australian Aborigines Under the British Crown* (Sydney: Allen & Unwin, 1995); Henry Reynolds, *Frontier: Aborigines, Settlers and Land* (Sydney, Allen & Unwin, 1987); Heather Goodall, *Invasion to Embassy: Land in Aboriginal Politics in New South Wales, 1770–1972* (Sydney: Allen & Unwin, 1996).
- 3 For details of constitutions see: C. M. H. Clark, *Select Documents in Australian History*, vol. 1: 1788–1850 (Melbourne: Angus & Robertson, 1950); and vol. 2: 1851–1900 (Melbourne: Angus & Robertson, 1955). For a study of White politics, see John Hirst, *The Strange Birth of Colonial Democracy* (Sydney: Allen & Unwin, 1988).
- 4 See *Votes and Proceedings of the Legislative Council of New South Wales*, pp. 1840–2 [hereafter: *VPLC–NSW*].
- 5 Clark, *Select Documents*, vol. 1, pp. 354–7.
- 6 Henry Reynolds, *The Law of the Land*, 2nd edn (Ringwood, Victoria: Penguin, 1992). For missions see: John Harris, *One Blood: 200 Years of Aboriginal Encounter with Christianity* (Sutherland, NSW: Albatross Books, 1990); Henry Reynolds, *This Whispering in Our Hearts* (Melbourne: Penguin, 1999); Tony Swain and Deborah Bird Rose (eds), *Aboriginal Australians and Christian Missions: Ethnographic and Historical Studies* (Bedford Park, South Australia: AASR, 1988).
- 7 *Geelong Advertiser*, 12 December 1840, p. 2.
- 8 See Lord John Russell to Governor Gipps, 1841, *VPLC–NSW*. See also P. Burroughs, *Britain and Australia: A Study in Imperial Relations and Crown Lands' Administration* (Oxford: Clarendon Press, 1967).
- 9 *Colonial Intelligencer; or Aborigines' Friend*, May (1847), p. 43.
- 10 *Colonial Intelligencer*, April (1850), pp. 403–8.
- 11 *Ibid.*
- 12 Clark, *Select Documents*, vol. 1, pp. 377–85.
- 13 Earl Grey to Charles FitzRoy, August 1850, *VPLC–NSW* (1851), p. 42.
- 14 *Ibid.*, p. 40.
- 15 *Ibid.*
- 16 Clark, *Select Documents*, vol. 2, pp. 321–78.
- 17 *Debates in the Houses of Legislature, During the Third Session of the First Parliament of South Australia, 1859*, p. 556.
- 18 James Stephen to Governor William Hobson, 9 December 1840, quoted in Ward, *A Show of Justice*, p. 37.
- 19 Claudia Orange, *The Treaty of Waitangi* (Wellington: Allen & Unwin, 1987).

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- 20 Ernest Dieffenbach, *New Zealand and its Native Population* (London: Smith, Elder & Co., 1841), p. 14.
- 21 *Ibid.*, p. 22.
- 22 *Ibid.*, pp. 27–8.
- 23 E. J. Wakefield, *Adventure in New Zealand from 1839 to 1844* (London: John Murray, 1845), quoted by M. P. K. Sorrenson in W. H. Oliver and B. R. Williams (eds), *The Oxford History of New Zealand* (Wellington: Oxford University Press, 1981) p. 169.
- 24 For more detail see: Raewyn Dalziel, 'The Politics of Settlement', in W. H. Oliver and B. R. Williams (eds), *The Oxford History of New Zealand* (Oxford: Oxford University Press, 1981), p. 91; Ward, *A Show of Justice*, p. 85.
- 25 *Colonial Intelligencer*, March (1847), p. 6.
- 26 *Ibid.*, p. 5.
- 27 *Ibid.*
- 28 *Colonial Intelligencer*, April (1847), p. 10.
- 29 *Ibid.*
- 30 Grey to Lord Stanley, 22 April 1846, cited in Julie Evans, "'To keep within proper bounds . . .': Edward Eyre and the Colonised Peoples of Australia, New Zealand and the Caribbean'. PhD thesis, University of Melbourne, 1998, p. 174.
- 31 *Ibid.*
- 32 Grey to Sir John Pakington, 1852, *British Parliamentary Papers*, Correspondence and Papers Relating to the Administration of the Colony and Other Affairs in New Zealand (1852).
- 33 *British Parliamentary Papers* (1852).
- 34 G. A. Wood, 'The 1878 Electoral Bill and Franchise Reform in Nineteenth Century New Zealand', *Political Science*, 28:1 (1976), p. 42.
- 35 *New Zealand Parliamentary Debates, First Parliament: 1854 and 1855* (hereafter: NZPD 1854–1855), pp. 8–9.
- 36 *Ibid.*, p. 13.
- 37 *Ibid.*, pp. 19–22.
- 38 *Ibid.*, p. 29.
- 39 *Ibid.*, p. 44.
- 40 *Ibid.*, p. 37.
- 41 *Ibid.*, p. 71.
- 42 W. K. Jackson and G. A. Wood, 'The New Zealand Parliament and Maori Representation', *Historical Studies: Australia and New Zealand*, 11:43 (1964), p. 384.
- 43 *Appendices to the Journals of the House of Representatives (New Zealand)*, 1856, E–No. 2 (hereafter: AJHR).
- 44 *Ibid.*
- 45 Keith Sinclair, *Kinds of Peace: Maori People After the Maori Wars, 1870–1885* (Auckland, Auckland University Press, 1991), p. 86.
- 46 See Ward, *A Show of Justice*, chapter 7.
- 47 See James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland: Penguin, 1988); M. P. K. Sorrenson, 'The Maori King Movement, 1858–1885', in Robert Chapman and Keith Sinclair (eds), *Studies of a Small Democracy: Essays in Honour of Willis Airey* (Auckland: Blackwood & Janet Paul, 1963).
- 48 *Colonial Intelligencer*, July–October (1857), p. 296.
- 49 Governor Gore Browne, memorandum, 5 June 1857, quoted in Ward, *A Show of Justice*, p. 104.
- 50 *Colonial Intelligencer*, January–December (1860), pp. 120–1.
- 51 Quoted in Ward, *A Show of Justice*, pp. 115–16.
- 52 *Colonial Intelligencer*, January–December (1860), p. 125.
- 53 *Colonial Intelligencer*, January–December (1862), p. 305.
- 54 *Ibid.*, p. 307.
- 55 See NZPD 1867, p. 805.

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- 56 *AJHR*, 1864, E–No.15.
57 Orange, *Treaty of Waitangi*, p. 173.
58 Keith Jackson, *New Zealand: Politics of Change* (Wellington: Reed, 1973), p. 69.
59 NZPD, *Second Session of the Fourth Parliament, 1867*, p. 460.
60 *Ibid.*, p. 336.
61 *Ibid.*
62 *Ibid.*, p. 811.
63 *Ibid.*, p. 815.
64 *Ibid.*, p. 816.
65 *Ibid.*, p. 458.
66 *Ibid.*, p. 814.
67 *Ibid.*, p. 809.
68 *Ibid.*, p. 461.
69 *Ibid.*, p. 459.
70 See Ward, *A Show of Justice*, pp. 209–10.
71 *Colonial Intelligencer*, January–December (1860), p. 119.
72 See Peggy Brock, *Outback Ghettos: Aborigines, Institutionalisation and Survival* (Melbourne: Cambridge University Press, 1995).
73 *Colonial Intelligencer*, July–December (1859), p. 84.
74 *Colonial Intelligencer*, January (1863)–December (1864), p. 389.
75 *Colonial Intelligencer*, January–December (1860), pp. 158–60; see Patricia Grimshaw, ‘Indigenous Women’s Voices in Colonial Reform Narratives: Victoria and New Zealand/Aotearoa’, in Solvi Sogner and Gro Hagermann (eds), *Women’s Politics and Women in Politics* (Bergen: Cappelen Akademisk Forlag, 2000), pp. 173–96.
76 See Bain Attwood, *The Making of the Aborigines* (Sydney: Allen & Unwin, 1989); Patricia Grimshaw and Elizabeth Nelson, ‘Empire, “the Civilising Mission” and Indigenous Christian Women in Colonial Victoria’, *Australian Feminist Studies*, 16:36 (2001); Patricia Grimshaw, ‘Colonising Motherhood: Evangelical Reformers and Koorie Women in Victoria, Australia, 1880s to the Early 1900s’, *Women’s History Review*, 8:2 (1999).
77 *Colonial Intelligencer*, January–December (1860), p. 162.
78 *Ibid.*, p. 163.
79 *Colonial Intelligencer*, January–December (1866), p. 568.

CHAPTER FOUR

South Africa: better ‘the Hottentot at the hustings’ than ‘the Hottentot in the wilds with his gun on his shoulder’

We set out, briefly, in chapter one the complex background up to the time that the Cape Colony came under permanent British rule. One of the legacies that the British governors inherited from their Dutch predecessors was the situation of endemic conflict on the ‘eastern frontier’ of the Cape, leading to a century of frontier wars. We noted there that the Xhosa were formidable enemies for the colonists: the governors had to bring in large numbers of regular British troops to defeat them, and most of the wars fought lasted for a number of years. The British ultimately won each war, through a combination of superior military technology and an ability to destroy the Xhosa food supplies. The end of most of the wars was followed by colonial annexation of slices of Xhosa territory – until, in January 1866, all the land west of the Great Kei River (then called ‘British Kaffraria’, subsequently known as the Ciskei) was incorporated into the colony. The Dutch, in their initial occupation of the Cape peninsula, had assumed their right to take it from the Khoisan by treating it as a form of *terra nullius*. The British took over the Cape from the Dutch by a combination of military conquest and formal cession by treaty; the colonial annexations of Xhosa land were similarly based on both military conquest and cession by treaties following the various frontier wars. In South Africa, as elsewhere in the settler colonies, the nineteenth century was characterised by the transfer of Indigenous land to Europeans. Although the process was complex and varied, Indigenous land was eventually transformed into property and made available for permanent European settlement, whether by military conquest, treaty or legal doctrine.

In the Cape, White farmers eagerly took over large areas of the Xhosa’s land, and the inhabitants of the Ciskei area became servants on the White-owned farms and in the towns of the eastern Cape. East of the Great Kei, in the area which came to be known as the Transkei, the Gcaleka Xhosa and the Thembu were left in nominal independence.

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This did not, however, last long: in the 1880s, their territories were annexed to the Cape Colony; and when Pondoland was annexed, in the 1890s, all of the lands of the Xhosa-speaking peoples had been swallowed up by the Cape Colony. However, though the White settlers had gained control of most of the Xhosa's land, the Xhosa people did not disintegrate or disappear: they produced a flourishing African peasantry in parts of the eastern Cape; and, as we shall see in chapter seven, the Xhosa posed some challenge to the White rulers of the colony when they began to qualify for the vote and organise politically to make use of that vote.

By the 1830s, the British authorities who had taken over the Cape from the Dutch found themselves trying to govern a society that was a complex mixture of ethnic populations. These included, first, those who would become known as the 'Cape Coloured' population,¹ comprising Khoisan who had survived disease and violence, living on mission stations, working as farm servants or in the colonial armed forces; there were slaves and freed slaves, working mainly as urban artisans or labourers in Cape Town; and there were the descendants of the sexual union of male Dutch colonists with female Khoisan and slaves. Second, there were the White settlers, comprising two distinct groups: Afrikaner farmers in the western and eastern Cape, and British settlers, especially those imported in 1820 to defend the Eastern Frontier. Third, there were the Xhosa, their numbers increasing as the colonial boundaries were extended by the progressive annexation of Xhosa land. Finally there were those other African groups, such as the Mfengu and fragmented groups of refugees from violence at the frontier and in the interior, whom the colonial authorities allowed to settle in the colony as farmers on what had been Xhosa land, to act as a buffer against the Xhosa.

In the first half of the nineteenth century, the British were concerned essentially – as the Dutch had been before them – with rule over the coastal areas in order to control the sea route around the Cape. In the interior of South Africa, beyond the Orange River, and further up the coast, were many small Bantu-speaking African polities – whose peoples were to consolidate, during the nineteenth century, into larger political nations such as the Zulu, the Sotho, the Tswana, the Ndebele, the Swazi and the Pedi – and also some small states run by such peoples as the Griqua (the descendants of Afrikaners and Africans, who had gained military and political power by adopting the Whites' guns and horses). The prolonged serious internecine conflict among the peoples of the interior (a period in the 1820s and 1830s referred to as the *mfecane* or *lifaqane/difaqane*) ultimately resulted in the destruction of many smaller and weaker groupings and the consolidation of the smaller African polities into larger and stronger tribal units.²

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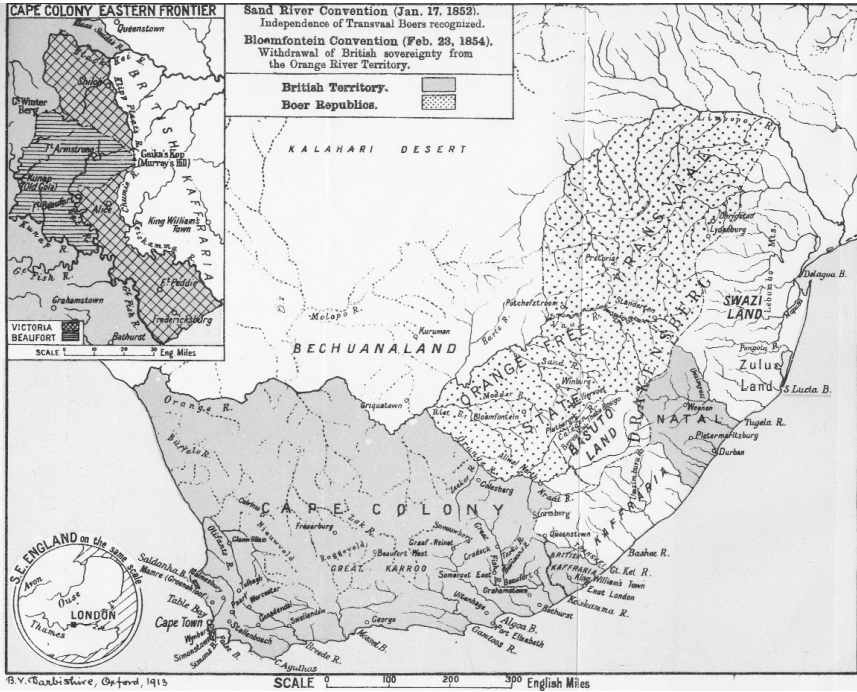
These upheavals also made it possible for White settlers to penetrate significantly into the interior. From about 1836, substantial numbers of Afrikaners from the eastern Cape (subsequently to be called *Voortrekkers*), who were dissatisfied with the social and economic policies of the British colonial government, began to trek into the interior, seeking land and militarily challenging the dominant African rulers. The ultimate result of this 'Great Trek' was the establishment of Boer (Afrikaner) republics in the interior, and in Natal on the south-east coast. The Boer republic of Natalia was established in 1838, following the military defeat of the Zulu king, Dingane; but in 1842, it was militarily annexed by Britain, in the following year becoming the second British colony in South Africa: Natal.³

With its history of Dutch and British interventions, it can be seen that, by the mid-nineteenth-century, what is now known as South Africa comprised a patchwork of states, ruled by distinct national and ethnic groups.⁴ There were two British colonies, the Cape Colony and Natal, along the southern and south-eastern coast, controlling access to the sea; two inland Boer (Afrikaner) republics, the Orange Free State and the Transvaal;⁵ and numerous African polities, ruled by Indigenous peoples such as the Xhosa, the Zulu, the Sotho, the Tswana, the Pedi, the Swazi and the Griqua. By the time, in 1899, of the outbreak of the South African War, all of the independent African polities had come under European (essentially British) rule, and the war for control of South Africa, its people and its resources was one fought between, on the one side, the two Boer republics and, on the other, Britain and its two colonies. In the 1850s, however, Britain had no great interest in the interior of South Africa, and was content to recognise the independence of the two Boer republics in the Sand River and Bloemfontein Conventions of 1852 and 1854 (see Map 4.1).

Following the pattern set in the Canadian and Australasian colonies, and advocated in the Durham Report, the British Government granted representative government to both the Cape and Natal in the 1850s – to the Cape in 1853 and to Natal in 1856. In both cases, the grant raised the question – for the colonists and the Colonial Office in London – of what the policy should be in relation to the political rights of the substantial numbers of Indigenous inhabitants within each colony.

Among the European-ruled states of nineteenth-century South Africa, this was an issue only in the two British colonies. The two Boer republics – the Transvaal and the Orange Free State – granted the franchise to all adult White males, without qualification – but not to any non-White people; for the whole period of their existence, the two republics allowed no formal political rights to the large numbers of African people living within their borders. The 1839 Constitution of

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4.1 South Africa in 1855

the Boer Republic of Natalia had enshrined annual elections – but for adult White males only. The 1858 Transvaal Constitution stated specifically that ‘the people desire to permit no equality between coloured people and the white inhabitants of the country, either in church or state’. But in the two British colonies, the position was more complex, and, as we will see, the Cape and Natal gave rather different answers to this question. These developments of the mid-nineteenth century were to set the political terms on which, in 1910, the Union of South Africa was formed, with very significant consequences for the political rights of Indigenous South Africans for most of the twentieth century.

The Cape Colony to the 1870s

In the Cape Colony, the grant of representative government in 1853 came after intermittent agitation for powers of self-government by a group of colonists, beginning in the 1830s. In Britain, successive Whig governments, which had passed the Reform Act in 1832 and approved

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the Durham Report in 1839, had not been opposed in principle to granting representative government to the settlers. They had not been prepared to do so, however, while the Cape remained a slave-owning society. The British Parliament had abolished slavery throughout the British Empire in 1833; this had taken effect in the Cape in December 1834 – but the slaves had to continue to serve their masters as ‘apprentices’ for another four years, which meant that legal slavery did not fully end in the Cape until December 1838.

The Whigs were returned to power in Britain in 1846, and in 1848 announced their intention of granting the Cape representative government. This set off a debate within the colony’s nominated Legislative Council and among the two settler communities and the Coloured people about the form that the new Constitution should take. The debate did not yet involve the African community of the Cape; though increasing numbers of Xhosa people were entering the colony to work, the colonial borders had not then expanded to take in most of the Xhosa territories. A crucial question in that debate was: with a heterogeneous population, comprising two settler groups – British and Afrikaners – and what could be construed loosely as two Indigenous populations – ‘Coloured’ people and Africans – which groups were to qualify for the vote?

The Whig Government in Britain started negotiating seriously to grant representative government to the Cape in 1848 – but the grant was delayed by the Cape’s anti-convict agitation of 1849 and the Eighth Frontier War of 1850–52.⁶ When representative government was finally granted, in 1853, the franchise for the Lower House was based on a property qualification – any adult male could qualify for the vote, provided that he occupied, for at least twelve months, property worth £25 a year or had an annual income of £50 a year (or £25 a year with board-and-lodging provided). This was (and at the time was seen as) a very low qualification, open to a wide range of potential voters – including numbers of Coloured men – and it remained at that low level of £25 for forty years, until it was raised by the Cape parliament in 1892.⁷

The final version of the Constitution conferring representative government on the Cape came from its nominated Legislative Council (containing both official members of the colonial government and unofficial members from the settler community), drafted by Attorney-General William Porter. His original draft in 1851 set the qualification at the level of the £25 a year property occupier. Opposition to this qualification as too low, and therefore admitting too many Coloured voters, came from White conservatives in Cape Town and White settlers of the eastern Cape. In 1852, at the urging of the Cape’s Colonial Secretary John Montagu, the Legislative Council replaced it with a £50 property

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occupation qualification, plus an alternative qualification of earning a wage of at least £50 a year. Montagu regarded the £25 franchise as too low because it would allow in a 'body of ignorant coloured persons whose numbers would swamp the wealthy and educated portions of the community'.⁸ But the colonial secretary in London, the Duke of Newcastle, in 1853 restored the original £25 occupation qualification, while retaining also the wage alternative. He justified this as follows:

Her Majesty's Government have come to this conclusion from a conviction that in conferring upon the colony the boon of a representative constitution it is exceedingly undesirable that the franchise should be so restricted as to leave those of the coloured classes who in point of intelligence are qualified for the exercise of political power, practically unrepresented . . . It is the earnest desire of Her Majesty's Government that all her subjects at the Cape without distinction of class or colour should be united by one bond of loyalty and a common interest and we believe that the exercise of political rights enjoyed by all alike will prove one of the best methods of attaining this object.⁹

There was nothing strange about the franchise being based on a property qualification. The vote in Britain at the time was similarly limited to adult males who satisfied a property qualification – heading a household worth at least £10 a year in the urban boroughs, or occupying freehold property worth at least £2 a year in the county seats. The Colonial Office insisted that colonies granted representative government should not base the vote on an overtly racial criterion – but it was not necessarily averse to the colonial authorities finding ways of manipulating the franchise qualification to exclude most non-Europeans. The Cape franchise stood out at the time as one of the most open and liberal in the British Empire.¹⁰

The politics of minority rule in the Cape

The question of why the Cape should have put in place such a relatively open franchise has been the subject of some controversy. Older liberal historians tended to write about it as a manifestation of 'Cape liberalism';¹¹ more recently, revisionist historians have stressed the ambiguities and internal contradictions of mid-nineteenth-century Cape liberalism, and have seen the franchise as a less significant and more fortuitous product of a number of issues and forces operating on the Cape at the time.¹² Certainly, as few among the African population could possibly qualify – remembering, too, that Africans had yet to be incorporated within the colony in large numbers – and as those Coloureds who were eligible had evidently been converted to the new economic order, the putatively 'non-racial' franchise hardly threatened settler interests. And, as will be seen, later attempts to restrict the

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franchise, based on settler fears about the increasing numbers of Africans who could qualify as voters put 'Cape liberalism' more stringently to the test. It could be argued, too, that this rhetorical commitment to equality operated strategically to protect settler rule, effectively maintaining the Cape's reputation for inclusiveness while in fact excluding the mass of the population from the franchise.

Understanding Cape liberalism pre-1853

An important component of 'Cape liberalism' was the missionary-humanitarian influence, identified in the Cape during the first half of the nineteenth century primarily with the London Missionary Society (LMS) and Dr John Philip.¹³ Philip and the LMS were able to make skilful use of the growing power of the evangelical and humanitarian lobby in London. They played an important part in lobbying, in the Cape and in London, for the abolition of slavery in the British Empire, which was eventually achieved in 1833; and they also constituted a significant pressure group on behalf of the legal rights of Indigenous peoples, especially the Khoisan. They were instrumental in getting Acting-Governor Richard Bourke to pass Ordinance 50 of 1828 – 'for improving the condition of the Hottentots and other free persons of colour at the Cape of Good Hope' – which was ratified by the British Parliament in 1829, with the important rider that it could not be repealed or amended by the Cape government without the express sanction of the King-in-Council. For the Khoisan and the freed slaves, the Ordinance ended all previous pass laws and the statutory criminalisation of 'vagrancy'; prohibited summary punishment without a formal trial; abolished all forms of compulsory labour; affirmed their right to buy or own land in the colony; and imposed controls on contracts of labour, intended to ensure that they were entered into genuinely freely.¹⁴

Following the abolition of slavery, and the end of the apprenticeship system in 1838, about 38,000 freed slaves joined the Khoisan and the offspring-descendants of mixed unions to constitute what became known as the 'Cape Coloured' people. It is convenient, from that point on, to use the term 'Coloured' to refer collectively to them, and 'African' to refer to the Bantu-speaking peoples of Southern Africa. We should note that, at the same time as Bourke passed Ordinance 50, he also passed Ordinance 49 which allowed Bantu-speaking Africans, from the Eastern Frontier, to enter the colony to work, provided that they carried passes for the purpose. In other words, at the same time as the Coloureds were being freed from a system requiring the carrying of passes, that system was being imposed on Africans entering the colony, who were to be treated not as full citizens, nor even as subjects, but as

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units of labour under the control of the authorities.¹⁵ And, though Ordinance 50 did lay down a charter of legal rights for the Coloured people, it did nothing to enable them to regain the land they had lost to the White settlers; Trapido has estimated that, by mid-century, a majority of the Coloureds in the Cape were landless.¹⁶ In this respect, Ordinance 50 can be seen as embodying much of the ideology of nineteenth-century British liberalism – inclining towards legal equality (with the protection of rights under the rule of law) and economic inequality (with an emphasis on the classical economic doctrines of free markets, free trade and *laissez-faire*).

These liberal economic virtues – along with the Protestant work ethic and the patterns of consumption developed by European manufactures – were stressed in the LMS's model mission station of the Kat River Settlement for 'Hottentots' (effectively Khoisan and ex-slaves),¹⁷ built in 1829 on eastern Cape frontier land from which the Xhosa had been expelled. By 1833, there were more than 2,000 Coloured settlers at Kat River. Dr John Philip manipulated much of the evidence presented to, and the final *Report* produced by, the Select Committee on Aborigines in the 1830s;¹⁸ and he ensured that the *Report's* account of the Kat River Settlement presented the ideal picture of the achievements of which Christianised, educated and *civilised* Indigenous people were capable. The 'Hottentots' are described as having worked hard to cut canals and to grow 'an abundance of pumpkins, Indian corn, peas, beans, &c.'; they had enthusiastically taken to churchgoing, and attending schools and temperance societies; they were now costing the government nothing and were paying taxes like the settlers; and they were even helping to make the frontier of the colony safe, having 'repulsed the Caffres on every occasion on which they have been attacked'.¹⁹ Lieutenant-Governor Stockenstrom emphasised the extent of their assimilation of European property law and ideas of property with a somewhat telling compliment: 'Instead of apathy or indifference about property, they become (now that they had property to contend for) as covetous and litigious about land and water as any other set of colonists.'²⁰

As was common throughout the settler colonies, missionaries and humanitarians in the Cape advocated a form of legal and political equality for Indigenous people, on these terms – that they had converted to Christianity, abandoned their own traditional culture and social structures, acquired a Western education, and adopted capitalist economic values to become small traders or subsistence farmers on individual plots of land. If they met these criteria, they should be allowed to qualify for the vote along with White settlers.

In 1834, LMS pressure, plus petitions signed by hundreds of

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Coloureds at Kat River and on other LMS stations,²¹ succeeded in getting the Colonial Office to disallow a draft vagrancy law (drafted by the new nominated Legislative Council) which would have re-imposed pass laws on the Coloured people and sanctioned their arbitrary arrest.²² This marked a high point of the political effectiveness, within the colony, of the missionary lobby and of independent political action by the Coloured population. During the 1840s, the missionary lobby lost its force; by the early 1850s, the Kat River Settlement was being broken up, and there were no powerful groups to lobby on behalf of the Coloured people.²³ In contrast to this colour-specific measure, the Legislative Council in 1841, passed the Masters and Servants Ordinance – which satisfied the insistence of Colonial Secretary Lord John Russell by making no reference to race. Because this colour-blind Ordinance repealed Ordinance 50, which had referred specifically to ‘Hottentots and other free persons of colour’, the liberal historian Macmillan hailed it as a milestone in achieving legal equality between Black and White

The effect of repealing the Ordinance [50] was actually to place the coloured population of the Colony on a footing of complete legal equality with Europeans, and to give them at last the full protection of the ordinary law of the land. The Cape Colony ceased to know any legal distinction between ‘white’ and ‘coloured’.

In fact, the Masters and Servants Ordinance was used only against the Coloured working class; the formal legal equality was an empty liberal victory, of no practical benefit to the Coloured people. Keegan points to Macmillan’s belief in the importance of the language of the law as encapsulating ‘the whole mythology of the Cape liberal tradition’.²⁴ And the Kat River Settlement – which for Philip and the humanitarian missionaries had embodied the model of Christianised, educated and *civilised* Indigenous people showing themselves worthy of political equality – did not endure into the new era of representative government. The Coloureds of Kat River had been placed on former Xhosa land in order to defend the colonial frontier against the Xhosa; they fought effectively on the side of the settlers in the Sixth and Seventh Frontier Wars of 1835–36 and 1846–47, and endured considerable property losses at the hands of the Xhosa in the latter war. Yet they found themselves increasingly badly treated by the colonial authorities. As Elizabeth Elbourne has observed, ‘the Kat River settlement would be relatively protected and Khoisan land rights upheld as long as it was at a vital point on the frontier; once the frontier moved on, there would be no *a priori* government objection to alienation of Khoi land and white land speculation’.²⁵

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White settlers, coveting the fertile Kat River lands to use as pastures for the sheep of their growing eastern Cape wool industry, pressured the colonial government to break up the old mission stations and to sell off the land to themselves. By the end of the Seventh Frontier War, in 1847, the old missionary and humanitarian lobbies had lost their power at the Cape to protect the Coloureds against settler greed. When the Eighth Frontier War broke out, in 1850, the Kat River people refused to fight again on the colonial side; and, in 1851, a significant minority of them (along with some Khoi, from other mission stations, from the military Cape Corps and from farm labourers' ranks) went over to the Xhosa side to fight against the settlers, affirming solidarity of the Coloured people with the Xhosa. As a result, when the war was over in 1853, the government broke up Kat River as a 'Hottentot' settlement, confiscated the land and sold it to White settlers.²⁶

Coloured people and the 1853 Constitution

The failure of Kat River showed that the missionary plan – to use Christianisation and education to create model capitalist citizens from Indigenous people – had been simplistic in terms of the realities of colonial Coloured landlessness outside of the mission stations²⁷ and White settler greed for land. On the other hand, the LMS did have a significant impact in spreading literacy to their Khoisan converts at the Kat River Settlement: there were seventeen schools and four infant schools, staffed by local people under the supervision of the missionary James Read. The Khoisan converts themselves often stated that literacy brought political benefits for them.²⁸ In the final negotiations which produced the 1853 Constitution for the Cape, the Coloured people played almost no autonomous role, and submitted very few petitions on the subject. This was partly because of the effect of the most recent frontier war and the Kat River rebellion in undermining their political position, but also because most Coloured communities were apprehensive about what would happen to them and their rights under colonial self-government, once the protection of the imperial government was partly withdrawn.²⁹

However, as Marais notes, 'the Coloured People played an important, if largely passive, role' in the resolution of the new franchise qualifications. It was important because the White politicians were calculating what the political effect would be of a non-discriminatory franchise. As already observed, in 1853 the African population of the colony was not sufficient to be seen as a serious political factor, so the calculations were all about the Coloured vote. And most White politicians concluded that the Coloured vote – generally sympathetic, in any case, to commercial development and to maintaining what Coloureds

saw as the protective influence of the imperial connection – would have little effect, would not be able to dominate any single constituency and would affect the result in, at the most, two or three constituencies – and therefore was ‘safe’ to proceed with. For some White politicians, the issues of ‘race’ and the ‘reconciliation’ of the races were more about reconciling the White Afrikaners to the Constitution under British rule and giving most of them a vote. At the same time, the property qualification would restrict the vote to the ‘respectable’, and exclude the ‘unrespectable’ among both Black and White.³⁰

The Cape franchise as a safety valve

The chief credit for keeping the property qualification relatively low, by the standards of the British Empire in the 1850s, must go to Attorney-General William Porter. A liberal Presbyterian from Northern Ireland, Porter was no supporter of universal manhood suffrage: that would, he said, bring to the colony ‘communism, socialism and red republicanism which had caused so much mischief in France’ in the 1848 revolution. A qualified franchise, on the other hand, open to everyone who had or could acquire the necessary property, would act as an incentive to men to qualify for it, and encourage the emergence of moderates. This was true particularly of the non-discriminatory character of the franchise, which he defended as a ‘safety valve’ comparable to the granting of Catholic emancipation in his native Ireland in 1829.³¹ Porter summed up this ‘safety valve’ philosophy, in dealing with Indigenous peoples, in a dramatic sentence: ‘I would rather meet the Hottentot at the hustings, voting for his representative, than meet the Hottentot in the wilds with his gun on his shoulder.’³² That was said in a speech to the Legislative Council in March 1852, when the Kat River rebellion would have ensured that his audience had a vivid picture before their eyes of the danger of ‘the Hottentot in the wilds with his gun on his shoulder’.

It had been clear, for some years prior to the death of Dr Philip, in 1851, that the missionary and humanitarian lobby at the Cape had lost political influence since the heyday of the LMS. And, by the time the Cape was granted representative government, in 1853, settler opinion had also hardened generally on colour issues. Despite these developments, the £25 qualification endured at that level until 1892. The catastrophe of the great Xhosa cattle-killing in 1856–57³³ led on to full colonial annexation of the Ciskei in January 1866, with the incorporation into the colony of about 64,000 Xhosa who lived there. It also meant that many thousands of Xhosa from the Transkei entered the colony in search of work and food. Sir George Grey, governor of the Cape in 1854–61,³⁴ encouraged and assisted major missionary initia-

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tives in the eastern Cape, especially in the form of schools for Africans (such as the famous missionary-run Lovedale school and seminary for training teachers). Of the Xhosa-speakers, the Mfengu, who had lost their land and formal tribal structures and had been forced to enter the colonial economy as refugees, took eagerly to the missionary education, and started to produce what would become generations of 'respectable' missionary-educated young men who would, in due course, qualify for the Cape vote.³⁵

Some White colonists expressed disquiet at the prospect of increasing numbers of Africans, as well as Coloureds, qualifying for the vote – though the growing Coloured landlessness and impoverishment, from the 1850s, reduced the possibility of them qualifying for the franchise, and meant that the Coloured vote became more confined to those on the missions.³⁶ But the qualification for voting for the Lower House remained at £25, even when the Cape moved from representative government to full responsible government in 1872. As we maintain in chapter seven, it was not until 1887 that the Cape parliament made it more difficult for tribal Africans to register, and not until 1892 that it raised the qualification substantially, with a view to excluding or limiting African voters in the eastern Cape. The last of the Cape frontier wars ended in 1881; with it ended any serious possibility of Indigenes in the Cape defeating White colonialism by military means, and the defeated Xhosa were incorporated into the colony. But, within their ranks, in the 1880s, the new generation of qualified African voters began to organise – not militarily, now, but with a view to developing their political power as a potential weapon in the colonial environment.

Natal to the 1870s

The area which was to become the colony of Natal was occupied mainly by Nguni peoples, out of whom arose, in the 1820s and 1830s, the powerful Zulu nation under the rule, first, of Shaka and, subsequently, of his half-brother Dingane. The Zulu Kingdom was mainly in the area to the north-east of the Tugela River; on the other side of the river were what we could call broadly Zulu-speaking Nguni peoples, some of them refugees from the militarised Zulu Kingdom. White settlement in the Natal area began in the 1820s when Shaka allowed a small number of British traders and hunters to establish themselves at what initially was called 'Port Natal' – Natal's main port city, subsequently renamed Durban.

The first White-ruled state in the area was the shortlived Boer republic of Natalia (set up after the Voortrekkers had defeated Dingane's

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forces in December 1838), with a Constitution drawn up in March 1839. The British Colonial Office, reluctant to take on expensive new responsibilities, had not responded to the British traders' requests for the annexation of Natal. But once the emigrant Afrikaners controlled the potentially important port and access to the sea, matters changed. The British authorities also feared that a Voortrekker republic would come into military conflict with the adjacent African peoples, with serious repercussions on the interior of South Africa, and might well enslave members of African tribes whom they defeated. Britain therefore reluctantly agreed to intervene: a British military force was sent to Natal, which eventually took the area from the Boers in 1842. In 1843, the area was formally annexed to the Cape, and in 1845 a British lieutenant-governor arrived to administer the colony as a detached district of the Cape. By this time, most of the Afrikaner inhabitants had left Natal, and had trekked back across the Drakensberg to join the Boer republics in the Orange Free State and Transvaal.

The politics of minority rule in Natal

When the British took over Natal from the Boers, Colonial Secretary Lord Stanley insisted on three conditions:

- 1 That there shall not be in the eye of the law any distinction of colour, origin, race, or creed; but that the protection of the law, in letter and in substance, shall be extended impartially to all alike.
- 2 That no aggression shall be sanctioned upon the natives residing beyond the limits of the colony, under any plea whatever, by any private person or any body of men, unless acting under the immediate authority and orders of the Government.
- 3 That slavery in any shape or under any modification is absolutely unlawful, as in every other portion of Her Majesty's dominions.³⁷

The first of these points committed the colony to non-discrimination on grounds of race or colour in the operation of its laws. This continued to be the case, in theory, throughout the period that Natal was a British colony; in those years, 1843–1910, the political concerns of the White settlers who formed Natal's ruling class were largely dictated by the need to pay formal lip-service to this commitment, while avoiding in practice the requisite political consequences of the colony's ethnic composition.

Demographic factors

Natal's demographic makeup showed three crucial differences from that of the Cape. First, the politics of population here concerned essen-

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tially the ratio of African to European people in the colony; unlike the Cape, there was no significant division of the European population between British and Afrikaners. When most of the Afrikaner inhabitants left after British annexation, the British authorities replaced them with nearly 5,000 British and Irish settlers, imported in the years 1849–52. Thereafter – apart from some Afrikaner farmers in the north of the colony, and unlike the other three White-ruled states in South Africa – the White population of Natal was always predominantly British. Second, the ‘non-White’ component of the Natal population was, overwhelmingly, that of Bantu-speaking African people – essentially, Zulu-speakers, particularly refugee groups who had fled into the colony from the Zulu polity. When White settlement began in Natal, it contained no Khoisan population of any significance, nor any slaves – so, unlike the Cape, the colony had no significant Coloured population; but, from the 1860s onwards, there was an immigrant Indian population, which grew steadily until the early twentieth century. Finally, the extent of the demographic imbalance between European and non-European in Natal was much greater and starker than in the Cape. This was reflected, almost from the start of representative government in 1856, in settler determination not to allow the Indigenous population the political power which would follow from the free grant of a non-racial franchise on genuinely non-racial terms.

In 1854, just before Natal became a separate colony with representative government, the colonial secretary sent Assistant Commissioner Owen to assess the colony. He estimated that it had a population of 5,000–6,000 Whites and 120,000 ‘Kaffirs or Zulus’ – a ratio of Black to White people of at least 20 to 1. Judging that the Africans had made little progress towards civilisation, he recommended that the colony keep ‘in strict and wholesome restraint the savage Kaffir population, whose overwhelming numbers at present render the carrying out of any stringent measures, however beneficial, unsafe without the presence of a large Military Force’.³⁸ Owen was well aware that the Colonial Office, in 1854, was looking for ways to economise on its colonial expenditure, especially militarily, and was trying to restrict its direct involvement in Southern Africa; it was highly unlikely to send out a large military force, if it could avoid doing so. In the circumstances, Owen recommended to the colonial secretary that he adopt the proposal of Theophilus Shepstone, Natal’s secretary for Native Affairs, to withdraw ‘a portion (say 50,000) of the superabundant Black population from the District, and at the same time to induce by all possible means, more White inhabitants to settle here’. Owen’s concern was, by these means, to provide ‘a more equal balance of powers of the Black and White population’. The government should control more strictly those

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Africans who remained in the district after this removal, encouraging them to abandon 'their barbarous customs' and 'idle, vagabond, pastoral life', and acquire proper 'habits of industry'. And, in this move from 'vagabond' pastoralism to more settled agricultural life, the authorities should encourage those with Indigenous or residential credentials to take out individual freehold title to the land they farmed; this would not only break up their communal tribal structure, but would help to ensure peace – 'if they have property to lose they will not so wantonly engage in War!'.³⁹

Natal's White population grew slowly: by 1858, soon after Natal received representative government, it was about 8,000. In 1870, sixteen years after Owen made these recommendations for solving Natal's population imbalance, the White population of Natal had reached only 18,000 and was still outnumbered almost 15 to 1 by the African population, numbering about 250,000.⁴⁰ In addition to the large Zulu-speaking African population within the colony, the Zulu Kingdom – just across the Tugela River from the colony and ruled by Dingane's half-brother Mpande and then by his son Cetshwayo – continued in existence after their defeat in 1838. Until the British army finally defeated the Zulu army in 1879, and broke up the Zulu Kingdom politically, many White Natalians also lived in fear of a Zulu military attack. Fear of that huge African majority – both militarily and politically – dominated the minds of the White-settler population, and largely dictated their attitudes towards franchise rights, following the granting of representative government.

Settler fears about the political consequences of this population imbalance were further accentuated by the arrival of substantial numbers of Indians in the colony from 1860 onwards. The first 6,000 Indians were imported by White farmers as indentured labourers to work in the sugar cane plantations. Their contracts required them to work for their employers for five years; after another five years, they were entitled either to free passage back to India or to stay on in the colony, with a small grant of land. In 1870, when the first Indians became entitled to this choice, most elected to stay on – working as artisans, craftsmen, cooks and house-servants, as small farmers growing fruit and vegetables for the market, or as shopkeepers and traders. This Indian community of Natal continued to grow until the Union of South Africa in 1910 – by which time it outnumbered the White community (see p. 167). Once Natal's Indian population became an established and growing communal presence it posed the same challenge to settler hegemony as did the Indigenous Africans. Were Indians to be given the vote? If so, on what terms? How could the Whites manipulate the system to deny them the vote?

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By a Royal Charter of 1856, Britain created Natal as a separate colony, with representative government. This gave the colony: a lieutenant-governor (from 1882 onwards, a governor), who reported directly to London; an Executive Council composed of five officials; and an elected Legislative Council. The franchise for the elections was, as in the Cape, a property qualification without an explicit colour bar: all adult males who possessed fixed property worth £50, or who paid £10 a year in rent, could qualify for it. The settler-dominated Legislative Council could not change its non-discriminatory basis – but they soon found ways of manipulating it to exclude most Indigenous people from being able to exercise the right to the franchise effectively. The key to this manipulation lay in the way in which the colony exercised its authority over its large African population.

'Managing' a large Indigenous population by indirect rule

African policy in Natal was administered by Theophilus Shepstone,⁴¹ who had been the leading member of a commission, set up by Lieutenant-Governor West in 1846, to decide colonial policy on allocating land to Africans. Their recommendations formed the basis of the 'Shepstone System' – the framework for Natal's permanent policy on African land, which also became an important model for South African ideas about racial segregation in the early twentieth century. It was a form of indirect rule over most Africans in the colony, which involved setting up, on the less desirable areas of colonial land not yet claimed by White farmers, forms of reserves for Africans, called 'locations', as well as some mission reserves. On the locations, Africans could cultivate the land under the rule of local African headmen and chiefs, operating under what was called 'Native Law' – a system quite distinct from the Roman-Dutch civil law of the colony which applied to the White colonists. The chiefs and headmen were under the authority of White resident magistrates and administrators of Native Law; they, in turn, were responsible to Shepstone himself; and he reported to the lieutenant-governor, who was created 'Supreme Chief' over all Africans in the colony by colonial Ordinance 3 of 1849.

In theory, this system was supposed to protect Africans from the colonial destruction of their culture by keeping them under their own Native Law, instead of making them subject to the colonial legal system. Initially, the poorer White farmers opposed it because it restricted the supply available to them of both land and African labour.⁴² The Shepstone System was never fully implemented in Natal: only seven locations, comprising just over 2 million acres – which could not house more than half of the colony's African population –

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were set up. In practice over time, the Shepstone System became concerned more with methods of control over the African majority than with giving them genuine self-government. Shepstone imposed curfews and pass laws to restrict Africans working in towns and villages outside of their particular locations, and in 1849 imposed a tax of 7 shillings per hut on the head of each household in the locations; this soon yielded an annual revenue of more than £10,000 for the general colonial revenue – enough to pay for the administration, not just of the locations, but of much of colonial Natal. In 1875, the hut tax was doubled, and it remained the main source of direct taxation in the colony until 1910.⁴³

The Shepstone System offered the settlers a more certain basis on which to manipulate the original franchise provisions to keep out most Africans in practice. The key to this was that only men subject to normal colonial law could qualify for the vote. An African wanting to register for the vote would first have to apply to be formally exempted from 'Native Law' on the grounds that he could show that he was 'civilised' and should become a colonial citizen. In other words, in order to qualify for the vote, an African would first have to reject publicly his own culture and traditional laws. (This bears some similarity to the policy underlying the Canadian Gradual Civilisation Act of 1857, by which the right of Indians to qualify for the vote was made dependent on their rejecting their 'Indian status' and seeking Canadian citizenship.⁴⁴) Before the Shepstone System was fully implemented, some colonists had expressed concern about the title which Africans should be accorded over the property they held, in the light of the property-based franchise outlined in the Royal Charter. Some members of the government, while not supporting a general extension of the franchise, had nevertheless argued for the right of *all* property holders, whether settler or African, to vote.⁴⁵ The Natal Select Committee of 1862, appointed to deliberate on issues surrounding land tenure for Africans, on the other hand, showed little concern about appearing to tamper with the property–franchise nexus, observing that

the only real qualification for exercising political privileges must be sought in the knowledge and intelligence of the individual . . . the freehold franchise [is] simply . . . a convenient mode of drawing the line between ignorance and knowledge . . . a convenient tangible test for determining the existence of the mental and moral qualifications. In England such a standard or test is found practically satisfactory: amongst our Kaffirs it would be utterly worthless. To adopt it would be nothing less than a complete sacrifice of common sense and true political consistency at the shrine of a pedantic attachment to the dead letter of technical rules and regulations, adapted to a totally different state of society.⁴⁶

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The Colonial Office was prepared to defer to 'local experience', claiming that the local government would be 'the best able to judge upon the precise mode in which a gradual admission should be effected.'⁴⁷

The Africans in Natal who were most open to the idea of seeking exemption from customary law were the *kholwa*, the Christian converts. Colonial Natal was home to a number of missionary societies – notably the American Board mission which had been there since the 1830s – that were granted land to establish mission stations and farms for the *kholwa*. The *kholwa* acquired an education in missionary schools – the American Board established Adams College for boys in 1853, and Inanda Seminary for girls in 1869 – which not only instructed them in basic Western knowledge and conveyed a Christian ethos, but actually attacked traditional values, beliefs and institutions. For example, while Nguni societies were polygamous, Christian converts were required to practise monogamy. With their education and monogamous lifestyle, the *kholwa* also adapted easily to ideas of individual landownership, as opposed to communal land tenure, and to Western ideas of commercial agriculture.⁴⁸

Restricting the Indigenous franchise

Until 1864, Africans in Natal could not qualify for the vote at all, because they did not have individual titles to land. Act 11, of 1864 (amended by Act 28, of 1865, the Law for Relieving Certain Persons from the Operation of Native Law), provided that an African who could prove that he owned property and could read and write, and took an oath of allegiance to the Crown, could petition the governor to be exempted from Native Law. The governor had full discretion to grant or refuse the petition; if he granted it, the African would become subject to colonial Common Law (which criminalised, *inter alia*, polygamy) instead of African Native Law.

The Native Franchise Act (Act 11, of 1865) made it a necessary condition for Africans applying to qualify for the franchise that they first be exempted from Native Law. But exemption alone was far from a sufficient condition for the vote; to be registered on the electoral roll, an African also had to have been a resident of Natal for at least twelve years; have held letters of exemption from Native Law for at least seven years; and have the approval of three White men, whose word was endorsed by a magistrate'. Even if an African fulfilled these three conditions – which was possible only with the help of sympathetic White settlers and a magistrate – the Act still left it to the discretion of the lieutenant-governor whether or not to allow him to register. The lieutenant-governor had to call for public objections to the registration, and then decide, of his own accord, whether or not to admit him to the right

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to register as a voter. Local Africans realised that this loaded the system heavily against them; and no African even submitted a petition to be exempted from Native Law prior to 1876.⁴⁹

This meant that, from the mid-1860s, Natal had a franchise that was non-discriminatory in form only. In practice, it was very difficult for Africans to qualify and register as voters, and easy for the White authorities to ensure their exclusion. Although the missionary schools were turning out increasing numbers of educated kholwa, and although numbers of them were able to rent or even buy land for serious cultivation, almost none of them was able to use his Christian, educated, 'Western' status to gain full political rights in Natal. This remained the case throughout Natal's period of representative government. As we will show in chapter seven, even after they were granted responsible government, in 1893, this manipulation of the theoretically non-discriminatory franchise continued: no more than a handful of Africans resident in the colony of Natal were ever granted the right to vote. The Inter-Colonial Commission of 1903–5 found that only three Africans in Natal had the vote; by 1907, this had risen to six qualified African voters – in a Natal electorate of nearly 24,000 men, almost all of them White.⁵⁰ We will see, in chapter seven, how similar sorts of manipulation of the laws were used, from the 1870s onwards, to deny the vote to the Natal Indian population, which was, in theory, becoming eligible to qualify for it.

With the Africans thus being excluded from the franchise, and the Indians also being largely kept out of it, the Legislative Council under representative government was dominated by the elected representatives of the White settlers. In 1858, Lieutenant-Governor Scott described them to the colonial secretary as having

no expressed desire to elevate and improve the social position of the native by making him a landed proprietor, an independent cultivator of the soil, a civilized trader in, and a producer of exportable articles, or a mechanic or a skilled labourer. The native population are to be scattered throughout the colony and located on the farms of the white colonists, in the capacity of servants working for wages.⁵¹

The Legislative Council resented the fact that the 1856 Charter reserved £5,000 a year for African purposes – which kept control of African policy in the Crown's hands. The Council tried hard to get that fund out of the Crown's hands in order to be able to control African policy. From 1869, many councillors, especially those representing farmers of the Natal midlands and interior who wanted cheap African labour, demanded responsible government so that the Council could control African policy in the colony. On the other hand, the Colonial

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Office pointed out that self-government would mean having to provide and pay for their own defence, including against the Zulu Kingdom and internal rebellions in Natal. Until the Zulu Kingdom had finally been broken up, in the late 1880s, few among the Council's ranks were prepared to accept this – so serious negotiations between the Legislative Council and the Colonial Office for responsible government did not begin until 1888. Agreement was reached only in 1892.

Notes

- 1 Racial terminology is difficult to use with any precision, and liable to cause offence, in any ex-colonial society. 'Coloured' – which was used as an official term of racial classification under apartheid – is one such term, and it is easy to understand why many people thus classified resented the term. However, one cannot really avoid using such a term historically. The apartheid classification reflected a degree of accuracy in the extent to which many members of the Coloured and African communities thought – and still think – of themselves as distinct peoples. Use of this terminology does not imply any acceptance of ideas of clear boundaries between so-called 'White', 'Coloured' and 'African' races, nor of ideas about so-called 'pure' and 'mixed' races.
- 2 See C. Hamilton (ed.), *The Mfecane Aftermath: Reconstructive Debates in Southern African History* (Johannesburg: Witwatersrand University Press; Pietermaritzburg: University of Natal Press, 1995).
- 3 L. Thompson, *A History of South Africa* (New Haven, CT: Yale University Press, 1990), pp. 87–96.
- 4 See T. Keegan, *Colonial South Africa and the Origins of the Racial Order* (Charlottesville: University Press of Virginia, 1996).
- 5 Initially, more than one republic was established in the Transvaal area; these subsequently united to form a single state, which was known as the 'South African Republic' for part of its existence; it is convenient to refer to it as 'the Transvaal' throughout.
- 6 Keegan, *Colonial South Africa*, chapter 7.
- 7 S. Trapido, 'The Origins of the Cape Franchise Qualifications of 1853', *Journal of African History*, 1:1 (1964), pp. 37–54
- 8 British Parliamentary Papers (1852), p. 159, quoted in Trapido, 'Origins', p. 50; J. S. Marais, *The Cape Coloured People 1652–1937* (New York: AMS Press, 1978 [1939]), pp. 212–15.
- 9 PRO, CO 48/337 Newcastle to Cathcart, no. 40, 14 March 1853.
- 10 See Marais, *Cape Coloured People*, p. 212.
- 11 For example, W. M. Macmillan, *The Cape Colour Question* (Cape Town: A. A. Balkema, 1968 [1927]) sees the Coloured population of the Cape as having been placed on 'a footing of complete legal equality with Europeans' (p. 257) by the Master and Servant Ordinance of 1842, which repealed Ordinance 50 and he sees it as a simple, unproblematic progression from there to the colour-blind franchise of 1853 – 'the legal equality of 1842 had paved the way for potential political equality, and for a Constitution which did not so much as mention colour and knew no "Colour Bar"' (p. 263). See also Marais, *Cape Coloured People*, chapter 5, on the humanitarian 'Cape tradition'. On Macmillan and the South African liberal history tradition, see H. Macmillan and S. Marks (eds), *Africa and Empire: W. M. Macmillan, Historian and Social Critic* (Aldershot, Hampshire: Institute of Commonwealth Studies, 1989), especially chapters 3, 5 and 6.
- 12 See, for example, Trapido, 'Origins', and "'The Friends of the Natives": Merchants, Peasants and the Political and Ideological Structure of Liberalism in the Cape, 1854–1910', in S. Marks and A. Atmore (eds), *Economy and Society in Pre-Industrial*

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- South Africa* (London: Longman, 1980), pp. 247–74; Keegan, *Colonial South Africa*, chapter 7 and R. Ross, *Status and Respectability in the Cape Colony 1750–1870* (Cambridge: Cambridge University Press, 1999), chapters 7–8.
- 13 A. Ross, *John Philip (1775–1851). Missions, Race and Politics in South Africa* (Aberdeen: Aberdeen University Press, 1986); E. Elbourne, "'To Colonize the Mind': Evangelical Missionaries in Britain and the Eastern Cape 1790–1837', DPhil thesis (Oxford University, 1991); Marais, *Cape Coloured People*, chapter 4; Keegan, *Colonial South Africa*, chapter 4; Ross, *Status and Respectability*, chapter 5.
 - 14 Macmillan, *Cape Colour Question*, chapter 15.
 - 15 Keegan, *Origins*, pp. 103–5.
 - 16 Trapido, "'Friends of the Natives'", p. 263.
 - 17 On the Kat River Settlement and its history, 1829–1853, see Marais, *Cape Coloured People*, chapter 7.
 - 18 On the Select Committee, see: Z. Laidlaw, 'Integrating Metropolitan, Colonial and Imperial Histories – the Aborigines' Select Committee of 1835–7', in T. Banivanua-Marr and J. Evans (eds), *Writing Colonial Histories: Comparative Perspectives* (Melbourne: RMIT Publishing, 2002), pp. 87–108; Alan Lester, *Imperial Networks. Creating Identities in Nineteenth-Century South Africa and Britain* (New York and London: Routledge, 2001), chapter 5.
 - 19 *Report of the Select Committee on Aborigines (British Settlements) with the Minutes of Evidence*, British Parliamentary Papers (1836, Evidence; 1837, Report), vol. 7, pp. 61–4.
 - 20 *Ibid.*, p. 62.
 - 21 For the dual role of missions in contesting and upholding colonial regimes, including consideration of missions as avenues for Khoisan political activism and the teaching of literacy as a political tool, see E. Elbourne, 'To Colonize the Mind'.
 - 22 Macmillan, *Cape Colour Question*, chapter 16; Keegan, *Colonial South Africa*, pp. 119–22. For reports of the two-day meeting held at Philipton in the Kat River Settlement in August 1834 to formulate the resolutions to be put against the draft Vagrancy Act, see Ross, *Status and Respectability*, p. 151; S. Trapido, 'The Emergence of Liberalism and the Making of "Hottentot Nationalism", 1815–1834', *The Societies of Southern Africa in the 19th and 20th Centuries*, 17 (1992), pp. 34–60, at 50–3.
 - 23 A. Bank 'Losing Faith in the Civilizing Mission: The Premature Decline of Humanitarian Liberalism at the Cape, 1840–1860', in M. Daunton and R. Halpern (eds), *Empire and Others: British Encounters with Indigenous Peoples, 1600–1850* (Philadelphia: University of Pennsylvania Press, 1999), p. 364–83.
 - 24 Macmillan, *Cape Colour Question*, p. 257; Keegan *Colonial South Africa*, p. 126.
 - 25 Elbourne, 'To Colonize the Mind', p. 287.
 - 26 Marais, *Cape Coloured People*, chapter 7; Ross, *Status and Respectability*, chapter 7.
 - 27 C. Bundy, *The Rise and Fall of the South African Peasantry*, 2nd edn (Cape Town: David Philip, 1988), chapters 1–2.
 - 28 Elbourne, 'To Colonize the Mind', pp. 291–5.
 - 29 *Ibid.*, pp. 299–300; Marais, *Cape Coloured People*, pp. 208–15. An 1850 petition from Kat River inhabitants stated 'that they engaged with mixed feelings of hope and fear in the duties attending the framing of representative institutions, for whilst on the one hand they are glad to see such institutions confirmed on her Majesty's subjects as their particular birthright, they are not without forebodings about the working of a South African Parliament'. It also expressed 'their satisfaction in finding that [the franchise] had been fixed at £25 fixed property by the "late Legislative Council"' (quoted in Ross, *Status and Respectability*, p. 170).
 - 30 Marais, *Cape Coloured People*, p. 208; Trapido 'Origins', pp. 39, 52–3; Keegan, *Origins*, pp. 230–3, 240–7; Ross, *Respectability*, chapters 7, 8. On the meaning and political importance of 'respectability' in mid-nineteenth-century Britain, see: G. Best, *Mid-Victorian Britain, 1851–1875* (1971); F. M. L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain* (1987).

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- 31 Keegan, *Colonial South Africa*, pp. 244–7; Trapido, 'Origins', pp. 48–54; Ross *Status and Respectability*, p. 167 (13 Feb. 1850).
- 32 Porter in March 1852 to Legislative Council, British Parliamentary Papers (1853), vol. 65, pp. 218–19, quoted in Ross, *Status and Respectability*, p. 170; Trapido 'Origins', p. 53
- 33 See J. Peires, *The Dead Will Arise: Nongqawuse and the Great Xhosa Cattle-Killing Movement of 1856–7* (London: James Currey, 1989).
- 34 Grey had been governor of New Zealand immediately before coming to the Cape, and he returned to govern New Zealand again at the end of his term at the Cape.
- 35 M. Wilson, 'Co-operation and Conflict: The Eastern Cape Frontier', in M. Wilson and L. Thompson (eds), *The Oxford History of South Africa*, 2 vols (Oxford: Oxford University Press, 1969–71), vol. 1, pp. 233–71, at 260–8.
- 36 Trapido "'Friends of the Natives'", pp. 264–6.
- 37 Stanley to Governor Napier, 13 December 1842, quoted in L. Thompson 'Co-operation and Conflict: The Zulu Kingdom and Natal', in Wilson and Thompson (eds), *Oxford History*, vol. 1, pp. 334–90, at 372.
- 38 PRO, CO 179/35 Despatches, vol. 4: Owen to Duke of Newcastle 6 March 1854.
- 39 *Ibid.*, enclosing Shepstone's proposals as 'Memorandum of Mr Shepstone', 23 January 1854.
- 40 Thompson, 'Co-operation and Conflict: The Zulu Kingdom and Natal', pp. 380, 390.
- 41 Shepstone was the son of a Wesleyan missionary who had been an 1820 settler at the eastern Cape frontier. He grew up at the frontier among the Xhosa, learned to speak the Nguni languages, and prided himself on his understanding of Nguni societies. In Natal, he was diplomatic agent to the Native Tribes from 1845 to 1853, and secretary for Native Affairs, 1853–75.
- 42 See Thompson 'Co-operation and Conflict: The Zulu Kingdom and Natal', p. 384.
- 43 *Ibid.*, pp. 373–7; J. Lambert, *Betrayed Trust. Africans and the State in Colonial Natal* (Scottsville: University of Natal Press, 1995), chapters 1 and 2; T. R. H. Davenport, *South Africa: A Modern History*, 4th edn (London: Macmillan, 1991), pp. 98–103; N. Worden, *The Making of Modern South Africa*, 3rd edn (Oxford: Blackwell, 2000), pp. 80–2.
- 44 J. R. Miller, *Skyscrapers Hide the Heavens. A History of Indian–White Relations in Canada* (Toronto: University of Toronto Press, 1991 [1989]), pp. 110–15. See chapter two this volume for the Canadian legislation.
- 45 PRO, CO 179/68 Scott to Newcastle, no. 105, 25 September 1863.
- 46 Report of the Select Committee . . . Granting Documentary Tribal Titles to Land to Natives, 5 August 1862, enclosed in PRO CO 179/68 Scott to Newcastle, no. 104, 24 September 1863.
- 47 PRO, CO 179/68 Newcastle to Scott, no. 355, 5 December 1863 .
- 48 Lambert, *Betrayed Trust*, chapter 3; Bundy, *South African Peasantry*, chapter 6.
- 49 E. H. Brookes, *White Rule in South Africa 1830–1910* (Pietermaritzburg: University of Natal Press, 1974), chapter 4; Lambert *Betrayed Trust*, chapter 3; Thompson, 'Co-operation and Conflict: The Zulu Kingdom and Natal', p. 386; Davenport, *South Africa*, p. 103
- 50 Brookes, *White Rule*, chapter 4; L. Thompson, *The Unification of South Africa 1902–1910* (Oxford: Clarendon Press, 1961), pp. 110–11.
- 51 PRO, CO 179/49, no. 36, 462 Scott to Colonial Secretary Lord Stanley 8 April 1858, quoted in Lambert *Betrayed Trust*, p. 63.

PART III

Entrenching settler control

CHAPTER FIVE

Canada: 'a vote the same as any other person'¹

As the colonies attained self-government the Colonial Office stepped aside from its responsibilities to protect the rights of Indigenous peoples, dissipating the influence of the APS and other humanitarian organisations that were now compelled to campaign on a multitude of fronts in their attempts to influence settler governments. In the local legislatures the language was more extreme and the atmosphere less forgiving, with images of 'savagery' and 'swamping' being evoked more frequently as the proportion of the population that was Indigenous continued to decline. As they moved towards a more democratic franchise, settlers intent on containing – if not eliminating – any residual Indigenous rights sought to construct a political system that institutionalised the new nations as White.

In post-confederation Canada the franchise was seldom an issue for debate. The need to bring together disparate colonies, the financing and construction of the Canadian Pacific Railway and the establishing of systems of governance in the old Hudson's Bay territories were the issues which preoccupied the government in Ottawa in its early nation-building years. Its exercise of responsibility for Indigenous people was closely related to those issues as well, negotiating a series of treaties which, under the immediate premise of giving access for the railway, laid the basis for the immigration that would populate what were to become the prairie provinces of Alberta and Saskatchewan (see Map 5.1). The Indigenous peoples, struggling with a severe decline in the buffalo which had been central to their survival, had little choice but to agree to surrender the bulk of their land in return for a secure reserve and the superintendence of the Indian Department which was meant to provide the educational and agricultural materials necessary for them to adopt a 'settled' life.

The Canadian colonies entered into confederation without a uniform national franchise, choosing instead to allow anyone who had



YEAR OF ENTRANCE INTO THE CONFEDERATION:
 QUEBEC: 1867 ONTARIO: 1867 NOVA SCOTIA: 1867
 NEW BRUNSWICK: 1867 MANITOBA: 1870 BRITISH COLUMBIA: 1871
 PRINCE EDWARD ISLAND: 1873 SASKATCHEWAN: 1905 ALBERTA: 1905

5.1 Canada in 1912

the vote at the provincial level to participate in national elections. Provincial franchise qualifications remained disparate. Only British Columbia had embraced – what to Canadians was – the American principle of manhood suffrage. In the other provinces a mix of property and income qualifications ensured that most White males were able to participate.² Although only British Columbia excluded Indigenous men from voting on the basis of race, both Ontario and Manitoba excluded those who continued to receive annuities from the Crown, and no province recognised land held in common as a basis for qualification. Given that provincial franchises were so neatly calibrated to local conditions, federal parliamentarians were reluctant to move towards a national franchise for fear that disparities in property values between the different provinces could see substantial numbers of their constituents disenfranchised. When the issue was finally debated, in the 1880s, it was to destabilise not only such local accommodations but the issue of the citizen status of women and Indigenous peoples itself.

The debate over the national franchise

In 1883, long-serving Canadian Prime Minister Sir John Macdonald introduced a Bill to establish a uniform federal franchise, the first of three introduced in successive years. Committed to the preservation of the property qualification, Macdonald's first Bill proposed the enfranchisement of single women and widows with property. This provision was carried over into the Bill presented to the House in 1885, but at this point Macdonald introduced a new focus for contention: the decision to include Indigenous people, whether or not they had embraced enfranchisement under the provisions of the Gradual Civilisation Act, in the legislation's definition of 'persons'.

This was not the first occasion on which race and gender had been linked in debates about the franchise. When the British Columbia provincial parliament had debated the Bill which disqualified Chinese and 'Indians', Dr William Tolmie gave notice of his intention to move an amendment to admit women to the suffrage.³ Although only three members voted in favour of the amendment, the issue gave rise to more debate than did the disenfranchisement clauses. Female suffrage, Tolmie argued, 'would allow woman to take her proper place and help man to make the world better . . . [and] would make those growing up amongst us more capable of fulfilling their duties'. Placing women at the forefront of the colonial project, W. A. Robertson, the only other member who spoke in support, added that 'woman had been the equal of man in the past, and her courage and judgment were equal to his'.⁴ Macdonald, however, was far less committed to the cause, advancing his limited version of female suffrage as an experiment that could be revoked if it led to dispute⁵ and quickly abandoning the measure when it became clear that it could not gain the necessary support. The opposition to female franchise was centred in Quebec, but the proposal was lost when members from other parts of the country advised that they intended to vote against the proposition out of consideration for the feelings of their French-speaking colleagues.⁶ With the Toronto-based Canadian Women's Suffrage Association only two years old and the Woman's Christian Temperance Union just in the process of organising a national structure, there was no evidence of grass-roots agitation to encourage Macdonald to persist.⁷

The proposal for Indigenous enfranchisement had a much higher priority, and was to generate far greater debate. With the mutually exclusive nature of Indian status and Canadian citizenship in place across the nation, even Macdonald's close supporters were surprised by his move to include Indigenous people in the national franchise. In one of the few articles published in support of the proposal, the pro-government *Montreal Gazette* sought to expose the illogicality of the

ENTRENCHING SETTLER CONTROL

argument, advanced by the opposition, that Indigenous people should not vote because they did not pay taxes and were unable to read and write.

There are, doubtless, a number of Indians without these scholastic attainments, but they are not, unfortunately, the only class in the country who have the misfortune not to be able to read and write, and it would be an invidious and unfair distinction to deprive the Indian simply because his skin is dark of the franchise, while giving it to white men lacking the educational test the opposition desire to apply to the Indians.⁸

The voice of the opposition was far more strident. In an argument echoed across the nation, the Halifax *Morning Chronicle* accused Macdonald of abandoning 'all the principles that have hitherto governed the subject of franchise' in order to 'enfranchise a class of men' who

despite all the advantages of [having] an advanced civilization . . . within their reach . . . are still, in most cases, savages, and, whether savages, semi-savages or civilized, are directly subject to the oversight, control and paternal authority of a special officer of the state and receive from the state the ordinary means of livelihood.⁹

The vehemence of the contemporary debate has not been reflected in the subsequent historiography. Repealed in 1898, the 1885 uniform national franchise has been treated as, at best, a temporary aberration, a diversion in the process by which Canada attained (White) manhood and, later, universal (White) suffrage on a province-by-province basis.¹⁰ With an Indigenous rebellion in the north-west and the continuing scandal surrounding the Canadian Pacific Railway loan to attract their attention, few historians have examined what Liberal frontbencher Sir Richard Cartwright described as 'a gallant and desperate struggle against a most outrageous piece of tyranny'.¹¹ It was the proposal to vest power in revising barristers which Cartwright saw as tyrannous but his Party vehemently opposed every aspect of the Bill in what would become the longest continuous sitting that the House has ever experienced. By the time it was passed, the legislation offered the franchise only to the minority of Indigenous men living in the older provinces of the east, and internal disputes within Indigenous communities meant that less than half of them exercised the privilege. Yet the debate and its aftermath are worthy of greater consideration, providing a unique insight into the racial anxieties of members on both sides of the House and the gendered and racial constructs which underlay nineteenth-century Canadian definitions of citizenship and democracy.

Macdonald's reasons for advocating this change remain unclear. His opponents accused him of political expediency, the desire 'to

strengthen himself in Ontario to such an extent that he can defy the smaller provinces[,] including Quebec'.¹² 'Has it really come to this', one opposition member asked, 'that the Government can no longer trust to the white man? Have they lost confidence in the breed? . . . Are they now going to put their confidence in the Indians?'¹³ Nor were his supporters confident of the wisdom of the move. 'We had better move carefully with the franchise bill', a Conservative supporter wrote, reasoning that

should you pass it it will destroy us, and make us most unpopular – and give the Grits [Liberals] a great advantage over us – let the indians go – we can carry the country easy enough without them much easier than with them – ther [*sic*] help will turn many against us and hurt our cause.¹⁴

Apologising for his inability to attend a Party meeting on the subject, Montreal member Désiré Girouard was even more blunt: 'I cannot support the Indian clause of the Franchise Bill. I would be stoned in Lachine if I did so.'¹⁵ Yet, despite the lack of support from such colleagues, the hostile 'indignation meetings' across the country and threats to his life, Macdonald persisted, declaring later that the passage of the Bill was the greatest triumph of his life.¹⁶

Both Macdonald's biographers and later historians have resorted to a more sophisticated version of the political expediency argument to explain his persistence, suggesting that the 1885 legislation is best understood in terms of his opposition to the principle of manhood suffrage.¹⁷ As a Conservative, he believed that only those who had a stake in the country should have the right to vote, designing the Bill to enfranchise groups that would support this principle.¹⁸ But why would Macdonald consider Canadian Indigenous peoples to be one such group, given the rapidity with which he had abandoned the cause of propertied women?¹⁹ Miller has suggested that his commitment to assimilation provides part of the answer.²⁰ The architect of the Gradual Civilisation Act, Macdonald had enthusiastically pursued assimilation throughout his long period as superintendent-general of the Indian Department, a post he held alongside the prime ministership from 1878 to 1885. As superintendent-general he had the contact with Indigenous leaders that most of his parliamentary colleagues lacked, and was clearly aware that the enfranchisement provisions of the Gradual Civilisation Act had failed to persuade Indigenous people to abandon their old patterns of life. Speaking in 1880 he had conceded that

you cannot make the Indian a white man . . . You cannot make an agriculturalist of the Indian. All we can hope for is to wean them, by slow degrees, from their nomadic habits, which have almost become an instinct, and by slow degrees absorb them or settle them on the land.²¹

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There is a sense in which the decision to extend the franchise can be seen as an extension of Macdonald's policy of undermining the band councils that continued to exercise authority within the reserves. Legislation in 1884 had introduced the principle of election for positions of leadership that had previously been hereditary.²² Within that context the admission of Indigenous people to the national franchise could be seen as a further dissipation of autonomy. If that was the case, however, it was not acknowledged at the time. Rather, Macdonald was criticised for breaking the link between voting rights and the abandoning of Indian status which had been central to the Canadian policy of assimilation, giving 'to the ignorant Indians, who choose to remain on the reserves and to evade the duties of citizenship, the right to vote'.²³

While it was on this issue that the Liberals claimed to base their opposition to the proposal, the coincidence of the debate with the north-west rebellion provided an opportunity for members on both sides of the House to expound their notions of the connections between race, savagery, civilisation and citizenship.²⁴ With troops from the eastern provinces being despatched to defend settlers on the prairies from rebel attack, the House was in an anxious mood. In an inflammatory speech in response to the confirmation that the Bill included 'Indians' in its definition of 'persons', David Mills accused Macdonald of allowing the rebel leaders to 'go straight from a scalping party to the polls'.²⁵ Once this link was established it became easy to label all Indigenous people as rebels. 'Where are the Indian electors who are about to be invested with the sacred functions of the franchise?' asked John Charlton:

They are making the night-sky of the North-West lurid tonight with the conflagrations of the dwellings of the settlers, and subjecting their wives and daughters to a fate worse than death. These are the bloody, vindictive barbarians that are to be invested by this Bill with the power of controlling elections of the North-West Territories, when they are accorded representation in this House.²⁶

The Toronto *Globe's* headline put it more concisely: 'Pagan Indians Enfranchised; Many Volunteers Disenfranchised'.²⁷

A mouthpiece for the opposition, Toronto's *Globe* argued that Indians should not be regarded as citizens. Rather they were 'people separate and distinct from all the other people in Canada, aliens in almost every sense of the word, allies rather than subjects of the Queen'. This separate status, it argued, left them 'amenable to criminal jurisdiction but outside of the operation of the civil law . . . profoundly indifferent to all that electors should feel an interest in'.²⁸ Within the parliament members, reluctant to engage with what was essentially a restatement of the argument for separate nation status, explored instead contesting

definitions of 'the British subject' in order to justify their opposition to extending the franchise to Indigenous peoples.

Macdonald opened the debate by locating the 'Indian's' qualification to vote in his status as a propertied British subject, forcing his opponents to respond by articulating the ways in which the Indigenous subject differed from the settler.²⁹ Interestingly, no one questioned their propertied status, focusing instead on the Indigenes' inability to freely exercise the privileges usually associated with property. In opposing the Bill the Liberals argued that Indigenous peoples were children at law, exempt from taxation, unable to enter into contracts and dependent on the government for their support, arguments that were, at least theoretically, non-racial.³⁰ However this special status had political implications, given Macdonald's position as superintendent-general, the guardian and protector of these children at law, making it easy for opponents to claim that it was he who would control the Indigenous vote.

Opposition leader the Hon. Edward Blake pointed out the contradiction inherent in Macdonald's position: 'You declare in your law that they are not fit for freedom; that they must be guarded, protected, subjected to disabilities, kept in a state of tutelage . . . [yet] you propose to give them votes which they are not free to exercise'.³¹ In response, Macdonald sought to position this special status as indicative of difference rather than inferiority:

The annuities paid to the different bands are their own moneys, and they go to them as their right. Their lands have been sold; the proceeds have been funded at a certain rate of interest, which the Government pays; and the Indian has the same right to his annual payment out of that fund as if he were a shareholder in a bank receiving a dividend . . . The Indian contributes to the revenue just as well as the white man. He buys taxed goods, he wears taxed clothes, he drinks taxed tea, or perhaps excised whiskey.³²

Both sides in the debate professed to be 'actuated . . . by the same desire to give British subjects, red or white, if they have the property qualification, the right to vote',³³ but they differed on how this was to be brought about, the Liberals continuing to insist on the full enfranchisement offered through the Gradual Civilisation Act. Where Macdonald explained the overwhelming Indigenous rejection of such enfranchisement in terms of their attachment to the traditions of their clans – a characteristic, he believed, they shared with his Scots ancestors – his opponents saw it as a refusal to accept the responsibilities of citizenship.³⁴ They had long argued that the solution to the dilemma posed by the 'educated Indian' was to eliminate the 'protection' under which Indigenous peoples lived:

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The solution of the Indian problem can only be found in wiping out the distinction which exists between the races, in giving the red man all the liberties and rights enjoyed by the white man, and entailing upon him all the responsibilities which attach to those rights and privileges.³⁵

Yet to demand enfranchisement—assimilation as a condition of citizenship was, as ex-Indian Department official Simon Dawson, Conservative member for Algoma, pointed out, to shut out of participation 'men of intelligence and property', themselves employers of White labourers 'who could record their votes while they were deprived of that privilege'.³⁶ Drawing upon his experience, Dawson had long accepted the Indigenous leaders' view that the maintenance of tribal bonds was 'the first protection of the Indian, and the abolition of that system would lead to the demoralisation and eventual destruction of the race'.³⁷

The supposed distinction between subject and citizen status was an uneasy vehicle in which to contain the racial anxieties that Macdonald's proposal had aroused. Although anyone born in Canada was classified as a British subject, there was considerable doubt as to whether all subjects had equal entitlements. In a contribution from outside the House, Indian leader Dr Oronhyatekha, son of the Reverend Peter Jones, pointed out that 'qualifications that would enable him to vote in London [Ontario] . . . [became] null and void if he changed his residence to a reserve and lived among his own people'.³⁸ To Ottawa-based Sidney Fisher, the suffrage was 'one of the privileges of British subjects, whatever their color . . . provided they possess the same property and qualifications', which 'Indians', he asserted, did not. 'Before semi-civilised or uncivilised Indians are enfranchised, every white man of full age, and being a resident, should have the right to vote.'³⁹ The liberties of the British subject, his Ontario-based colleague James Somerville argued, 'have been handed down to us by those who in other fields of action had to spend their blood to secure them . . . it is an insult to the white population of the entire Dominion that this concession should be made to savages'.⁴⁰ 'Has he the love of country, and the pride in British institutions, which any man should have who exercises the right of suffrage?' asked John Charlton. 'Indians', he argued, did not have the intelligence required of the voter: 'alien', 'foreign' and 'unas-similable', they

have no element, characteristic or qualification that will fit them to exercise the sacred right of the suffrage, which is the privilege and right of a free man . . . it is derogatory to the dignity of the people and an insult to the free white people of the country to place them on a level with the pagan and barbarian Indian.⁴¹

CANADA

When the debate spilled over into the press the language became even less guarded. In an editorial headed 'Barbarian Voters', the *Toronto Globe* declared: 'No intelligent white man who knows the Indian can believe that the right of voting at elections, and swamping the votes of any section of the people of Canada, should be given to them.'⁴² It would be wrong to assume that Macdonald's views on race were any more advanced. In justifying his decision to exclude from the franchise any man of Chinese descent, Macdonald argued: 'he has no British instincts or British feelings or aspirations, and therefore ought not to have a vote . . . I used the word Chinaman to designate a race . . . The Australians exclude the Chinese from Hong Kong as well as other Chinese.'⁴³ In such an environment Simon Dawson's attempts to contest the general definition of 'Indian' as barbarian fell upon deaf ears.⁴⁴

Those who spoke in favour of the Bill did not contest such notions of difference. Rather they suggested that the granting of the franchise should be seen as 'an infinitesimal' part-payment of the debt owed to the Indian people for the appropriation of their lands.⁴⁵ 'Here are Indians . . . formerly owning the whole of this country', Macdonald argued, 'prevented from either sitting in this House, or voting for men to come here and represent them'.⁴⁶ The Indigenous franchise, Senator Plumb later argued, was a restitution of a basic right, recognised at the time of colonisation but later unjustly removed.⁴⁷ While opposition members were prepared to acknowledge that there had been an Indigenous civilisation in North America, they located it firmly in the past, identifying its contemporary descendants as a degraded race retaining none of the fine qualities of their self-governing forebears.⁴⁸ The government's insistence on maintaining their special status was to blame for this degradation, evidence of which was freely offered during the debate.⁴⁹ 'Some of the Indians to whom this privilege of voting will be accorded', claimed Manitoba representative Robert Watson, 'are those who participate in the most disgusting customs and who traffic their females with the whites for purposes of prostitution.'⁵⁰ Senator Scott was more concise: 'They wander over this country seeking whiskey where they can get it – they are poor, wandering and begging people.'⁵¹

The concept of citizenship, a status with responsibilities that had to be earned, was no easier to delineate than was subjecthood. William Paterson, whose Brant constituency included most of the Six Nations' Reserve, argued that its residents did not have the status of citizens:

A negro or a German may come to Canada and become a citizen, on taking an oath of allegiance, and can manage his own affairs. But the Indian is not allowed to manage his own affairs . . . A citizen can buy and sell freely. The Indians in some Provinces are not allowed to do so.

If they were to enjoy the privileges of citizenship, he insisted, they had to become citizens, accepting 'all the responsibilities which attach to those rights and privileges'.⁵² His colleague John Platt, from Prince Edward Island, was even more blunt: 'The hon. member for Algoma told us of an Indian who is worth \$10,000, but who has not the franchise because he receives an annuity from the Government. When that Indian prizes a vote above the \$8 a year he can get it.'⁵³

The mere possibility of equality aroused fears which were grounded in considerations of race. 'Are they citizens or are they not? Are they on an equal footing with white men?' asked the Ontario-based Liberal George Casey. 'The right hon. gentleman says they are independent – as independent as the workingmen . . . I do not think that the workingmen will relish that statement.'⁵⁴ Many of these 'workingmen' were threatened by disenfranchisement under the property qualifications of the Bill which, at \$300 in cities, \$200 in towns and \$150 in rural areas, were higher than those operating in any part of the country other than Quebec. Arthur Gillmor responded on behalf of his working-class constituents on Prince Edward Island, who had previously been able to qualify by contributing four days' work on the roads, or its monetary equivalent, claiming that 300,000 'white men' nationwide were about to be disenfranchised, to be replaced by 'a number of poor aborigines, who have no idea of our constitutional system, and occupy a position altogether different to that of the workingman'.⁵⁵ Members from Quebec, where few faced disenfranchisement, were even more direct. 'Indian suffrage', declared Côme Rinfret, 'is an encroachment on the privileges of free men, and of white men . . . it is an encroachment upon the rights and privileges of the civilized electors of the Dominion at large'.⁵⁶ His Montreal colleague Philippe Casgrain added: 'Our system is working well; until now we have had no occasion to complain, and I believe that everybody would prefer the vote of one white man to the votes of five Indians.'⁵⁷

The speed with which Macdonald had abandoned the female suffrage proposal added White women to the working-class men who could be construed as being demeaned by Indigenous enfranchisement.⁵⁸ While supporters could taunt Liberals favouring women's suffrage that arguments based on Indigenous dependence could similarly apply to women, gender was more commonly used to denigrate the proposed reform. The possibility that the Bill, unless amended, would enfranchise the 'squaw' was raised on several occasions. One member argued that, because the term 'Indian', as defined in the Indian Act, included any person legally married to an Indian, any move to enfranchise Indians would include also women married to Indians.⁵⁹ More commonly, the White woman, 'who possesses everything required for the

franchise, except sex', was counterposed to the 'naked, untutored barbarian' in debates over suitability to exercise the privileges of full citizenship.⁶⁰ 'It is a monstrous proposition', John Platt declared, 'that we should . . . refuse the same franchise to the women of this country and give it to the low and filthy Indians of the reserves',⁶¹ a view echoed by Ontario member William McCraney, who read into the record a letter from a woman:

To think of such wretches as some of these scamps daring to get up and publicly question the ability of women and property to exercise the franchise, or expressing his doubt as to whether or not they would exercise it for the public good, while the fact is it is almost a profanity for some of them to mention the word woman. As well might a mud-puddle question the right or ability of pure water to cleanse or refresh and invigorate. As well might the vilest and most ignorant Hottentot or Indian question the ability or a right of an Oxford professor to exercise personal liberty aright.⁶²

When it became clear that Macdonald was committed to the Indigenous franchise a fear spread through the House as individual members tried to ascertain the impact it would have in their electorates. The prime minister, the *Globe* declared, intended 'to swamp the votes of white men in several constituencies by the votes of the ignorant'.⁶³ If 3,000 'Indians' in Ontario were enfranchised, that

would be one in five of the whole Indian population, a much larger proportion than will obtain amongst the whites. As the Indians are located in a few of the constituencies their power as electors will be much more felt than if they were scattered all over the country . . . the Indian vote would control ten or a dozen elections.⁶⁴

'If a band of 40 or 50 Indians came up to the polling booth in Manitoba and attempted to kill the votes of an equal number of white men', Robert Watson warned the House, 'it would raise a rebellion in that country.'⁶⁵ In New Brunswick the 1880 Census had recorded less than 1,500 Indigenous people, yet local representative George King was still alarmed. 'If there were Indians in my constituency I would have to appeal to them, rather than the honest farmers and lumber men who supported me in the last election', he complained. More importantly, if the '50,000 or 60,000 Indians in British Columbia' were enfranchised, their votes would altogether 'swamp those of the white people in the Maritime Provinces'.⁶⁶

Whatever the rhetoric, there were few members who could envisage a situation in which more than a small minority of highly assimilated First Nations' peoples would enter into the political life of the country. The *Globe* ridiculed the prospect, supplying a model for future campaign speeches:

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Great Chief in Ottawa give all. Great Chief make sun shine, rain fall, grass grow. Great Chief send fish in river. Great Chief mighty man and say you no vote Chief John Joseph you no get wampum, no get corn, no get meat, no get blanket, no get wigwam. You starve, you beg, you die. Vote Chief John Joseph, all good, all right. Vote white man Mills, great Chief send fire, wind, hail death!⁶⁷

The prospect of 'these people coming here, and speaking their own tongues', filled the House with alarm.⁶⁸ The suggestion of opposition leader Sir Richard Cartwright, that 'under certain circumstances and in certain conditions . . . it might be in consonance with the spirit of British institutions that the 130,000 Indians in Canada, who undoubtedly have interest not precisely similar to those of the white men, should be allowed to send delegates, or even representatives here' – perhaps a reference to the separate representation offered to Maori – fell on deaf ears.⁶⁹

Midway through the debate Macdonald sought to allay the growing alarm by announcing that he had always intended to exclude from the proposed franchise those Indigenous people living west of Lake Superior.⁷⁰ More than 70 per cent of Canada's Indigenous population lived in the west, where they clearly would have had the potential to outvote the settler population in the more remote rural electorates. Yet their abandonment at this point served only to prompt opponents of the Bill to exaggerate the risk posed to White hegemony by the remaining bands in the east. The settler population of the older provinces, the *Globe* assured Macdonald, 'do not desire to be governed by a majority obtained by the votes of ignorant Indians', whose votes 'would be numerous enough to swamp the votes of honest whites in many constituencies'.⁷¹

Implementing the Indigenous franchise

Despite the continued opposition of two of Macdonald's own supporters, the Bill passed in its amended form, but it was not received with universal acclaim. Its passage was greeted enthusiastically by Mississauga leader Dr Peter Jones:

What a grand thing it has been for my people already! We, who for so many years have laid, as it were, dormant – a nonentity in the political world, are suddenly made the subject of a three months discussion on the floor of the Dominion House! Are praised by one side, abused by the other! The Press of every City and Town has discussed us, pro and con, and not a rural paper in the country but what has 'had its say'! And now, in the end, you have won, and the opposition have not a leg to stand upon. Again I say, even if we did not vote you have done us a grand service by

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introducing this long discussion by which the people of Canada have become so well informed as to our position; and the part of the Bill, which makes the Indian a 'Person', should be written in letters of Gold!⁷²

Similar letters arrived from Party agents working among the Iroquois of Sault St Louis⁷³ and from Montreal assuring the 'Ottawa Chieftain' that 'the young men of our party, whom you are about to enfranchise, are not slow to appreciate the true value of those efforts that you are constantly putting forth to better their social and political status'.⁷⁴ The people of the Six Nations, Ontario's largest Indigenous reserve, were less enthusiastic. 'They are *very fickle*', Indian Department Superintendent Jasper Gilkison warned. 'Some of the leading men are full of the *independent idea* as *allies*, and, that they have the right to frame their own laws, without the rule under Dominion Legislation.'⁷⁵

Once the Act became law, expediency overcame any residual objections, as representatives of both major Parties moved quickly to win the allegiance of potential voters. The task of determining whether Indigenous people satisfied the property qualification was left to those officiating at the polls. Despite pressure to compel the new voters to seek location tickets, the precursor to enfranchisement under the Gradual Civilisation Act, officials in Ontario resolved to 'describe the voter's property on which he votes, as part of the Indian Reserve named, occupied and possessed by the said voter, or such better description as he can give'.⁷⁶ The Act prescribed penalties for Indian agents who attempted to interfere in the operation of the franchise on their reserves but Conservative Party organisers pleaded for leniency.⁷⁷ 'Dear Sir John', wrote one party worker, 'I feel confident it would be detrimental to Mr McNeill's interest in North Bruce and I suppose similar cases, if any stringent measures were resorted to, that would not allow the Indian agent at Cape Croker, to sow good seed among the Indians there'.⁷⁸

From his home on the reserve, Peter Jones wrote lengthy letters to Macdonald, accusing Paterson, the sitting Liberal member, of siding with 'the older chiefs [who] are opposed to Enfranchisement – the franchise – or any change which may endanger their position', and urging Conservatives to actively enlist the support of educated younger band members.⁷⁹ Paterson had clearly been active on the reserve, implying that band members who accepted enfranchisement would lose the privileges attaching to Indian status.⁸⁰ Convinced that it was the loss of privileges rather than the threat to sovereignty that lay at the base of Six Nations' opposition, Conservatives urged Sir John to allay these anxieties. In a letter to the chiefs Macdonald sought to position his Party as the natural recipient of the Indigenous vote. Accusing his opponents of spreading misinformation on the reserve, he reiterated

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that enfranchisement under the Act did not require Indigenous people to abandon their 'Indian' status, as the Gradual Civilisation Act had demanded.

I can assure you that an Indian will . . . stand exactly in the same position in all respects the hour after he may vote as he stood the hour before he voted . . . I shall regret to see them rendering my efforts on their behalf fruitless from the unfounded fear that in exercising the rights of the franchise they would injure themselves.⁸¹

When the letter was not collected Macdonald delivered the message in person. He received a very gracious welcome, and accepted the invitation to address the Council, but was unable to overcome their opposition. 'The Chiefs have considered all that has been spoken to them', the acting-chairman replied; yet 'in regard to the Franchise Measure, they could but repeat their former decision of not receiving or recognizing it'.⁸²

The Six Nations' community was left divided.⁸³ The chiefs' requests that 'their people . . . abstain from attending political meetings, and also from giving votes at any Election', were never completely honoured, and those who chose to exercise the franchise were neither as mercenary nor as easily led as the major parties had assumed.⁸⁴ A Liberal victory in a by-election in the area, in September 1886, was hailed by the *Globe* as evidence of

surprising [Indian] independence. Such of them as are ignorant and Pagan, Sir John and his agents were able to cajole, coerce, and bribe, but there are others who are educated, intelligent and well versed in the history of Tory treatment of Indians. These must have voted solidly for Colter.⁸⁵

In fact the votes of those Six Nations' peoples who chose to participate were evenly divided, so that in the general elections held in 1887 and 1891 the sitting members, both opposition members, were returned.⁸⁶

Despite such evidence about the ways in which the extended franchise was being exercised, it remained controversial both within and beyond the Indigenous community. Debate over the Indigenous franchise continued unabated. From among Macdonald's supporters came petitions, 'speaking from actual knowledge of the Indians' character', alleging that 'their halfcivilized state, their continual fancied greivences [*sic*], their want of knowledge in public and political affairs' meant that they could not be relied on to exercise an independent vote.⁸⁷ Within the Six Nations the chiefs remained opposed, anxious, Weaver suggests, that those who were voting in national elections would demand similar privileges within the band council as well. Arguing that the franchise Act 'has caused divisions among us Indians', they repeatedly petitioned for the privilege to be revoked, eventually

threatening to expel voters from the reserve.⁸⁸ 'They became as independent British Canadian subjects and as if they are white men', the chiefs declared. 'They are no more Iroquois Government's subjects.'⁸⁹ Officers within the Indian Department, uncomfortable at being electorally accountable to their wards, added their support to the chiefs' stance.⁹⁰ 'The extension of the franchise to the Indians at the present time [was] to say the least illtimed and . . . premature besides', they agreed. 'It has demoralised some of them to a great extent by dividing them into two parties, Reformers and conservatives, antagonistic of each other . . . it has set Brother against Brother, neighbour against neighbour'.⁹¹

The divisions both within and beyond the reserves were the divisions of party, divisions the Conservatives decided to exploit in 1896 when they chose to make the Indigenous franchise an electoral issue. The Conservative candidate in Paterson's seat of South Brant addressed a meeting on the Six Nations' Reserve, recalling how the late Sir John Macdonald had 'taken his political life into his hands in order to give them what he considered their just rights in the matter of having a voice in the administration of the Country for which their ancestors had fought and bled'. The themes of the speech were expanded in a broadsheet entitled 'Facts for the Indians, What the reformers think of them', which contained a selection of the most damaging statements from the 1885 debate. The Liberals made no attempt to reply. Although the election was to see his Party victorious, William Paterson lost his seat, with the Indigenous vote, for the first time, crucial to the result.⁹² His colleague John Charlton, whose words had been used to particular effect in the broadsheet, wrote in consolation: 'I hear with deep regret of your defeat in South Brant, attributable I suppose to . . . Catholics, and to the free use of boodle which proved especially efficacious among the Indians'. Ascribing Paterson's defeat to the old Liberal bug-bear, another colleague, the Hon. G. W. Ross, added: 'The Franchise Act must be repealed at the very first opportunity.'⁹³

1898: the national franchise repealed

Returned to power, the Liberals moved quickly to honour their promise to repeal Macdonald's franchise Act. Faced with this prospect, the voters on the Six Nations' Reserve tried to counteract the impression that Indigenous people did not want to participate in national politics. The petition praying for exemption from enfranchisement, they alleged, was the work of 'persistent adherents of primitive tribal customs', opposed or indifferent to 'attaining a civilized plane'. Those who had become voters, they argued, 'are unanimous in their desire for

the continuance of the franchise privileges [*sic*], since the granting of which, results have been manifested justifying the measure'.⁹⁴ After debating the issue the band council agreed: 'the privilege of voting at the Dominion election [should] be continued'.⁹⁵

The Liberals, however, never doubted the wisdom of their proposal. Although the implications for Indigenous voters were clear from the beginning, no major newspaper rose to their defence, and there is little evidence of the new Prime Minister Sir Wilfred Laurier being lobbied on the issue. There was, however, some debate within the parliament. 'I believe it is almost an unheard of thing for the franchise, once conceded, to be taken away from a people who have enjoyed it', remarked Ottawa-based Conservative member Sir Adolph Caron.⁹⁶ His colleague James Lister warned: 'Indians will remember [their disenfranchisement] as one of the greatest injustices ever perpetrated upon them by any legislature in this country'.⁹⁷ Tabling a petition from 276 of the 647 Indigenous voters on the Six Nations' Reserve, fellow-Conservative Charles Heyd moved an amendment to preserve the rights of those enfranchised under the old legislation, but the government responded by tabling a counter-petition signed by 354 Six Nations' peoples asserting again that the franchise had brought discord to the reserve.⁹⁸

The prime minister argued that it was the return of the right of provinces to set their own franchise that was the key issue, Indigenous disenfranchisement an unfortunate consequence. 'The right of voting is a local question, depending on the education of the people. And who is to determine that question? Is it not the legislature of each province?'⁹⁹ His colleague John Charlton reiterated the arguments he had advanced in the earlier debate. The Indigenous people of eastern Canada were not citizens but 'a class of the population . . . living in tribal relations' enjoying 'special rights' that other Canadians could not share. 'If I cannot have the tribal advantages of the Six Nations, I do not want the Six Nations to have a right to claim them', he declared. If they wanted to exercise the rights of citizenship, they had to abandon such 'advantages' and accept the responsibilities of citizens.¹⁰⁰ The Liberal view prevailed, and the Bill passed with minimal debate. Indigenous people wishing to exercise the franchise were once again dependent on the whim of provincial legislatures, none of which had followed the federal lead.

A return to separate nation status

A pamphlet extolling the virtues of Canadian democracy, published in 1899, demonstrates how effectively Indigenous peoples had been excluded from popular imaginings of the nation as the century came to

its end. A citizen, the author declared, was a person who has the privileges and the duties of the inhabitants of the state or nation in which they were born. In Canada, where the property qualification no longer applied, 'almost any man may have his name on the voter's list. The right of voting is not denied even to the ignorant.' In a country 'settled by an intelligent, an industrious, a sober and a law-abiding people', with 'no crowds of half-civilized immigrants' to threaten national harmony and 'no negro problem to be solved', race was not an issue in the franchise, from which only 'aliens . . . criminals, paupers, lunatics' were excluded.¹⁰¹

Where Macdonald's national franchise could be seen as an attempt to tame or contain the Indigenous vote, its repeal made their exclusion absolute. Provinces that had removed their property qualifications while the federal franchise Act was in place had simultaneously intensified restrictions on Indian participation. Ontario, for example, retained a property qualification for Indians who had satisfied the conditions set by the Gradual Civilisation Act for twenty years after manhood suffrage was adopted for the non-Indigenous population, in 1888.¹⁰² When the North-West Territories Act introduced representative institutions to the areas that, in 1886, would become Alberta and Saskatchewan, it had extended the franchise to all male residents or householders, but had excluded specifically 'Indians' and aliens.¹⁰³ While the legislation which returned the franchise to provincial control contained clauses prohibiting provinces from excluding from voting classes of otherwise qualified people, at the local level these clauses were not interpreted as applying to Indigenous people.¹⁰⁴

In the years before the reintroduction of a national franchise, in 1920, a similar pattern prevailed. While property qualifications were removed in all the remaining provinces by 1920, the legislation in Prince Edward Island (1913) and Quebec (1915) excluded 'Indians' domiciled or resident on a reserve. In the debates preceding the introduction of woman suffrage, the possibility, or threat, of its being extended to Indigenous women was not an issue. This silence made it possible for the franchise to be achieved first in the frontier provinces where there were substantial surviving Indigenous populations. Women in Manitoba, Saskatchewan and Alberta were enfranchised in 1916, followed by Ontario and British Columbia in 1917, Nova Scotia in 1918 and New Brunswick in 1919. The electoral imbalance this staggered extension of the franchise threatened to create compelled the national parliament to extend the federal franchise to all White women in 1918, two years before it resumed control of its own franchise.¹⁰⁵

Such a determined policy of exclusion served to strengthen the voices of Indigenous leaders striving for recognition of their status as

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separate nations rather than Canadian citizens. While individuals from the Six Nations' Reserve and representatives of the Grand Council of Indians of Ontario continued, up to and beyond the outbreak of the First World War, to petition for re-instatement of the franchise, their arguments were increasingly countermanded by those calling on the government 'to respect our Nationality, our rights, and liberties'.¹⁰⁶ Conditioned to think of themselves in this way, Canada's First Nations' peoples were reluctant to embrace full citizenship when it was offered, so belatedly, in the 1960s, preferring instead to look forward to a time when they would be recognised as one of the three national groups in which Canada had its beginnings, a situation in which differences as well as rights are to be respected.

Notes

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- 5 *Debates* (1885), pp. 1388–9.
- 6 *Globe*, 28 April 1885.
- 7 A. Prentice, P. Bourne, G. Brandt, B. Light, W. Mitchinson and N. Black, *Canadian Women: A History* (Toronto: Harcourt Brace Jovanovich, 1988), pp. 176–7.
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- 10 J. L. Granstein, I. M. Abella, T. W. Acheson, D. J. Bercuson, R. C. Brown and H. B. Neatby, *Nation: Canada Since Confederation* (Toronto: McGraw-Hill, 1990), p. 144; J. Lapoune and W. Saffran (eds), *Ethnicity and Citizenship: The Canadian Case* (London: Frank Cass, 1996), pp. 18–19.
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- 17 Donald Creighton, *John A. Macdonald: The Old Chieftain* (Toronto: Macmillan Company of Canada Ltd, 1965), p. 427; Joseph Pope, *Memoirs of the Right Honourable Sir John Alexander Macdonald, G.C.B. First Prime Minister of the Dominion of Canada* (Ottawa: J. Durie & Son, 1894), vol. 2, p. 246.
- 18 Ben Forster, Malcolm Davidson and R. Craig Brown, 'The Franchise, Personators, and Dead Men: An Inquiry into the Voters' Lists and the Election of 1891', *Canadian Historical Review*, 67:1 (1986), p. 20.
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- 21 *Debates*, 5 May (1880), p. 1991.
- 22 O. Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Toronto: Oxford University Press, 1992), p. 288; Malcolm Montgomery, 'The Six Nations Indians and the Macdonald Franchise', *Ontario History*, 57:1 (1965), p. 13.
- 23 *Globe*, 11 May 1885.
- 24 Smith, 'Aboriginal Rights a Century Ago', p. 5.
- 25 *Debates* (1885), p. 1484.
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- 27 *Globe*, 2 May 1885.
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- 34 *Ibid.*, p. 1574.
- 35 *Debates* (1880), p. 1990.
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- 39 *Debates* (1885), pp. 1504–5.
- 40 *Ibid.*, pp. 1549–51.
- 41 *Ibid.*, pp. 1503–4.
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- 45 *Ibid.*, p. 1563
- 46 *Ibid.*, p. 1575.
- 47 *Debates of the Senate of the Dominion of Canada* (1885), p. 1226 (hereafter: *Debates*).
- 48 See for example Mr Charlton, *Debates* (1885), p. 1523.
- 49 *Ibid.*, p. 1579.
- 50 *Ibid.*, p. 1542.
- 51 *Ibid.*, p. 1202.
- 52 *Ibid.*, pp. 1556–7, 1572.
- 53 *Ibid.*, p. 1525.
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- 101 J. Millar, *Canadian Citizenship: A Treatise on Civil Government* (Toronto: William Briggs, 1899), pp. 34, 36-7, 68.
- 102 *Statutes of the Province of Ontario* (1888), p. 11; Elections Canada, *History of the Vote in Canada*, p. 53.
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- 105 *Ibid.*, pp. 65-8. Women in Quebec were not enfranchised at the provincial level until 1940.
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CHAPTER SIX

Australasia: 'Australia for the White Man'

In 1908 the prominent Australian magazine *Bulletin* took as its mast-head the phrase 'Australia for the White Man'. It would prove a brief and pithy indication of the place that any man or woman of colour, including Aborigines, the first people of the land, would find in the newly federated Commonwealth of Australia. From the 1870s to the first decade of the twentieth century, settler governments in the Australasian colonies built on their foundation years in their treatment of Indigenous political rights in their political systems. The seven colonies – united by the Pacific region's proximity to numerous non-European societies, and apprehensive of in particular Chinese immigration and the imperialisms of non-British European powers – contemplated federating into one nation state. There were also causes for sharp divisions among them. Colonists in Western Australia among others felt that their interests differed in many respects from the south-eastern group, by whom they feared they would be dominated in a federation. This would come to the fore, as in Canada, when the issue of a uniform national franchise arose. New Zealand settlers, given their particular history, worried in particular about loss of control of Maori affairs. But they shared with the Australian colonies the conviction that men of European origin should remain in the driver's seat – aided by the admission of White women to the body politic.

In 1870, Earl Grey, who as secretary of state for the colonies from 1846 to 1852 had presided over the preparation of a number of Australasian constitutions, wrote in pessimistic vein to a friend then resident in New Zealand. He feared, he wrote, that the strong desire of settlers for manhood suffrage would work to the disadvantage of the colony. This rush to 'an ultra-democratic government in which the Maoris cannot be allowed their fair share of power, will not long abstain from giving them cause for discontent'.¹ New Zealand politicians had bought time by the temporary measure of creating dedicated Maori seats; but

they still faced the task of how to fit the Maori people into the extension of manhood suffrage to the White population. Despite the superficial liberalism of the 1867 Act, settlers wanting manhood suffrage for themselves would need to keep Maori in a marginalised situation. Queensland received manhood suffrage with its 1859 Constitution, but as a State with a large number of Indigenous people and increasing numbers of Pacific Island and Asian workers it would not be happy that these were formally included in the vote. Western Australia, late into the field in 1890 with a Constitution and responsible government, would share Queensland's anxieties for the same reasons. These concerns shaped the eventual emergence of two White Dominions and the character of Indigenous rights within them.

'Ultra-democratic government' and Indigenous rights

Humanitarians greeted with enthusiasm the news of Maori inclusion in the New Zealand parliament. Maori showed deep interest in the proceedings of parliament, they reported, even in remote villages, where political matters were heatedly discussed.² Similarly encouraging was that Maori representation led parents to take measures for their children's education in English. It was time, these parents thought, that some of the bright children should be selected for college and grammar schools to qualify them for the professions, and such institutions were forthwith established.³ Maori were, however, far more divided than such observations suggested over the appropriate tactics and strategies in the face of colonial invasion. The colonisers were similarly split. In 1870 the secret ballot was introduced in settler constituencies, but not in the separate Maori electorates, despite mutterings that the chiefs had too much sway over their people. In 1872 the House of Representatives voted to renew the four separate Maori electorates for a further five years, but turned down a Maori member's attempt to gain an extra seat. The governor the same year appointed two Maori to the Legislative Council, and the premier selected a Maori member for a position on the Executive, although only as an adviser.⁴ Settlers and Maori noted the changing demographic balance, as increasing numbers of immigrants arrived and subsequently had large families. Maori, by contrast, succumbed disproportionately to European diseases to which they had no prior exposure, while tragically high numbers of Maori infants aged less than twelve months died each year. Settlers' anxieties were slightly alleviated, while Maori anxieties increased as their power lessened.

In the meantime, consideration had to be given to the Maori minority that remained a formidable force. In the late 1870s, settler politicians finally confronted the tricky question of introducing manhood

suffrage. The key issue for parliament was how to have manhood suffrage and also respect the rights of property-holders, when there were so many Maori. They were now well behind their fellows across the Tasman. Manhood suffrage would seem to make separate Maori electorates, introduced when voting for settlers was through a property qualification unnecessary; but many settlers continued to agonise over a potentially hostile *bloc* Maori vote if Maori were integrated into White electorates. Some also wanted to keep a plural vote for White property-holders, while preventing Maori men from similarly utilising possible multiple landholdings.⁵ All this would require careful planning if Maori were not to be enraged. Sir George Grey, former governor and now premier, introduced the Electoral Bill, which initiated a long debate in the 1878 and 1879 sessions as to whether the dual Maori vote should continue. Sir John Hall suggested abolishing the dual vote in exchange for an increase in the number of dedicated Maori seats. Another member thought, by contrast, that special representation was not in itself a good thing, as it kept the races apart. Perhaps it was inevitable for the time being, since Maori were not ready for full voting equality with the Europeans? But the object should be to amalgamate the races within the same electoral provisions, adjusting over time as more and more voted as property-holders.⁶

In the Act passed in 1879 politicians resolved the matter by distinguishing between Maori and White voters. The Act enfranchised White adult males who had been residents for twelve months or more. The separate Maori electorates were to be continued, now indefinitely. A Maori man with a £25 freehold or on the ratepayers' roll could vote in an ordinary electorate. Whereas White property-holders could have plural votes in any number of electorates, Maori landowners, however much land they owned, were restricted to one settler electorate. Maori political contribution to mainstream politics through separate representation was now entrenched, and the Maori vote in the White electorates was halved.⁷

Through the 1880s, Maori politics continued most vigorously outside of the colonial parliament in Maori-only organisations, which attempted to deal directly with the British Government and the queen in whose name the Treaty of Waitangi was signed. King Tawhiao of the Waikato Confederation of Tribes continued to hold the line between Crown land and 'King Country' land in the central mountainous country of the North Island. He hoped for acceptance of Maori sovereignty over this district. He asked the government for a Maori Council of Chiefs to deal with land issues under the Treaty of Waitangi and Section 71 of the 1852 Constitution Act.⁸ In July 1883, the four Maori members of parliament, Wi Te Whero, Hone Mohi Tawhai, Henare

Tomoana and Hori Kerei Tairaoa, wrote to the APS in London seeking its support in holding the King Country as their own against the settler government's determination to open it to settlers. The secretary of the APS sent the letter on to the secretary of state, the Earl of Derby. It produced a debate in the House of Commons on the issue, during which Maori rights found many advocates;⁹ but, as usual, the British Government took the position that, under responsible government, this was a matter for the colonial parliament. As a New Zealand MP remarked, since the colonial government needed to command a majority in the House elected by the people, it 'has been perfectly impossible for any government to retain office and seek to carry out the obligations of the Treaty of Waitangi'.¹⁰

The parallel political organisation of chiefs and peoples who formed the *Kotahitanga*, or Maori parliament, had its first full-scale meeting in 1892 in the Hawke's Bay district. This group also claimed a right to separate control, under Section 71 of the 1852 Constitution. They debated land grievances, violations of rights to fisheries and other resources, and also the utility of the presence of Maori members in the White legislature. Some chiefs viewed their participation as collusion in the White authorities' oppressive laws; others suggested that they should take the membership more seriously, and campaign to elect their own members. One like-minded chief, Hone Heke, won the northern Maori seat, but found little sympathy in parliament when he tried to press for justice for Maori.¹¹

During the same decades, the 1870s to the 1890s, the settler governments of Queensland and Western Australia set out to eliminate the political rights of Aborigines even if for the majority of Aborigines these rights existed on paper only. Queensland, which enlarged its borders to incorporate the Torres Strait Islands in 1879, moved to disfranchise their Indigenous peoples, along with other men of colour (claiming to fear a 'flood' of Coloured migrants), on the grounds of race. In 1885 the Queensland Electoral Act included the clause: 'No aboriginal native of Australia, India, China or the South Sea Islands shall be entitled to be entered on the roll except in respect of a freehold qualification.' This was a property qualification that was seen in the Cape as a liberal measure, except that in Queensland, unlike the Cape, all White men automatically had the vote. The qualification was a prohibitive £100, making it extremely unlikely that any Aborigines could exercise the vote.¹² This near-disfranchisement of Aborigines was accepted by all sides of the Queensland parliament. A few Conservatives over the ensuing years pointed to the inconsistency of those who preached 'the natural rights of every man' yet seemed determined 'to deny the possession of those rights to other men because of their colour'.¹³ Equally

inconsistent was the labour representative who used the example of Maori women voting in New Zealand in his argument for female suffrage in Queensland, while supporting an amendment to continue the exclusion of all Australian Aborigines from the Queensland vote.¹⁴

But the conservatives were simply scoring rhetorical points; few, if any, were prepared to support an Aboriginal franchise. In 1895, a Queensland reformer, Charles Powers, challenged the conservatives when he declared: 'Is there a single member who would give votes to aborigines, Japanese, Chinese, Hindoos, negroes, and South Sea Islanders? I do not think there is one.'¹⁵ The Queensland parliament followed this in 1897 with the Aborigines Protection and Restriction of the Sale of Opium Act, under which Aborigines could be forcibly relocated to reserves where they were to live segregated from Whites, except for managers and missionaries. Their movements, employment, wages, marriages, child-rearing, associations with other Aborigines – every detail of their existence – came under the surveillance, and were subject to the rewards and punishments, of White administrators.¹⁶ Having removed their political rights, the colonial parliament now imposed on Aborigines a regime that denied their civil liberties.

The west eventually followed Queensland's lead. Western Australia had received representative government belatedly, in 1870, but had to wait a further twenty years for responsible government. This was an arid colony, not conducive to farming, its potential for minerals only slowly being uncovered. Its pastoral expansion was a tragic repetition of events elsewhere: the governor found himself in the late-1880s embroiled in a debate with the Colonial Office over extenuating circumstances whereby settlers could with impunity kill Aborigines found stealing stock.¹⁷ Self-government could not long be delayed, however, once the settler population had limped to a reasonable size. It came in 1890, with the inclusion of two significant provisions. Fearful of the settler government's mistreatment of Aborigines, the British Government reserved to itself the control of 'native affairs'. Second, it preserved political rights for both settler and Aboriginal men of property.¹⁸ To vote or stand for the Legislative Assembly, men needed to have owned for a year freehold property worth at least £100, or rented a house or had lodgings at a cost of at least £10 per year.¹⁹ In theory, once again, any Aborigine who could meet the property qualification – unlikely as that was in practice – could vote or stand for parliament. The settler population was just 48,500 in 1890, of whom 19,648 were women; the Aboriginal population, severely depleted by White occupation, was perhaps 25,000.²⁰ With a relatively small White population and a sizeable Indigenous population, the colony encouraged White immigration, to which the property franchise was seen to be an imped-

iment. Pressure to widen the electorate intensified when over 100,000 people, predominantly men, entered the colony in the wake of the gold strikes in Coolgardie and Kalgoorlie in 1893.²¹ Many politicians now sought to emulate the eastern states by moving to manhood suffrage.

In the sessions of 1892 and 1893, the Western Australian parliament considered manhood suffrage and, in the course of the debate, also the political rights of both Aborigines and women. Progressive politicians decried the existing property qualifications for electors, but their language showed that they were applying such principles of social justice to White men only. The representative for Geraldton, for example, declared that his respect for

[w]hat we may call an Anglo-Saxon expression of public opinion – it is honest, it is true, it is manly, and it is in the interests of democracy . . . [Everyone here knows] looking through the history of the Anglo-Saxon race – that the era of democracy in the Anglo-Saxon annals describes the happiest condition of the human race.²²

Another speaker criticised members who supported the maintenance of plural voting.

We all wish to attract capable and honest men to this country, and they certainly cannot be induced to add to their own material gain and to the material gain of the country if they are to be deprived . . . of the rights of citizenship, and are to be placed on the same level as the Chinaman or the wandering aboriginal.²³

Defending the property qualification, which he saw as achievable through hard work, one member described the franchise as ‘the boundary mark set between barbarism and civilization’.²⁴ The 1893 Constitution Amendment Act all but excluded Aboriginal men (along with migrant men of colour) from manhood suffrage for the Legislative Assembly, by continuing for them alone the property qualification; for this purpose, the classification ‘Aborigine’ was extended to men of mixed European–Aboriginal descent. Section 21 ran: ‘No aboriginal native of Australia, Asia, or Africa shall be entitled to be registered, except in respect of a freehold qualification.’ Section 26 declared: ‘In this Act the words “aboriginal native” shall include persons of the half-blood.’²⁵ Perhaps, with the eye of the British government still on them, the Western Australian government hesitated to remove this vestigial right for Aboriginal property holders

‘Mothers of the race’ should have the right to vote

In the Australasian colonies in the early 1890s a spirited debate on women’s political rights intersected with the debates on Indigenous

rights. With manhood suffrage in place, White women reformers had a case to promote votes for their own sex based on their rights as human beings.²⁶ Each of the Australasian colonies had its group of educated middle-class women, few in number but influential, who, taking their cues from English liberalism, entered public debate on 'the woman question'. A further grass-roots suffrage campaign emerged, originating in the – USA-inspired – World's Women's Christian Temperance Union, formed from an alliance of American and British temperance activists, heirs to an evangelical humanitarian tradition. The World's WCTU sustained an energetic interventionist agenda that its 'missionaries' took across the world, combining temperance with an advocacy of political rights for their sex:²⁷ voting in elections, even standing for political office, were both rights and responsibilities that women, representing the spirit of motherhood, should gladly assume.²⁸

Votes for women successfully passed through three Australasian colonial legislatures in the 1890s: New Zealand in 1893, South Australia in 1894; and Western Australia in 1899. The WCTU in New Zealand, inaugurated in 1885, had within two years appointed a franchise superintendent, and saw near victory in successive years from 1890. The issue would be decided by a majority vote in the two Houses, which included six Maori members: four in the House of Representatives and two who had been appointed to the Legislative Council. With organised political parties still in a nascent stage, even such a small number might prove crucial when a division in parliament was close. Through the duration of the suffrage campaign the White activists maintained a notable silence on Maori political rights. When suffrage was debated in the legislature, some Maori representatives raised doubts about enfranchising women. In 1892, Major Wahawaha, in the Legislative Council, expressed his surprise that the European men would propose such radical change, and voiced his scepticism about its value. The 'Natives in Olden Times' had upheld men's dominant position in rituals and religious rites: when war-canoes were made, when men were going to war, when ornamental buildings were erected, when blessing land to be fruitful. 'The women were not allowed to join in or interfere in these ceremonies', he said; 'if any women were present, they were not allowed to interfere, and it was taken as a bad omen if they did so.' All the tasks of women were useful, but none was sacred: 'This was the state of things when you arrived in these Islands', he told the White men, 'and when you came you introduced Christianity, and even then we saw that this same rule applied. No women were allowed to preach. There were no women ministers, neither did you allow them to appear in your assemblies.' It was only in the past few years that 'the voices of fanatical women' had been heard in the streets of the cities

and towns. As far as Major Wahawaha could tell, just about every law passed in parliament seemed to have some sting in it: perhaps this measure would prove burdensome for Maori women in ways they could not yet contemplate.²⁹

The doubting major had few kindred spirits. When one White parliamentarian asked whether Maori women were included in the Bill, the official reporter noted, the voices of the friends of Maori women rose in a roar.³⁰ Thus Maori women were enfranchised along with settler women, though not on equal terms: they would join Maori men in the four separate electorates.³¹ In the Maori *Kotahitanga*, women's participation was confined to attending and speaking. In 1893 Maori women associated with the Maori parliament raised the issue of their right to vote and to stand for election. In May 1893 a motion was put before the *Kotahitanga* by Meri Mangakahia of Te Rarawa, on behalf of the women, seeking the right to vote and to stand as members. She gave as a reason for seeking these rights that there were many Maori women, widows or with disabled male relatives, who owned or managed land. Moreover, Maori men's efforts to petition the queen about land had elicited no response – perhaps the women would be more successful. Maori women in many settlements had already constituted themselves into committees to establish guidelines for acceptable behaviour, including controls on drinking. Many of these committees merged into WCTU branches.³²

The New Zealand legislature's example was soon followed by South Australia in 1894. There, as in New Zealand, supported by the energetic WCTU, women's suffrage moved rapidly from its first serious mention in public debate to political reality. The Ladies' Social Purity Society declared that it saw women's enfranchisement to be 'absolutely necessary to the right fulfilment of her duties as a citizen, and to her moral, social, and industrial interests . . .'.³³ In South Australia women were enfranchised in 1894 and, unlike in New Zealand, received simultaneously the right to stand for political office. 'So long as half the human race was unrepresented our boasted representative government was a hollow mockery of an ideal which it did not even approach', said the Liberal member Dr Edward Stirling in the South Australian legislature. 'By what right did half the community set itself up as the judge of what was the proper sphere for the other half?'³⁴ The South Australian Act, which gave women the vote in 1894, also enfranchised Aboriginal women – but this went unremarked and largely unnoticed at the time.

White women in Western Australia received the vote five years later. The possibility of the women's vote surfaced first in the 1893 discussion of manhood suffrage. A motion to give the right to vote for the Legislative Council to property-holding single women, widows and

those women defined as *feme sole*, was narrowly defeated by 13 votes to 12.³⁵ A motion to give the vote to women, on the same terms, for the Legislative Assembly set off a long debate. The Premier Sir John Forrest found it nonsensical to introduce a property qualification for women in elections to the Assembly just as the government was abolishing it for (White) men.³⁶ On this occasion, and when the matter was aired again in parliament in 1899, those who discussed the merits of giving women the vote unambiguously saw these potential voters as White: the virtues or skills which they lauded in women were not those usually associated with Aboriginal women or migrant women of colour. As the editor of the *West Australian* wrote on 12 May 1899:

The humour of the exclusion reveals itself when it is recollected that every spendthrift, drunkard and debauchee, every creature who just stops short on this side of the asylum, is considered a fit subject for the franchise, provided he can claim to be of the male sex, while the purest, most intellectual, and most highly-educated of women, the being who manages the household, the trainer of the next generation, the person who, in all probability, keeps the home from falling to ruin, is stigmatised as less worthy of public privileges than the sot, the libertine, or the semi-idiot.³⁷

The class connotations of such pronouncements are clear. It is easier, perhaps, to overlook the grounding of such comparisons in racist distinctions. Indeed, women were promoted as the guardians not just of the family but of society itself. As the member for East Coolgardie, put it: 'We find that in western nations, where moral force is most recognised, women are most in the ascendant, and in raising the status of women we have also raised our own.'³⁸

The Constitution Amendment Act of 1899 extended the vote to 'every person' aged 21 years and over, who had resided in the colony and in the electorate for six months. 'Persons' included White women – but not Aboriginal women. The exclusion of Aborigines remained untouched, except for property-holders.³⁹ In effect, this Act enfranchised Aboriginal women who were property-holders, as the 1893 Act had Aboriginal men. Once again, this acknowledgment of Aborigines' existence was largely theoretical, given their economic plight.

A determination to sustain Australia as a White country, and a fear of people of colour, underwrote this positive attitude to the White women's vote in a colony where the dominant group were settlers or children of settlers. An examination of Australian suffrage activism reveals a complete neglect of Aborigines' rights. In 1897 the South Australian leader Elizabeth Nicholls, referring to the title 'Nation Builders' bestowed on the men of the Federal Convention, thought that the WCTU,

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the representatives of the organised motherhood and sisterhood of these large territories . . . are equally entitled to the name of "Nation Builders" . . . And unless Australia is federated in the interests of women as well as men, our national life will be one-sided, inharmonious and dwarfed.

But the great power and influence which she believed leading women reformers could exert she did not relate to the civil rights of Aborigines, men or women.⁴⁰

The creation of two White Dominions

The path by which Aborigines came to their position in the body politic in Australia by the beginning of the twentieth century intersects importantly with the arrangements made prior to 1901 for settler women. The existence of the women's vote in South Australia became a complicating feature of the settlement on political rights in the federal Constitution, negotiated through the 1890s, not only on women's but on Aboriginal rights. Indigenous issues also emerged as a complicating factor for federation, through the decision of New Zealand, despite its isolated situation and small population, to stay separate from the other Australasian colonies.

In October 1889 the NSW Premier Sir Henry Parkes promoted the desirability of the federation of the Australasian colonies in a speech he gave in the country town of Tenterfield. The British themselves had made such a suggestion on more than one occasion. Parkes now resurrected the idea at a point when enthusiasts for Empire were seriously proposing increased consultation between the mother country and settler colonies – even, perhaps, the formation of an imperial government. Bringing the Australasian colonies under a common authority, Parkes maintained, as had occurred in Canada in 1867 (and in South Africa, where it had failed disastrously, in the 1870s), would be an excellent scheme. Within the colonies, however, Parkes's views had a mixed reception. Nevertheless, in 1890 representatives from a number of colonies gathered to discuss the possible terms of such a federation, and such meetings continued at intervals throughout the 1890s. In these deliberations a common basis for political citizenship in the new Commonwealth emerged as an particular problem, driven in the main by the uneven political status of White women. The effort to place Aboriginal men and women within a common franchise inevitably also surfaced, strengthening the fears of Queensland and Western Australia especially about both the Aboriginal and other non-White migrant right to vote.

At the Melbourne gathering to discuss federation, in 1890, the two New Zealand representatives, Sir John Hall and Captain William

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Russell, respectively New Zealand colonial secretary and member of the House of Representatives, expressed little hope that New Zealand would wish join a federation. When Parkes moved a motion that the 'Australasian' colonies should federate, Russell persuaded him to substitute the word 'Australian'. Russell, with two other representatives, attended the Convention in Sydney the following year, at which it became almost certain that the New Zealanders would persist in their objections.⁴¹ New Zealand attended no more Federation Conventions after 1891, and few in the Australian colonies seriously courted them, although the new Constitution would eventually leave open the option of their joining at a later date. A number of concerns drove New Zealand's coolness towards federation, not least the suspicion that its colony would become the 'Cinderella' of the new Commonwealth. White New Zealanders felt a long way from Sydney and Melbourne, distinctive as New Zealanders under the protection of Great Britain.

But they saw also a fundamental problem about federation: the question of the Maori people. At the 1890 meeting, Russell was at pains to describe to the other politicians the vast differences between White New Zealanders' experiences of Indigenous people and those of Australians. The whole of New Zealand politics for years, he pointed out, 'had hinged almost entirely on the native question. That question destroyed more governments than anything else in New Zealand. All turned upon the necessity for keeping the natives at peace, and yet obtaining enough of their lands to further colonization.' He was happy to say that the day was past when there is any probability or possibility of another war occurring.

But one of the important questions for many years to come must be that of native administration, and were we to hand over that question to a Federal Parliament – to an elective body, mostly Australians, that cares nothing and knows nothing about native administration, and the members of which have dealt with native races in a much more summary manner than we venture to deal with ours in New Zealand – the difficulty which precluded settlement for years in the North Island might again appear. It is extremely improbable that hostilities would again break out between the natives and the white settlers, but the advance of civilization would be enormously delayed if the regulation of this question affecting New Zealand was handed over to a body of gentlemen who knew nothing whatever of the traditions of the past.⁴²

Politically, it was a near impossibility. The Australian colonies slowly came together to embark on federation, but New Zealand stayed out.

The reality of the women's vote in South Australia was a thorn in the side of the politicians pursuing federation as they established the processes for federation and negotiated the details of the Constitution. At

the Adelaide Convention in 1897, for example, delegates became quite confused as they discussed Section 128 of the Constitution. The debate centred on the majorities needed to carry a constitutional amendment in a referendum: a majority of states and a majority of the total electors of the whole country. But, it was objected, women had the vote in South Australia and nowhere else: would that not give South Australia an unfair advantage? Certain politicians from outside South Australia attempted to exclude South Australian women from the federal franchise, pending a subsequent more general review of the women's vote across all the states. South Australia's representatives argued that, if their political opponents did not want to include South Australian women only, then logically they could include all Australian women. But, they warned, if the women were excluded, South Australia would be likely to vote to stay out of federation altogether.⁴³

The Convention evidently feared that South Australian women, at least, might take this revenge. As a result South Australian women, along with the newly enfranchised Western Australian women, were enfranchised under Section 41 of the federal Constitution, which declared that anyone entitled to vote in a separate state in 1901 was also enfranchised federally. It ran: 'No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament or the Commonwealth.'⁴⁴ Those who drafted the Constitution thus compromised by protecting women's existing voting rights, but foreshadowing swift legislation in the new federal parliament to enfranchise women in all other states.⁴⁵

In terms of racial policy, the Constitution's stance was guarded. Most crucial for Aboriginal rights was a glaring omission: there was no declaration of human rights, which might have protected the Aboriginal minority in a country progressively dominated demographically by a White majority that had shown itself hostile to their interests.⁴⁶ The Constitution identified Aborigines twice in discriminatory ways. First, it excluded Aborigines from being counted in population statistics, which meant they would not be counted for the distribution of Lower House seats. (Even the authors of the American Constitution, in 1789, counted African-American slaves as 'three-fifths of a man' for that purpose.). The second discriminatory clause declared that the Commonwealth would legislate on issues relating to non-European immigrants, since settlers might well need the full force of their collective public power to cope with the feared influx of Asian neighbours into a country they now imagined as rightfully White; Aborigines, however, would remain the charge of the states.

Including White women, excluding Aborigines

In 1902, Richard O'Connor, a Senator from NSW, introduced a government Bill proposing a uniform franchise for the newly federated Australian nation, as the Canadian prime minister had attempted for the Confederation in 1885. The original Bill proposed a way through state discrepancies by introducing what O'Connor described as a measure of a 'generous nature' – 'the broadest possible franchise'.⁴⁷ It was, to all intents and purposes, a universal suffrage. As originally proposed, the Bill would have enfranchised both women and Aborigines. The women's vote passed easily, with politicians swayed by the range of arguments that had earlier persuaded their peers in South and Western Australia. At first many members failed to perceive that this universal franchise included Aborigines; even prominent figures in public office were unaware still that Aboriginal men formally had the vote in the south-eastern states and that therefore the women would follow them in this legislation. The reaction of some members was viciously racist:

Surely it is absolutely repugnant to the greater number of people of the Commonwealth that an aboriginal man, or aboriginal lubra or gin [woman] – a horrible, degraded, dirty creature – should have the same rights, simply by virtue of being 21 years of age, that we have, after some debate today, decided to give to our wives and daughters.

thundered Senator Alexander Matheson of Western Australia.⁴⁸ A Tasmanian member echoed him: would passing this Bill really mean that the vote would be extended to 'the numerous gins of the black-fellow'? The Aboriginal could not be claimed to have 'a very high intelligence . . . [and was unlikely to] cast his vote with a proper sense of the responsibility that rests upon him. And it can even less be claimed that the gins would give a vote which would be intelligible.'⁴⁹

Aboriginal men and women had their defenders, but they were outshouted. As in Canada, where the loudest objections to Indigenous citizenship came from the newly settled provinces of the west, it was the frontier states of Queensland and Western Australia that led the charge against the Commonwealth government's proposed enfranchisement of Aborigines. These members decried the Bill's 'generous' character with all the invective at their command. The Commonwealth government simply did not know what it was about. By enfranchising Aborigines, the Bill was endangering the frontier states: 'It is all very well for honorable senators to be benevolently inclined towards aboriginals and coloured aliens', complained Senator Glassey of Queensland, 'but that policy means letting loose a large number of persons who will be able to affect our elections in Queensland in a manner that will be detrimental to the interests of that State and of the whole Common-

wealth.⁵⁰ He disputed the idea that 'because there are not many of these people it is not worth while to quarrel about their enfranchisement', citing the 'far-reaching effect' that the enfranchisement of some 70,000 Aborigines in Queensland would have. Passing the Bill, he declared, would be 'antagonistic to the sentiments of public opinion in the State I represent'.⁵¹

A Western Australian senator argued that the Bill 'would be all right for Tasmania, where there are no blacks, and probably all right for such States as New South Wales or Victoria; but to give the vote to most of the aboriginals in Western Australia would be a very serious matter indeed'.⁵² Senator Matheson had already strongly articulated this point. 'This matter', he declared, 'will materially affect Queensland, the Northern Territory of South Australia, and WA.' He spoke of 'real old crusted conservatives' putting 'every one of these savages and their gins upon the federal rolls'.⁵³ The result, Matheson predicted, would be that 'the entire representation of that part of the country in the Federal Parliament will be swamped by aboriginal votes'; electorates would be 'flooded with aboriginal voters'.⁵⁴ He was brutally candid about his desire not to see 'a single coloured person' exercising the franchise who could be excluded from it.⁵⁵ His south-eastern colleagues imposed franchise disqualifications for those in receipt of charitable aid, which inevitably included many Aborigines on mission stations and reserves; surely this had 'exactly the same effect as a property qualification' in removing Aborigines from state electoral rolls?⁵⁶ The member for Perth reported that in the northern parts of Western Australia, 'the state of affairs is such that no democrat could for one moment tolerate the extension of the franchise to the aboriginals'.⁵⁷ Owing to the difficulties of identification, he argued, 'we should have no check on the number of times they might vote'.⁵⁸

What specific concerns did they air? For some it was the possibility of the 'conservative vote' in the outlying areas of Queensland and Western Australia enrolling 'all the blackfellows and manipulating their votes at election time'.⁵⁹ Nor were these fears confined just to Western Australian and Queensland politicians. John Watson, a member from NSW, agreed that in 'the more settled districts of the eastern coasts, the matter is of little importance, because the number of aboriginals is few, and they are scattered'. But Watson was anxiously concerned about the frontier states, where, he assumed, a 'vast number of practically uncivilised blacks' could be manipulated to 'turn the tide at an election'. While he argued that he had no objection 'in principle' to an educated Aboriginal voting 'on his own initiative', Watson voted to 'prevent these savages and slaves . . . in the northern and western portions of Australia, from running the electorates in the districts in which

they reside'.⁶⁰ Similarly minded representatives included even some of the nation's leading liberals who also revealed a racism that foresaw Aborigines as incapable of exercising the vote responsibly. Perhaps it was not surprising, given the rawness of frontier anxiety, that Senator De Largie (WA) should claim that the 'Western Australian aboriginal is altogether a different person from the aboriginal who is known upon eastern coasts', and that 'it would be as sensible to give votes to the lunatics in an asylum as to the aboriginals'.⁶¹ But such sentiments were not restricted to politicians from the west and the north: the eminent Victorian liberal Henry Higgins argued that it was 'utterly inappropriate to grant the franchise to the aborigines, or ask them to exercise an intelligent vote'.⁶² And another Victorian, Senator Styles, used terminology similar to that of his frontier counterparts when he expressed his distaste at the prospect of a 'piebald ballot box'.⁶³

At first, O'Connor appeared surprised at the outrage which his Bill had provoked, as well as reluctant to legitimise his colleagues' racial anxieties. In contrast to Matheson and others, O'Connor suggested that the number of Aborigines in Western Australia was 'comparatively trifling'.⁶⁴ Aborigines, he argued, were a 'failing race' – and where they were not failing, he added, they were becoming civilised, and thus 'quite as well qualified to vote as are a great number of persons who already possess the franchise'.⁶⁵ At first glance, this debate was all about numbers – could Aborigines threaten the dominance of White legislative rule? In citing a low and declining Aboriginal population, O'Connor was reminding the Senate of the pervasiveness of White colonisation. White Australia was a nation, he implied, which could afford some benevolence to its original occupants: 'Although no one could be more staunch than I am in the maintenance of the policy of a White Australia, I think we ought to carry out that policy with a certain amount of reason, humanity and common sense.' But perhaps the number of potential Aboriginal voters was less important than the symbolic threat of Aboriginal citizenship. That is not to overlook the specific concerns voiced by the frontier representatives. The apocalyptic nature of these predictions might suggest that these fears were somewhat over-determined. Members portrayed the mere potential of an Aboriginal vote as posing an overwhelming threat to the identity of a White Australia. This was particularly the case in Queensland and Western Australia, where the colonial frontier still operated powerfully in the settler imagination as a place of danger, risk and threat. This frontier, in the 1902 franchise debates, threatened to swamp the newly created Australian electorates, and only an extensive disqualification of the non-White vote could protect it. There was a clear shift in anxiety here, from earlier colonial imagining of the Aborigine as a murderous and vengeful subject who

had to be conquered, to the passive Aboriginal of the dying race theory who could be manipulated by others. Nevertheless, a sense of threat and anxiety remained, as well as the desire to keep a White Australia protected from an imagined Coloured contamination.

Some, like O'Connor, were willing to make a gesture of reparation. It would be a monstrous thing, he declared, 'an unheard of piece of savagery on our part, to treat the aboriginals whose land we were occupying in such a manner as to deprive them absolutely of any right to vote in their own country, simply on the ground of their colour, and because they were aboriginals'.⁶⁶ Senator Playford of South Australia agreed, describing Matheson's amendment as 'a heartless thing to do'. With startling clarity, Playford mused that it was 'absurd that we should say we are so frightened of the original inhabitants of this continent that we dare not allow them to vote'.⁶⁷ And yet this was exactly what transpired. A fear of the original inhabitants of Australia, and the threat of having to grapple with a shameful history of race relations, saw the Aboriginal people denied that most potent symbol of modern citizenship – the vote.

Senator Matheson urged amendment – 'we must take some steps to prevent any aboriginal taken at large, chosen anywhere, from acquiring the right to vote'.⁶⁸ He succeeded in having an inserted into the Franchise Bill that effectively excluded most Australian Indigenes from the national vote. This contentious clause was deleted as the Bill made its way to the House, whereupon it was re-introduced and ultimately passed by both Houses. The Commonwealth Franchise Act of 1902 excluded Aborigines in its effect. One clause read: 'No aboriginal native of Australia, Asia, Africa or the Islands of the Pacific, except New Zealand, shall be entitled to have his name placed on an Electoral Roll unless so entitled under section forty-one of the Constitution.'⁶⁹ Section 41 of the Constitution enshrined federal voting rights for those who legally had the vote in the states; when women became enfranchised for state elections, in 1902 in New South Wales, 1903 in Tasmania, 1905 in Queensland and 1908 in Victoria, those rights should have been extended.⁷⁰ Section 41 should similarly have protected the political rights of Aboriginal men in the south-eastern states, and of Aboriginal women in South Australia; but the Constitution was interpreted and bureaucratically implemented to remove them. In New Zealand, settler fears of men of colour had led to the incorporation of Maori men into the mainstream political system; hence Maori women could also be readily incorporated when the women's vote was on the agenda. In Australia, however, settler fears led to the exclusion of men of colour from mainstream politics at the very time that women's suffrage was on the national agenda; Aboriginal women inevitably suffered the same fate.

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6.1 New Zealand and the Commonwealth of Australia in 1901

The aftermath

It would be wrong to focus on the differences rather than the large degree of agreement that had emerged by the turn of the century between Australia and New Zealand. In 1901, Edmund Barton, a chief architect of Australian federation and the first prime minister of the Commonwealth of Australia, spoke before the New Zealand Royal Commission on Federation, set up to consider the New Zealand decision not to join. Both sides of the Tasman were moving rapidly to shut out Asian immigrants. On the question of the character of the permissible immigrant, he said, he took it that 'the ideas and sympathies of New Zealand and Australia are practically identical . . . our objections to alien races . . . are practically the same, and . . . we have the same desire to preserve the "European" and "white" character of the race'.⁷¹ In this the colonies – now just two separate entities, soon to be British Dominions – were in complete agreement. One of the earliest measures of the first Australian Commonwealth government was the Immigration Restriction Act of 1902 that imposed a dictation test in a European language (on a model first devised in Natal in 1897) for would-be

immigrants. A further Act sent home the South Sea Islanders whose work had made possible the development of the Queensland sugar industry. Aborigines faced a harsh future in this increasingly racist climate.

In Western Australia, soon after the near-exclusion of Aborigines from the Commonwealth electorate, the State followed Queensland's lead on 'protective' legislation. In 1904, serious allegations about the treatment and employment of Aboriginal people in the pastoral industry led to the appointment of a Royal Commission, which sat during 1904 and 1905. The Commission's report detailed physical and contractual abuses of Aboriginal employees, addressed the matter of the sexual abuse of Aboriginal women and recommended that administrative legislation be put in place to regulate the Aboriginal population. The Western Australian parliament immediately took up this last proposal, passing late in the same year An Act to Make Provision for the Better Protection and Care of the Aboriginal Inhabitants of Western Australia. The Act created an Aborigines' Department, defined who should be termed an 'Aboriginal', attempted further to regulate the employment and restricted the civil rights of Aboriginal people in a number of ways. It made the 'chief protector' the legal guardian of every Aboriginal child and children of mixed descent under 16 years of age, and allowed any Aboriginal person to be removed from or kept within the boundaries of a reserve or sent to another reserve. The 'chief protector' was empowered to take possession of the property of any Aboriginal person, to have the camps of Aborigines moved away from towns or municipalities, to prevent the supply of alcohol to Aboriginal people, and to regulate their possession of firearms, and issue certificates of exemption from the Act.⁷²

The rights of Aboriginal women were specifically targeted, in most cases because they were the bearers of the children of mixed descent, about which the parliamentarians were anxious. They were forbidden from going within two miles of any creek or inlet used by the boats of pearlers or other sea boats between sunset and sunrise; their marriages with non-Aboriginal men were made dependent on the permission of the chief protector; and non-Aboriginal men cohabiting or travelling with Aboriginal women were presumed guilty of an offence. Perhaps the cruellest clause was that which enabled the governor to make regulations enabling any Aboriginal child to be detained at an institution, which would focus particularly on children of mixed descent.⁷³ During the debates surrounding the Bill, a number of humanitarians protested at its rigour. Thomas Walker, a former journalist and member for Kanowna,⁷⁴ objected to the way in which the Bill was being rushed through parliament:

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Are hon[ourable] members without one tinge of pity for this race they are legislating for here? Have they no respect for humanity, because they are blacks? . . . Have they no earthly human rights, if they have no legal rights, in Western Australia? It is from the standpoint of humanity that I desire to deal with them.⁷⁵

But his pleas went unheeded by his colleagues.

In 1905 the Queensland government legislated to remove even the slight opening for Aborigines to vote afforded by the property qualification. In 1907 the Western Australian attorney-general introduced a Bill to develop Western Australia's electoral system. In moving the second reading, he said that it was necessary to keep to the fore the two great necessities in the case of all electoral law. The first was 'to afford the maximum of facility to all who are entitled to the franchise to become possessed of the franchise, and the second is to include in the measure safeguards of any necessary character against those who are not entitled to the franchise being on the roll'.⁷⁶ Aboriginal male and female property-holders were declared not entitled to vote. The relevant clause flatly decreed that 'no aboriginal native of Australia, Asia, Africa, or the Islands of the Pacific, or a person of the half-blood' could vote. It passed without discussion or debate. Now even the property qualification, something of a fiction though it may have been, was gone.⁷⁷

When Maori women were granted the vote alongside themselves, White female reformers moved with alacrity to mobilise them in their causes and strengthen their numbers and social range.⁷⁸ By contrast, suffrage activists and reformers in Australia did not raise the question of Aborigines' exclusion from rights in 1902. In 1900 the annual convention of the WCTU had set up a 'Department of Work with Foreigners and Aborigines', with a national convener, to give earnest encouragement to all state branches to become actively involved with these groups. This meant, in effect, that local branches initiated contacts with missions in ways supposedly kindly towards Aboriginal women as objects of charitable concern. In 1906 the national convention passed a motion which, for the first time, acknowledged human rights' abuses, and recorded the Union's 'deep sorrow and regret at the deplorable condition and treatment of aboriginal women in the northwest of Western Australia'.⁷⁹ Again, its answer was the promotion of more missions. Many of the evangelical activists were well intentioned, but their unshakeable belief that Aborigines' true needs were for protection, Christianity and education undermined their critical judgement. Their awakening to the oppressive circumstances that so many Aborigines faced awaited the interwar years.⁸⁰

In the meantime many Maori were far from certain of the utility of their participation in White politics. Maori continued to witness their

land shift into White hands at an alarming rate upon which parliamentary representation had scant impact. A columnist in the *Maori Record* in 1906 referred to the supposed Maori representation in the New Zealand parliament thus:

Let me clear away this lie . . . The natives never were represented from the time New Zealand came under the British Crown. What was far more discreditable, there was a farce, a feeble phantom, called "Native Representation". From the first till now it has been government and legislation for the Europeans, the native being used as a stalking horse, and his representative was a convenient cover for actions done in his name.

Maori representatives were so few that they had no potent voice in the government of New Zealand. There never has been any such thing as consulting the Maori or seeking their advice in the country's governance.⁸¹

Some took hope from the appearance of a group of Maori, the so-called 'Young Maori Party', educated at Christian boarding-schools, professional men. Apirana Ngata, the first Maori university graduate, won election for Eastern Maori in 1905. The anthropologist Peter Buck followed him into parliament in 1909, and Maui Pomare in 1911; (all three were knighted). James Carroll, the first Maori to be elected to a White seat in parliament (Gisborne, in 1893), had been an inspiration.⁸² They were reformists, and their path was fraught with negotiation and compromise. It was inconceivable that the likes of these talented, forceful and innovative Indigenous men could at that time have gained public office in any Australian state; and very few did so in any other settler colony. Their achievements should not be denied. But they were very few. It was probably White New Zealanders, rather than Maori, who took most pride in their achievements, seeing them as vindication of their pursuit of 'amalgamation' of the Indigenous people. Both Aborigines and Maori faced in the twentieth century the task of sustaining their cultures and asserting their rights from the position of impoverished minorities within first world countries, the undertaking of which trumpeted abroad their attachment to democracy, liberty and freedom.

Notes

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- 3 *Colonial Intelligencer*, January (1877), p. 349.
- 4 W. K. Jackson and G. A. Wood, 'The New Zealand Parliament and Maori Representation', *Historical Studies: Australia and New Zealand*, 11:43 (1964), p. 389.

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- 5 G. A. Wood, 'The 1878 Electoral Bill and Franchise Reform in Nineteenth Century New Zealand', *Political Science*, 28:1 (1976), pp. 41–58.
- 6 *New Zealand Debates in Parliament* (House of Representatives), vol. 33 (1879), p. 20 (hereafter: NZDP), quoted in Jackson and Wood, 'The New Zealand Parliament and Maori Representation', p. 390.
- 7 See Wood, 'The 1878 Electoral Bill'; Raewyn Dalziel, 'The Politics of Settlement', in W. H. Oliver (ed.), *The Oxford History of New Zealand* (Oxford: Oxford University Press, 1981).
- 8 Ranginui Walker, 'The Maori People: Their Political Development', in Hyam Gold (ed.), *New Zealand Politics in Perspective* (Auckland: Longman, 1992).
- 9 *Colonial Intelligencer*, November (1885), pp. 251–2.
- 10 *Colonial Intelligencer*, July (1883), p. 66.
- 11 Walker, 'The Maori People', p. 384; see also K. Sinclair, *Kinds of Peace: Maori People After the Wars, 1875–85* (Auckland: Auckland University Press, 1991), pp. 86–98.
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- 13 *Queensland Parliamentary Debates*, vol. 70 (1893), p. 1014 (hereafter: QPD).
- 14 QPD, vol. 71 (1894), pp. 464–8.
- 15 QPD, vol. 74 (1895), p. 1333.
- 16 Chesterman and Galligan, *Citizens Without Rights*, pp. 39ff.
- 17 See correspondence between the governor and the Colonial Office 1889–90, Colonial Office Papers, PRO.
- 18 Anna Haebich, *For Their Own Good: Aborigines and Government in the Southwest of Western Australia, 1900–1940* (Nedlands: University of Western Australia Press, 1988), p. 51.
- 19 An Act to Confer a Constitution on Western Australia, 1890 (WA).
- 20 Commonwealth Bureau of Census and Statistics, *Official Yearbook of the Commonwealth of Australia*, no. 3 (Melbourne, 1910), pp. 112–13.
- 21 R. T. Appleyard, 'Western Australia: Economic and Demographic Growth, 1850–1914', in C. T. Stannage (ed.), *A New History of Western Australia* (Nedlands: University of Western Australia Press, 1981), p. 211.
- 22 *Western Australian Parliamentary Debates*, vol. 4 (1893), p. 97 (hereafter: WAPD).
- 23 *Ibid.*, p. 439.
- 24 WAPD, vol. 1 (1891), p. 13.
- 25 The Constitution (Amendment) Act, 1893 (WA).
- 26 Audrey Oldfield, *Woman Suffrage in Australia: A Gift or a Struggle?* (Melbourne: Cambridge University Press, 1992).
- 27 Ian Tyrrell, *Woman's World, Woman's Empire: The Woman's Christian Temperance Union in International Perspective* (Chapel Hill and London: University of North Carolina Press, 1991).
- 28 See Janet Zollinger Giele, *Two Paths to Women's Equality: Temperance, Suffrage and the Origins of Modern Feminism* (New York: Twayne Publishers, 1995); Ruth Bordin, *Frances Willard: A Biography* (Chapel Hill: University of North Carolina Press, 1986); Suzanne M. Marilley, *Woman Suffrage and the Origins of Liberal Feminism in the United States, 1820–1920* (Cambridge, MA: Harvard University Press, 1996).
- 29 NZDP (Legislative Council) (1893); see also Raewyn Dalziel, 'An Experiment in the Social Laboratory? Suffrage, National Identities and Mythologies of Race in New Zealand in the 1890s', in I. Fletcher, L. Mayhall and P. Levine (eds), *Women's Suffrage in the British Empire: Citizenship, Nation and Race* (London and New York: Routledge, 2000), pp. 87–102.
- 30 *Auckland Star*, 9 August 1893, p. 2.
- 31 See Patricia Grimshaw, *Women's Suffrage in New Zealand*, rev. edn (Auckland: Auckland University Press, 1987) and 'Women's Suffrage in New Zealand Revisited: Writing from the Margins', in Caroline Daley and Melanie Nolan (eds), *Suffrage and Beyond: International Feminist Perspectives* (Auckland: Auckland University Press, 1994).

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- 32 *Ibid.*; see also A. Else (ed.), *Women Together: A History of Women's Organisations in New Zealand* (Auckland: Auckland University Press, 1993).
- 33 Quoted in Oldfield, *Woman Suffrage in Australia*, p. 26.
- 34 Quoted in *ibid.*, p. 23.
- 35 *WAPD*, vol. 4 (1893), p. 148.
- 36 *Ibid.*, pp. 166–7.
- 37 *West Australian*, 12 May 1899.
- 38 *WAPD*, vol. 12 (1898), p. 1205.
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- 48 *Ibid.*, pp. 11580–1.
- 49 *Ibid.*, p. 11977.
- 50 *Ibid.*, p. 11596.
- 51 *Ibid.*
- 52 *CPD*, vol. 10 (1902), p. 13003.
- 53 *CPD*, vol. 9 (1902), p. 11582.
- 54 *Ibid.*
- 55 *Ibid.*, p. 11468.
- 56 *Ibid.*, p. 11467.
- 57 *Ibid.*, p. 11979.
- 58 *Ibid.*
- 59 *Ibid.*
- 60 *Ibid.*, pp. 11975–7.
- 61 *CPD*, vol. 10 (1902), p. 13004.
- 62 *CPD*, vol. 9 (1902), p. 11977.
- 63 *Ibid.*, p. 11561.
- 64 *Ibid.*, p. 11584.
- 65 *Ibid.*, p. 11453.
- 66 *Ibid.*, p. 11584.
- 67 *Ibid.*, p. 11592.
- 68 *Ibid.*, p. 11467.
- 69 See Stretton and Finnimore, 'Black Fellow Citizens'.
- 70 Oldfield, *Woman Suffrage in Australia*.
- 71 Philippa Mein-Smith, 'New Zealand', in Helen Irving (ed.), *The Centenary Companion to Australian Federation* (Melbourne: Cambridge University Press, 1999), p. 402. See: James Bennett, 'Maori as Honorary Members of the White Tribe', *Journal of Imperial and Commonwealth History*, 29:3 (2001), pp. 33–54.
- 72 An Act to Make Provision for the Better Protection and Care of the Aboriginal Inhabitants of Western Australia, 1905 (WA).

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- 73 The history of the impact of these regulations on the lives of Aboriginal women is beyond the scope of this book. See Haebich, *For Their Own Good*; McGrath, 'Beneath the Skin'; and Christine Choo, *Mission Girls: Aboriginal Women on Catholic Missions in the Kimberley, Western Australia, 1900–1950* (Crawley: University of Western Australia Press, 2001).
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- 80 See Marilyn Lake, *Getting Equal: The History of Australian Feminism* (Sydney: Allen & Unwin, 2000); Fiona Paisley, *Loving Protection? Australian Feminism and Aboriginal Women's Rights, 1919–39* (Melbourne: Melbourne University Press, 2001).
- 81 *Maori Record*, 1 November 1906, pp. 44–5; see also Nicolas Peterson and Will Sanders, *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities* (Melbourne: Cambridge University Press, 1998).
- 82 James Belich, *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000* (Auckland: Allen Lane, 2001), p. 200; see also: Ranginui Walker, *He Tipua: The Life and Times of Sir Apirana Ngata* (Auckland: Viking, 2001).

CHAPTER SEVEN

South Africa: saving the White voters from being 'utterly swamped'

For the first seventy years of the nineteenth century, British governments had been reluctant to extend their involvement in South Africa beyond the coastal colonies of the Cape and Natal. By the 1870s, however, important economic and political developments in South Africa prompted Britain to act in consolidating its interests throughout the Southern African region. These developments had significant consequences for the Indigenous populations of the area, for the British colonies and the Boer republics, and for the remaining independent African polities which had not yet succumbed to colonial rule.

The effects of the 'mineral revolution' and Carnarvon's federation scheme: from 1869

The situation which had obtained in most of South Africa for the middle decades of the nineteenth century began to change rapidly from the 1870s, with the impact of the 'mineral revolution', and Carnarvon's federation scheme. The 'mineral revolution', briefly, comprised the discovery and exploitation of the substantial diamond fields in and around what became the town of Kimberley in the northern Cape from 1869; and the exploitation of the even more substantial gold reef on the Witwatersrand ('the Rand' for short) in the southern Transvaal from 1886.

The 'mineral revolution' transformed the economic, social and political situation of South Africa over the next three decades. Major new towns – Kimberley on the diamond fields, Johannesburg and the towns of East and West Rand on the goldfields – rapidly developed. The men in charge of the new mines established a pattern of work practices which was to shape South Africa's mining industry, and much of its economy, in the twentieth century. The mines themselves became dominated by just a few well-capitalised large companies, which agreed

among themselves the basics of their labour policies. Skilled and supervisory work were reserved for Whites; unskilled and heavy manual work were restricted to Africans – most of them migrants to the mining towns from elsewhere in Southern Africa – who were locked up in compounds under the draconian discipline enforced by the mining companies.

Rapid exploitation of this new mineral wealth made the interior of South Africa, for the first time, economically attractive to the British and colonial authorities, and led to a renewed British and colonial push into the interior. When, in 1871, Lieutenant-Governor Keate of Natal awarded political sovereignty over the area of the diamond diggings to the Griqua Chiefdom of Nicholas Waterboer, Waterboer promptly asked for British protection. Britain annexed the area in 1871; and in 1880, under the name of Griqualand West, Kimberley and the diamond fields became part of the Cape Colony, which thus expanded significantly northwards into the interior. The diamond revenues also added a significant boost to the Cape's colonial finances.

The federation scheme of the 1870s was an ambitious attempt by Lord Carnarvon, Conservative colonial secretary, to follow up the Canadian Confederation of 1867 by producing a similar federation of the major political units in South Africa. The scheme failed, but not without having a dramatic political and military impact on South Africa. The 'mineral revolution' and the federation scheme together reshaped the political geography of South Africa within three decades. By the end of the nineteenth century, the separate African polities had almost entirely disappeared under some form of European colonial jurisdiction, and Britain was also directly threatening the independence of the two Boer republics (see Map 7.1).

These results can be summarised as follows. The Basotho Kingdom, whose independence was seriously threatened in the second of two wars with the Boer republic of the Orange Free State, appealed for British protection. In 1868, it was annexed to the Cape, but colonial misgovernance led to a Basotho revolt; in 1884, it was removed from the Cape and became the separate protectorate of Basutoland (now Lesotho), under direct British rule. Meanwhile, in 1877, Carnarvon sent Theophilus Shepstone to annex the Transvaal, as part of his federation scheme. During the four years that Britain governed the Transvaal, it used British military power to break the Pedi polity in the northern Transvaal and bring it under White authority. In 1880, the Afrikaners of the Transvaal rose up in revolt, in what became the first Anglo-Boer War, of 1880–81. The outcome was that the Transvaal, by the Pretoria Convention of 1881 and the London Convention of 1884, regained almost complete independence under a nominal British 'suzerainty'.

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High Commissioner Sir Bartle Frere forced a major war on the Zulu Kingdom. Despite an initial British disaster, the Zulu were militarily crushed. By 1887, Britain had broken up Zululand into rival areas, and by 1897 most of it was incorporated into Natal.

The Tswana Chiefdoms, in the north-west, appealed for British help in trying to deal with incursions by White farmers from the Transvaal. In 1885, Britain annexed the chiefdoms south of the River Molopo; in 1895, they too were incorporated in the Cape Colony, which now extended its territory even further north to Mafeking on the western borders of the Transvaal. In 1895, Britain took over directly the Tswana Chiefdoms north of the River Molopo, to form a second British protectorate – Bechuanaland (now Botswana). The Swazi Kingdom became a protectorate of the Transvaal Republic in 1894. After the South African War, when Britain granted self-government to the Transvaal, in 1906, Swaziland was removed from the Transvaal to become the third and last of Britain's protectorates in Southern Africa.

The cumulative results of these political moves were crucial to the future of South Africa. When gold was discovered on the Rand, in 1886, it was within a Transvaal again under Afrikaner republican governance and not under British rule. The struggle between Britain and the Transvaal over the control of the gold fields and the massive wealth which they represented led directly to the South African (or second Anglo-Boer) War of 1899–1902. And, by the time that war broke out, in October 1899, the independent African polities of South Africa had gone – they were all now under the rule of the Cape, Natal or the Transvaal, or else under direct British rule. However, we need to consider first what was happening to Indigenous (and other 'non-White') political rights in the two British colonies – the Cape Colony, which was expanding its political authority over a growing area of the South African interior, and Natal, which also expanded its authority into Zululand.

Changes in the Cape Colony: c.1870–99

In 1872, the Cape received full responsible government, on the same franchise as that introduced in 1853 – any adult male could qualify for the vote, provided that he was a British subject and he occupied, for at least twelve months, property worth £25 a year, or had an income of £50 a year (or £25 a year with board-and-lodging provided). There was no educational or literacy test to complement the property qualification.

Prior to 1870, the non-European electorate in the Cape had been essentially a Coloured one, mainly in the western Cape. But the annex-

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ation first of the Ciskei, in 1866, and then, from 1877, of the Transkei and its formal incorporation into the colony in 1885, increased substantially both the size and the proportion of the African population of the colony. In 1860, the colony's population comprised about 314,000 Africans and 180,000 Whites, a ratio of less than 2 to 1. By 1891, the Africans had almost quadrupled in number to 1.148 million, while the Whites had only doubled to 376,000 – a ratio now of 3 to 1. Furthermore, the expansion of the colony's borders to take in the Xhosa-speakers of the eastern Cape opened up the possibility of qualified men among them registering for the vote. In the 1880s, they began to register in large numbers, drawn mainly from the 'respectable' mission-educated elite, particularly among the Mfengu people. African voters were never to amount to more than a small percentage of the total voters' roll in the Cape Colony; but their numbers were important in particular constituencies, in the eastern and northern Cape, including the diamond town of Kimberley, where Cecil Rhodes had made his fortune.¹

Settler fears of 'swamping'

From the mid-1880s, the mission-educated Christians began to organise the African vote and to use it as a political weapon in the Cape elections. John Tengo Jabavu, a teacher and Methodist lay-preacher, founded the Xhosa-language newspaper *Imvo Zabantsundu* ('Native Opinion') in Kingwilliamstown in the Ciskei, in 1884. He argued that the Africans should not identify themselves with a particular political party or programme, but should acquire access to, and influence with, significant MPs and ministers by organising their vote in a few key constituencies in which they could hold the balance of power.²

The increasing proportion of Africans in the Cape population, and the potential for growing numbers of them in the Transkei to register for the vote and use it, alarmed many White politicians. In 1877, Gordon Sprigg, a future prime minister of the Cape, explicitly defended the African vote as a 'safety-valve, from which no "evil" had arisen': 'the Parliament and the country did not suffer from the Native vote'. He went on, with a surprising degree of frankness:

I will not now go into the large question of the difference of race and the causes of the superiority of one race to another; but it is my opinion that the black man here distinctly recognizes the superiority of the white man, and that for a very long time to come, perhaps for ever, the recognition will prevail to such an extent as to leave the representation in the hands of men of European descent. It is, in my opinion, extremely dangerous under a representative Government to establish the principle that the larger part of the population shall have no voice in the councils of the

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country. The true way to remove discontent is to provide a channel for its true utterance. It is the recognition of the soundness of this principle that has been at the bottom of many Reform Bills that have received the assent of the British Legislature. It is the refusal to recognise it that has led to so much disturbance and rebellion on the continent of Europe. Under Parliamentary Government representation is your safety-valve. Tie down your safety-valve and there is an explosion.³

Ten years later, however, Sprigg, as prime minister, passed an Act that substantially restricted the scope of that 'safety-valve'. One reason for this was the Afrikaner Bond – a political organisation established to represent the interests of White Afrikaner farmers; under the leadership of Jan Hofmeyr, it became a political force in the Cape parliament in the 1880s, and began to press for measures to curb the numbers of African voters.⁴ Despite his preference for not aligning with any political party, Jabavu naturally distrusted the Afrikaner Bond because it wanted to restrict the power of the African vote; he tended to favour a few English-speaking White Liberal MPs. In 1887, Jabavu told his *Imvo* readers: 'History shows unmistakably that the votes of the natives have been used discreetly in the best interests of the country and of civilization, and that they have steadily and consistently been employed to strengthen the English or the party of right and justice in the House.'⁵

Pressures to restrict the franchise in the Cape

Bond pressure in parliament produced Sprigg's Parliamentary Voters' Registration Act (1887), which made it more difficult for Africans to register for the vote. It extended the franchise to the Transkei – but excluded from the property qualification for registration as a voter 'sharing in any communal or tribal occupation of lands, or place of residence'.⁶ Cecil Rhodes, the millionaire whose De Beers company dominated the diamond town of Kimberley, was an MP representing the constituency of Barkly West; though in opposition, Rhodes joined the Bond in speaking in favour of the Bill. He stated that the Cape had previously allowed too many Africans to vote, but must now change; Africans should still be able to qualify for the vote, but not those living on communal tenure. Giving Maori the vote in New Zealand, he claimed, had proved a failure; on the other hand, Natal had effectively disfranchised its Africans and Indians, and the Cape should do the same. 'We have got to treat natives, where they are in a state of barbarism, in a different way to ourselves. We are to be lords over them . . . The native is to be treated as a child and denied the franchise.'⁷

Jabavu and other African activists organised a campaign of petitions and protests against the Bill, calling it a 'Bill to Muzzle the Natives'. Two chiefs and eight other Mfengu from the Oukraal location in

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Queenstown in the eastern Cape, stressing their loyalty and their long record as 'allies of the British Government' in fighting the Xhosa at the frontier, petitioned the queen to prevent them losing their vote and being 'handed over and sacrificed to their old enemy the Dutch'.⁸ But the protests failed to prevent it becoming law, and petitioners' fears that, despite the regressive proposals of the settler MPs, there would be 'no further imperial interference so far as . . . natives are concerned' would prove to be well-founded. At a stroke, this Act disfranchised about 20,000 voters, mostly Africans; one-third of the African voters of the eastern Cape lost their votes. Xhosa-speakers called the Act the *tung' umlomo* (the 'sewing up of the mouth'). Jabavu responded by organising local political groups to encourage Africans to register, which kept their numbers up; in 1891, in twelve eastern Cape constituencies, Africans still comprised 30 per cent of the electorate, and in another ten constituencies they formed 20–29 per cent. At the 1890 election, Africans still strongly influenced the election of one-sixth of the parliament's MPs.⁹

Following that election, the Bond renewed its pressure for measures to restrict the African vote; their leader, Jan Hofmeyr, argued that Africans were rapidly becoming the overwhelming majority of the Cape population; without some increase in the voting qualification, 'the white population . . . would be utterly swamped'.¹⁰ Rhodes became prime minister with Bond support in 1890, and responded with the Franchise and Ballot Act (1892). This raised the property qualification by 200 per cent, from £25 to £75 a year, and added a basic literacy test requiring a voter to be able to write name, address and occupation. The colonial literacy rate then was: about 26 per cent for Coloured people; 11 per cent for Africans in the more settled areas; and only about 4 per cent for Africans in the frontier parts of the eastern Cape. The Act targeted tribal Africans of the Transkei (called derogatorily 'blanket Kaffirs': their tribal status was visible in their attire of coloured blankets rather than Western clothes). Jacobus Sauer, a minister in Rhodes' cabinet, defended the Act as removing the vote from 'the blanket Kafir, who did not work himself but sent his wife out to work for him'. In the debate on the Bill, Rhodes stated that the Cape had previously allowed too many Africans to vote; now they must exclude from the vote those living on communal tenure. He highlighted existing discriminatory franchise practices in colonies with mixed populations, under either Britain or responsible government – Natal, Griqualand West, Canada and New Zealand. Giving Maori the vote in New Zealand, he claimed, had proved a failure: although New Zealand had two Maori in the Council and two in the Assembly, it must be remembered 'that the Maories [*sic*] were reduced from 250,000 to a population of 40,000, so

that there was no practical danger, the Maories being a fading race'.¹¹ More than 10,000 Coloured voters petitioned against the Bill,¹² but it passed the parliament easily, with a two-thirds majority, and reduced the African and Coloured voters from about 24 to 20 per cent of the Cape electorate.¹³ The Cape governor advised Britain not to interfere in local matters; and, despite misgivings about laws restricting the franchise, Colonial Secretary Ripon agreed not to intervene and 'to abstain from advising Her [Majesty] to disallow the Act'.¹⁴

This effect was compounded two years later by the Glen Grey Act (1894), a product of Rhodes's second term as prime minister. The Act laid down that land held by African families in the Glen Grey Reserve could be held only on individual, rather than communal, tenure, thus drastically restricting the amount of land which each family could own. Since individual tenure would normally qualify men for the vote, it specifically excluded land held under Glen Grey title from qualifying for the vote. Africans again protested and petitioned – and again they did so in vain.¹⁵

So, in the years leading up to the outbreak of the South African War, Cape politicians, afraid of the White voters being 'utterly swamped' electorally by the African vote, had substantially restricted the access of Africans to the franchise. There were three specific changes: the trebling of the property qualification from £25 to £75 a year, plus a literacy test; the disqualification of communal tenure as a means of satisfying the property qualification; and the disqualification of even individual tenure as a means of satisfying the property qualification if the land was held in the Glen Grey district. These restrictions limited both the number of Africans currently qualifying for the vote and the number who could qualify in the future.¹⁶ Yet – despite the expressed wishes of a number of White politicians – the colony had not retreated from the fundamental principle of the original Cape franchise of 1853, that it should not be based on an overt racial or colour distinction. Neither the Afrikaner Bond nor Rhodes (despite his admiration for Natal effectively disfranchising its Africans and Indians) had tried to remove this principle, although one should not underestimate the strategic advantages of maintaining a rhetorical commitment to inclusiveness while actively promoting its limitation in practice.

Political considerations in the Cape

Rhodes's organising of the Jameson Raid, at the end of 1895, to try to seize the Rand gold mines lost him both the Cape premiership and the political support of the Afrikaner Bond. In attempting a political comeback, in the new Progressive Party, Rhodes was now prepared to court African and Coloured political support. In the hard-fought 1898

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election, Rhodes used a phrase which he was to repeat and claim had always been his policy: 'Equal rights for every civilised man south of the Zambesi'. A 'civilised man' he defined as any man, White or Black, 'who has sufficient education to write his name, has some property, or works. In fact, is not a loafer.'¹⁷ African political organisations, over the next decade, found it convenient to use this phrase, with Rhodes's prestige, to support claims to the vote. In 1891, a group of eastern Cape Africans set up the South African Native Congress (SANC), as a rival organisation to Jabavu's; Rhodes helped finance SANC's newspaper *Izwi Labantu* ('Voice of the People'), established 1897, in return for SANC's political support of his Progressives. This re-orientation, in turn, pushed Jabavu's organisation and newspaper into an alliance of strange bedfellows with the Bond.¹⁸ When the South African War broke out in October 1899, the Cape political scene was divided in numerous ways – but these were political divisions, not a simple division along racial lines.

In 1909, of a Cape electorate of 142,000, 10 per cent was Coloured and nearly 5 per cent African. In several constituencies, African and Coloured voters' numbers continued to be sufficient to compel the candidates of the White parties to court their votes and exercise some influence on legislation. In theory, registered Coloured and African voters could also stand for parliament – though no African or Coloured man was ever elected to the parliament of the Cape Colony. In 1902, Coloured voters founded the African Political Organisation (APO) to advance Coloured political interests. Dr Abdullah Abdurahman, who became president of the APO in 1905, was elected to the Cape Town City Council in 1904, and to the Cape Provincial Council in 1914 – the only 'non-White' person ever to be elected to a political position in the Union of South Africa.¹⁹

The optimistic view of the Cape franchise and what it could mean for Africans in the future was put by Sol Plaatje. Plaatje, a Tswana man born in the Boer republic of the Orange Free State, had received a basic mission education and thereafter had educated himself further. In 1894, he moved to a job in the Post Office in Kimberley. Plaatje fluently spoke and read English, Afrikaans and German, as well as at least three African languages; in Kimberley, he found himself part of an educated African elite, mostly missionary-educated Xhosa-speakers from the eastern Cape, who used their literacy skills to get clerical positions. As Kimberley was in the Cape, they were all qualified for, and took seriously their exercise of, the vote.²⁰ This made them strong supporters of the British Empire and of the Cape Colony against the Boer republics, which offered no such political rights to Africans. Like the 'Young Maori Party' in New Zealand, they saw this gradual assimilation into

the White political process to be the best route for Africans to pursue. Their optimistic liberal scenario was that more Africans would gradually qualify for the Cape franchise, and would gradually be integrated into the political system without any dangerous shocks. As the Cape White liberals suggested, Africans under British colonial rule might hope for a gradual enfranchisement similar to that which British working-class men had experienced progressively over the course of the nineteenth century. These hopes, however, were to be severely disappointed.

Changes in Natal: from c.1870 to 1899

Natal governments and parliaments, in the 1870s and 1880s, continued to manipulate the formally non-racial franchise to make it difficult for Africans to qualify and register as voters. African groups organised politically to try to change the policy or secure their own enfranchisement – but they tended to do so within a narrow constitutional framework, which did not challenge the fundamental basis on which the Natal government acted. As previously outlined, an 1864 Act had allowed an African to petition the governor to be exempted from customary ‘Native Law’, provided he could prove that he owned property, could read and write, and took an oath of allegiance to the Crown. The governor had full discretion to grant the petition – in which case, the African would become subject to colonial Common Law instead of Native Law – or refuse it. In 1880, eighteen Africans, who had been exempted from Native Law, petitioned the Legislative Council to enjoy the same rights as their White fellow-subjects. The petitioners stated that, although they accepted their disqualification from the franchise under the 1864 Act – and submitted ‘contentedly’ to having no voice in government, as they did not ‘well understand’ the matters on which the Council deliberated – they were concerned that their children should ‘be in a position by education’ to vote in the future. The petitioners made these concessions in traditionally respectful language, complaining only that ‘the Government . . . refuses them the assistance in educating their children which it extends to their wiser and richer white fellow-subjects’.²¹

As this petition suggested, the Natal government continued to manipulate the theoretically colour-blind franchise to exclude almost all Africans; this did not change when responsible government was granted in 1893. By the end of 1908, about 1,800 Africans had been exempted from Native Law – but apparently only six of them had acquired the right to vote. The under-secretary for native affairs stated, in December 1906, that only three Africans had been granted the fran-

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chise, and that, to his knowledge, another three had been refused it.²² This outcome shows some similarities with the political position of the Indigenous population of Canada in this same period.

The Indian 'threat'

By the 1890s, the White voters and the government of Natal were more concerned with what they saw as the threat from the other 'non-White' community in the colony – the growing Indian population. Indian immigrants to Natal, initially as indentured labourers to work in the sugar cane plantations, had begun arriving in 1860; from 1870, most of the people from this group chose to stay on in the colony, with small grants of land. They became an important part of the Natal economy, as farmers growing fruit and vegetables, as shopkeepers, traders, artisans and craftsmen. Their number grew rapidly: in the 1890s, they totalled about 40,000, almost equal to the number of Whites; by 1911, they outnumbered the White population of Natal. Once there was a permanent and growing Indian community in Natal, the colonial government and the White voters became alarmed at the prospect of them getting the vote and dominating the electorate.

Under responsible government, after 1893, the franchise continued to be, in theory, non-discriminatory; but the government could not use against the Indians the same device of 'Native Law' which it had used to disfranchise Africans. And any move explicitly aimed against the Indian community would cause trouble with the Colonial Office in London, sensitive to protests on behalf of its millions of Indian subjects. Nonetheless, the Natal government, in 1894, introduced the Franchise Law Amendment Bill, designed to remove the vote from most Indians. It framed the Bill to disqualify from registering for the vote 'persons belonging to Asiatic races not accustomed to the exercise of franchise rights under parliamentary institutions' – which effectively excluded Indians from the vote without identifying the Indian community directly. In 1894, only 300–400 of the Natal Indian community of 40,000 were registered to vote. The Bill would not remove the vote from those already registered, but would allow no new Indian registrations. Prime Minister John Robinson stated the view, 'universal amongst the European residents of the Colony', that unless Indians were excluded from the franchise 'the Electorate will at no distant date be swamped by voters who are wholly unfitted by their inexperience and habits to exercise intelligently and independently franchise privileges'.²³

Justifying discrimination – the politics of race

Robinson justified the political disqualification of Indians on the ground that 'the principle and practice of representative government

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were evolved in countries where race unity exists'. He cited examples of countries, such as the USA and the Cape, where a liberal franchise was a danger because of a lack of 'race unity'. Just as Rhodes, in 1887, had invoked Natal as an example of what the Cape should be doing, so Robinson invoked the Cape as an example of what to avoid. The Cape had been 'compelled at last' to restrict its franchise, by the amendments of 1887 and 1892. Referring specifically to the exclusion of the tribal, or 'blanket', Africans from the vote by disallowing communal property as a form of property qualification, Robinson stated that it could never be supposed that 'in an intelligent community like the Cape Colony such an evil – I might say such a curse – as what is called the "blanket vote" could be perpetuated'. By contrast, Robinson praised his predecessors of the 1860s for preventing such a situation ever arising in Natal:

Twenty-eight years ago a Law was passed which practically prevented the Natives of this Colony – at any rate, without great restrictions and safeguards – from exercising civil privileges, and I think we have every reason to be thankful that those who had charge of the legislation and the government of the country at that date, were prescient to that extent. I dare not contemplate what would have been the results in this Colony now had the Native inhabitants of this Colony had as free an access to the franchise as they had in the Cape Colony.

Robinson argued that there is a fundamental distinction between *civil* rights, to which all were entitled – the 'essential, inalienable rights, irrespective of race or colour, of every British subject . . . security to person and property, access to justice, freedom of speech, right of petition' – and *political* rights, which were 'a race privilege' to be enjoyed by only particular sections of the population. The right to vote was 'the most precious inheritance of an emancipated race . . . the outcome of incessant struggle through six centuries . . . the product of civilisation amongst Caucasian races, and especially among Anglo-Saxon races'. This precious Anglo-Saxon political freedom was threatened by the Indian incursion:

Unless something be done to arrest this evil, this evil that threatens in a greater and greater degree day by day and year by year, we shall undoubtedly . . . run the risk of having the European electorate of this Colony swamped by the intrusion of voters who, by reason of their incapacity, will be liable to be swayed this way or that by venal, unscrupulous, or merely Party influences.²⁴

Some MPs went further than Robinson and used the very fact that they had disqualified almost all Africans from the vote as a reason for not giving it to the Indians. The treasurer claimed general agreement for his

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statement that 'the Native, at any rate, would have more right to exercise the privilege than the [Indian]'; but it would be 'an utter anomaly' and 'contrary to all right principles' if Indians were ever allowed to comprise the majority of members of the Legislative Assembly. Mr Arbuckle agreed with this version of the 'thin end of the wedge' politically racist argument: 'If we grant the franchise to the Asiatics, then we must do the same for the Natives; and if that were done the Government of the Colony would get into the hands of the coloured people, which I am sure no one desires to see.'²⁵

Within the Natal Indian community, activists mobilised opposition to the Bill. They wrote letters to the newspapers and lobbied MPs; they sent deputations and petitions to the governor, and to the colonial secretary in London. But the Bill was passed by both Legislative Assembly and Legislative Council.

When, however, it arrived in London for Colonial Office endorsement, Colonial Secretary Joseph Chamberlain raised objections to the Bill because it made race the overt criterion for disqualification by being directed at 'persons belonging to Asiatic races'. He was concerned about its imperial implications for British rule over India, since the Bill did not distinguish between Asians who were aliens and those who were British subjects; and about its failure to make what he considered the necessary class distinctions, since it did not discriminate between 'the most ignorant and the most enlightened natives of India':

I need not remind you that among the latter class there are to be found gentlemen whose position and attainments fully qualify them for all the duties and privileges of Citizenship, and you must be aware that in two cases within the last few years the Electors of important constituencies in this country have considered Indian gentlemen worthy not merely to exercise the franchise but to represent them in the House of Commons.

The electoral reference was to the fact that two Indian men had been elected as MPs for London constituencies in the British general elections of 1892 and 1895,²⁶ and were accepted as members of the House of Commons. Chamberlain went on to say that, while he appreciated 'local conditions' in Natal, the Bill

involves in a common disability all natives of India without exception, and provides no machinery by which an Indian can free himself from this disability, whatever his intelligence, his education, or his stake in the country; and to assent to this measure would be to put an affront upon the people of India such as no British Government could be party to.²⁷

Chamberlain was warning the colonial governor that Britain ruled a huge Empire, extending far beyond Natal, and that some consideration

of the feelings and views of its Indian subjects were required. And he was reminding the White colonists of Natal that the British governing classes approached their Indian subjects on the basis of class rather than race: while rejecting the vast mass of 'ignorant' Indians as unfit for political and social equality, they welcomed the small number of 'enlightened' wealthy Indian aristocrats and professionals, educated at British public schools and universities.

However, Chamberlain did not oppose the Bill's fundamental principle, and suggested a way in which the Natal government could devise a measure which achieved the same aims, but in a way which 'will render it possible for Her Majesty's Government to acquiesce in it'. Natal replaced the Bill's specific reference to 'persons belonging to Asiatic races' with the phrases 'certain persons' and 'natives of Countries which have not hitherto possessed elective representative institutions'.²⁸ The Natal government amended the Act accordingly; it thanked Chamberlain for 'understanding the purpose of the Act', and stated that there was no difference of opinion among the White colonists of South Africa on this question: 'The fact that the control and good government of half a million unenfranchised natives in Natal – to say nothing of millions of natives throughout South Africa – are closely bound up with this question, is a fact that cannot be too often reiterated.'²⁹ The final version of the Act, in 1896, stated that no more persons were to be enrolled as voters

who (not being of European origin) are Natives or descendants in the male line of Natives of countries which have not hitherto possessed elective representative institutions founded on the parliamentary Franchise unless they shall first obtain an order from the Governor in Council exempting them from the operation of this Act.

The following year, 1897, the Natal parliament passed an Immigration Restriction Act. Having now learned from Chamberlain the necessity of doing it without making Indians or Asians the target, they subjected all immigrants to a language test whereby they would be refused admission if unable to make written application in a European language of the immigration officer's choice. At the Colonial Conference of 1897 Chamberlain commended this Act to all the other self-governing colonies as the right way of restricting Coloured immigration without making it obvious that this was what was being done. The other South African colonies adopted the Act, as did the Australian colonies, which made it the basis of the 'White Australia' policy under their new federation, and continued to apply the language test to restrict immigration until the 1960s.

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The 1896 Franchise Act produced the desired result for the Natal government. In 1907, Natal had 23,686 registered voters; it was estimated that 23,480 of them (over 99 per cent) were White men; only 150 were Indian, and a mere 6 African.³⁰ At the start of the twentieth century, Natal's White men, though less than 10 per cent of the population and with a franchise that was in theory non-discriminatory, effectively monopolised the vote and political power.

A male suffrage

In the light of increasingly stringent legislative restrictions in both the Cape and Natal, any suggestion of extending the franchise to include women was quickly dismissed. Given the notional commitment of Britain's South African colonies to racially non-discriminatory constitutional provisions, bringing about such legislative constraints on the franchise had already proved somewhat destabilising, particularly in stimulating African and Indian – and, to some extent, British and local settler – opposition. Such open display of the manipulation that was necessary to uphold European privilege contrasted uncomfortably with liberal rhetoric. It was perhaps not surprising, then, that the question of female suffrage was seen as further unsettling the complex task of maintaining minority rule by limiting the electorate to those whose values and interests were sympathetic.

In response to a small number of White activists, including the feminist writer Olive Schreiner and, later, members of the WCTU, the same sexist debates were occasioned by the prospect of women's suffrage – fuelled in no small degree by the unpredictability of women's support for male privilege – as were common in both Britain and the other settler colonies.³¹ In the Cape debates over the 1892 Franchise and Ballot Bill, for example, Mr Orpen proposed an amendment to enfranchise women. Although Orpen gave some consideration to the advantages female suffrage would hold, for instance in doubling the European electorate,³² those opposing the clause comprehensively dismissed it – and similar proposals elsewhere in Britain and the Empire – as degrading the suffrage; indeed, Merriman mockingly despaired that people would next be supporting 'baby suffrage'.³³ Significantly, the combined weight of class, gender and racial prejudices, to say nothing of demographic considerations, meant that the prospect of enfranchising non-European women was entertained neither by upper-class White women suffragists nor by male legislators.³⁴ Colonial legislators were not ignorant of the fact, however, that specifically excluding non-European women from a female franchise would once again raise problems about discriminating on the basis of race, and experience had shown that they were best avoided.³⁵

The effect of the South African War: 1899–1902

The outbreak of the South African War in 1899 put a stop to further political reforms in the British colonies for the duration – which proved, to the embarrassment of the British Government, to be much longer than it had anticipated. British policy within South Africa was in the hands mainly of Sir Alfred Milner, sent out in 1897 as governor of the Cape and British high commissioner for South Africa. Milner tried to restore British prestige and power by threatening the Transvaal with war if it did not back down over British demands; but in October 1899 war is what resulted. The war put the two Boer republics, the Transvaal and Orange Free State, on one side, and the British Empire on the other.

The war was not fought about the rights of Indigenous South Africans, but its outcome was to have a very important effect on them.³⁶ At the outset, both sides proclaimed that this was a ‘White man’s war’ – but both sides made heavy use of Africans for labour of all sorts, and for gathering information. The British even provided some African communities with guns for war-related purposes, and, in the later stages of the war, enlisted them in its armed forces. African and Coloured opinion overwhelmingly favoured the British over the Boers: if they had to be ruled by White men, they preferred the relatively liberal British policy of the Cape to the harsh rule of the Boer republics. Many Africans hoped that Britain would easily defeat the Boer republics, and would impose upon them a new political regime with a Cape-style colour-blind qualified franchise. Sol Plaatje was one African who believed this. Shortly before the outbreak of war, he had gone from Kimberley to Mafeking as a court interpreter, and he was caught up in the Siege of Mafeking. His diary of that siege – a rare account from the perspective of a Black man – shows him to have been a strong supporter of the British cause, expressing the hope that a British victory would mean political rights for the African peoples.³⁷

These hopes, of Plaatje and other Indigenous people, were to be sorely disappointed. The first few months of the war saw a series of Boer victories, culminating in ‘Black Week’ – British defeats on three fronts within seven days – in December 1899. Britain then poured men and resources into the war, and quickly turned the tide; by June 1900, the British had defeated the main Boer armies in the field, occupied the enemy capitals, and formally annexed both the Orange Free State and the Transvaal. But once the Boers moved to guerrilla warfare the British forces found their opponents’ hit-and-run tactics very difficult to counter. Eventually, as part of their counter-insurgency strategy, British forces took to burning down Boer farms, and putting the Boer

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women and children in concentration camps, where many thousands of them died of disease. Thousands of Africans, uprooted from the burned farms, were also placed in separate camps – where they, too, died of disease in their thousands. The British Government insisted that the war was over – but it dragged on throughout 1900, all of 1901 and into 1902, without any clear result. By the end of 1901, British public opinion was starting to sicken of the British tactics, and the authorities were desperate for an end to the expensive and dirty war. When finally the Boer leaders were brought to the peace talks, in April 1902, Sir Alfred Milner, for Britain, expressed his impatience to end the war.

A major sticking-point in those negotiations was the issue of political rights for Africans in the former Boer republics, the new British colonies of the Transvaal and Orange River Colony. The Boer negotiators flatly refused to accept a Black franchise as part of the peace deal. To get a peace, Milner sacrificed African political rights. The war was ended by the Treaty of Vereeniging, in May 1902, Article 8 of which read: 'The question of granting franchise to the natives will not be decided till after the introduction of self government.'³⁸ In an exchange of telegrams with Milner, Chamberlain queried the wording of the draft article: 'Seems to be worded so that we should actually have to exclude natives from the Franchise in any constitution establishing a self-governing Colony. Would it not be enough to leave from after "until" to end, and insert "the introduction of representative government"?' Milner replied, uncompromisingly: 'Yes. That would be the object of the clause. Clause suggested by you would defeat that object . . . I think there is much to be said for leaving question of political rights of natives to be settled by Colonists themselves.'³⁹

Milner's confirmation that this would leave the question of an African franchise in the two former Boer republics to be decided by the White colonists was a tacit acknowledgment of the reality spelled out by Article 8 – that, whatever African hopes Britain may have encouraged during the war, Milner had sold them out in order to get a peace. He had given the Whites of the former Boer republics an effective veto over the African vote; even with the Transvaal and the Orange River Colony (ORC) now under British rule, Africans would never be granted political rights in their territories. Politically organised Africans were immediately aware of this. In 1903, the South African Native Congress (SANCO) sent to Chamberlain a long statement of 'Questions Affecting the Native and Coloured People Resident in British South Africa'. In it, SANCO expressed concern that Article 8 of the treaty placed in danger, in any proposed future federation of South Africa, 'the principle of the "open door" under the formula of "equal rights for all civilised men"

which was favoured by the sagacious statesman, the late Right Hon. CECIL RHODES'. In careful diplomatic language, SANC noted 'the expressed utterances of the Premier of Natal on this subject which agrees with that of the Boer Leaders, viz., that there must be no political equality granted to the Natives'.⁴⁰

Towards 'a White Man's Union': 1902–10

As British colonies, the Transvaal and the ORC were governed by Milner until 1905 under his policy of 'reconstruction'.⁴¹ In 1906, the new Liberal Government in Britain immediately restored self-government to the Transvaal and the ORC on the basis of their former adult White male franchises. At their first elections, both colonies elected governments led by former Boer generals and politicians – the Het Volk Party, led by Generals Louis Botha and Jan Smuts, for the Transvaal in 1907; the Orangia Unie Party, led by ex-president M. T. Steyn and General J. B. M. Hertzog, for the ORC in 1908.

For the first time, all four White-ruled states in South Africa were now self-governing British colonies. Almost immediately, they came under pressure – from Britain and from their own politicians – to unite politically into a single state.⁴² The obvious examples which they had before their eyes, and which were frequently cited (favourably or unfavourably) in the long debates of the South African Convention, were the federations of Canada in 1867 and Australia in 1901. The main argument in favour was that problems which were South Africa-wide required a single national government, rather than four separate colonial governments. These problems included such issues as conflicting colonial policies on railways and tariffs; but all the politicians agreed that the major national issue was what they called 'the Native Question'.

Fear of the 'Native Question' certainly influenced the government of the colony most reluctant to join the Union – Natal. The two powerful colonies – in both population size and economic strength – were the Cape and the Transvaal; the two dominant politicians who coordinated the moves towards union were Jan Smuts, deputy-prime minister of the Transvaal, and John X. Merriman, prime minister of the Cape from February 1908.⁴³ Of the two smaller colonies, the ORC, landlocked and in the centre of the country, had no rational choice but to join. But Natal, a coastal colony with the major port of Durban, did have an economic choice; the White, predominantly British, electorate was reluctant to join a Union certain to be dominated by the politicians of the Transvaal and the Cape. It was the only one of the four colonies to hold a referendum on whether or not to join the Union – held in June

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1909 and carried in favour by a 3 to 1 majority.⁴⁴ A few years earlier, the White politicians of Natal had been given an uncomfortable reminder of the potential military threat still posed by the Zulu people in the 'Bambatha Rebellion' of 1906;⁴⁵ and fear of the 'Native threat' provided the strongest reason for White Natalians to accept the idea of entering the Union. The Reverend Frederick Mason, in a pamphlet called *Natal and Union*, stated that his strongest reason for supporting union was

Safety – Safety from native trouble . . . It won't come to-day or to-morrow on a big scale, but it is well known that the natives are combining now – chief and chief, tribe and tribe – as has never been known in the history of the country. As far as Natal is concerned, if a native rebellion were to break out, *where should we be if we were isolated and out of sympathy?*⁴⁶

The 'Bambatha Rebellion' and the Zulu threat made the Natal government the most alarmist on this issue; but the governments of the other three colonies feared the potential effects on their own African populations of an African rising or disturbance in any part of the country, and agreed that the 'Native Question' needed to be handled at the national level as a national issue.

White politicians representing the four colonies met, from October 1908 to February 1909, in a National Convention largely stage-managed by Smuts and Merriman. By February 1909, they had agreed on a draft Constitution, which was submitted to the parliaments of the four colonies (and a referendum in Natal), and somewhat amended. The Constitution was then passed by the British Parliament as the South Africa Act (1909); it came into force, as the Constitution of the new Union of South Africa, in May 1910. The new State was to comprise only the four White-ruled colonies; it excluded the three British protectorates (Basutoland, Bechuanaland and Swaziland), which remained under direct British rule and were eventually given independence as the countries of Lesotho, Botswana and Swaziland.

The Convention decided on a single unitary state, with the four colonies becoming provinces, rather than a looser federation, because it was thought that South Africa's problems required a strong central government. Smuts frequently cited, as the example to avoid, the experience of the Australian federation since 1901; he portrayed it as exemplifying all the problems which a federation with a weak central government could bring. There was much talk at the Convention of 'reconciling the two races' – by which they meant the British and the Afrikaners, rather than White colonists and Indigenes. There were no Black representatives at the Convention, and little concern was expressed there by the White politicians about the need to reconcile Indigenous people to the new State and its Constitution.

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The APO – the Coloured political organisation – petitioned the Convention in October 1908, seeking a vote for everyone in South Africa who was ‘fully civilized’⁴⁷ – i.e. an extension to the whole of South Africa of the Cape franchise. A petition signed by a large number of ‘aboriginal natives of South Africa, resident in the Transvaal’, pointing out that they had ‘hitherto been totally unrepresented in the local Parliament’, asked the Convention to extend ‘the Cape franchise to our people throughout South Africa’.⁴⁸ African political groups from all four colonies convened a ‘South African Native Convention’ in Bloemfontein, in March 1909, to respond to the draft Constitution published by the National Convention. The ‘Native Convention’ passed resolutions approving the idea of union, but it recorded

its strong and emphatic protest against the admission of a ‘colour bar’ in the Union Constitution as being a real vital basic wrong and injustice, and respectfully pleads that a clause be inserted in the ‘Charter’ providing that all persons within the Union shall be entitled to full and equal rights and privileges subject only to the conditions and limitations established by law and applicable alike to all citizens without distinction of class, colour or creed. The franchise has been enjoyed for more than 50 years by the native and coloured races of the Cape Colony, but is not extended to the native and coloured races of Orange River Colony, the Transvaal and the Colony of Natal, and this Convention seriously deprecates the absence, in the said Draft Act, of the principle of equal rights for all the races in the South African Colonies; a principle which was sustained by the leading statesmen of the Country and which was also the constant motto of the late Cecil John Rhodes (to whom an united South Africa was also an ideal), viz.:– ‘Equal rights for all civilized men from the Cape to the Zambezi’.⁴⁹

However, the White politicians paid no attention to the views of the Indigenous representatives in framing their draft Constitution – even though the most divisive issue at the Convention proved to be that of Indigenous political rights. The Transvaal and ORC governments flatly refused to accept any form of Black vote; and the Natal government, which – as we have seen – had succeeded in keeping its ‘non-White’ voters down to less than 1 per cent of the electorate, was happy to support them on this point. Only the politicians of the Cape, with their fifty-six years’ experience of successfully operating a theoretically non-discriminatory qualified franchise, argued for its continuance. Merriman, the Cape prime minister, was far from being a supporter of African political rights, but he advocated the Cape franchise as the most pragmatic solution to the ‘Native Question’. He wrote frankly to Smuts:

Now taking myself as an example of those who are not negrophilists but at the same time believers in our Native policy, I do not like Natives at

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all and I wish we had no black man in South Africa. But there they are, our lot is cast with them by an overruling Providence and the only question is how to shape our course so as to maintain the supremacy of our race and at the same time do our duty. Two courses are open. One is the Cape policy of recognizing the right to the franchise irrespective of colour [of] all who qualify . . . the drawbacks of our system are the fear that in some time the Natives, owing to their numbers, may swamp the white man . . .

I now come to the second method which is that adopted by the two Republics and Natal, viz. the total disfranchisement of the Native. What promise of permanence does this plan give? What hope for the future does it hold out? These people are numerous and increasing both in wealth and numbers. Education they will get, if not through us then by some much more objectionable means. They are the workers and history tells us that the future is to the workers . . .⁵⁰

Merriman and the other Cape politicians refused to abolish the Cape franchise; the governments of the other three colonies refused to accept the qualified Cape vote for their electorates. Eventually, a compromise was agreed. Membership of the new Union parliament was to be restricted to White men only; but, despite the adoption of a *union* rather than a looser *federation*, each province was to keep the same franchise laws it had enjoyed as a colony. So Coloureds and Africans in the Cape – but not in the other three provinces – could continue to qualify for a vote on the common voters' roll.

The new South African Constitution was deliberately made easy to amend by simple majorities in parliament. For only two issues did the Convention decide to entrench the clauses, by requiring a two-thirds' majority of both Houses sitting jointly to amend them. These were: the language clause (Section 137), entrenching two official languages for the country, English and Dutch (from 1925, Afrikaans); and the franchise clause (Section 35). This entrenchment was supposed to be sufficient protection for the limited political rights which qualified Coloured and African men would continue to enjoy in the Cape Province, and to prevent a future South African parliament removing them.

The draft Constitution went to the British Parliament in mid-1909, as the South Africa Bill. W. P. Schreiner, a former Cape prime minister who saw defence of the non-discriminatory Cape franchise as a moral duty, headed a deputation representing all the major African and Coloured organisations; it presented a petition asking the House of Commons to amend the Bill to remove all its racially discriminatory provisions.⁵¹ It made no impact on either the British Government or the Commons, and gained none of the proposed amendments. Sir Charles Lucas noted that

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the [Commons'] debates showed that members were alive to the fact that the Union of South Africa meant a White Man's Union, that Britain was invited to sanction a colour bar which, in less democratic days, would as a matter of course have been swept away by British statesmen and the British people. But in giving responsible government to the Transvaal and the Orange River Colony the Imperial Government had already sanctioned an exclusive white franchise; it was well understood that to have insisted upon extending the Cape franchise to the rest of South Africa would have meant indefinite postponement of Union; that where responsible government has been conceded, there the Imperial Parliament cannot dictate to the White citizens; and with no substantial amendment, the Bill became law.⁵²

Liberal British politicians claimed that entrenchment of the franchise clause would give the Cape non-White vote permanent protection. Colonial Secretary Lord Crewe, moving the second reading of the Bill in the House of Lords, suggested that it was highly unlikely that the entrenched clause would ever be amended to remove the African and the Coloured vote:

Certainly it is not too much to say that the disfranchisement of a class who had held this power of voting so long would be viewed here with very deep disappointment. Disfranchisement is always an odious thing in itself, and if it were to be applied in this particular manner I am bound to say that it would assume a somewhat specially odious form. Consequently I myself refuse to believe that there is any probability that this particular provision will be carried into effect.⁵³

He was deluding himself by claiming that something so 'specially odious' would never be done by a future South African government. Prime Minister Asquith, in the debate in the Commons, rationalised the clearly racist nature of the franchise provision by saying:

In my judgment, you are more likely to have a satisfactory . . . development of the native question . . . when the problem is taken in hand, not by the several States individually and independently, but by a common body representing South Africa as a whole . . . I anticipate that, as one of the many incidental advantages which the Union of South Africa is going to bring about, it will prove to be a harbinger of a native policy more consistent, and, as some of us may think, more enlightened than that which has been pursued by some communities in the past.⁵⁴

At no point in the twentieth century was the White population of South Africa (Afrikaans- and English-speaking combined) to constitute more than about 21 per cent of the total population.⁵⁵ This demographic fact imparted to the motivation of the White South African politicians an even sharper fear of the potential consequences of enfranchising Indigenous people than had been the case in Canada,

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Australia and New Zealand. In the latter countries, fears of Indigenes 'swamping' the White voters were expressed at particular times and for particular places; in South Africa the White politicians never lost the awareness, throughout the twentieth century, that the African people, if enfranchised on equal terms, would constitute the clear majority of the electorate. It was fear of such an outcome more than anything else that produced the franchise measure in 1910, and continued to drive the political measures on the franchise for the next eighty years.

Notes

- 1 L. Switzer 'The Beginnings of African Protest Journalism at the Cape', in L. Switzer (ed.), *South Africa's Alternative Press. Voices of Protest and Resistance, 1880s–1960s* (Cambridge and New York: Cambridge University Press, 1997), pp. 57–82; R. I. Rotberg, *The Founder. Cecil Rhodes and the Pursuit of Power* (New York: Oxford University Press, 1988), chapters 14 and 17.
- 2 T. Karis and G. Carter (eds), *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882–1990*, 5 vols (Stanford, CA: Hoover Institution Press, 1997), vol. 1, p. 5; Switzer, 'Beginnings of African Protest Journalism', pp. 59–61.
- 3 Sprigg, in a speech in East London 1877, reported in the Editorial 'Muzzling the Natives', *Imvo Zabantsundu*, 23 March 1887, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, p. 14.
- 4 On the Afrikaner Bond, see T. R. H. Davenport, *The Afrikaner Bond. The History of a South African Political Party (1880–1911)* (Cape Town: Oxford University Press, 1966).
- 5 *Imvo Zabantsundu*, 30 March 1887, quoted in Davenport, *Afrikaner Bond*, p. 121.
- 6 Editorial 'Muzzling the Natives', *Imvo Zabantsundu*, 23 March 1887, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, p. 13.
- 7 Quoted in Rotberg, *The Founder*, pp. 224–5.
- 8 Editorial 'Muzzling the Natives', *Imvo Zabantsundu*, 23 March 1887; PRO, CO 48/514, No. 148, Petition to Queen Victoria from the Native Inhabitants of the Location of Oxxkraal, July 1887, enclosed in Robinson to Holland, 24 August 1887.
- 9 Switzer, 'Beginnings of African Protest Journalism', pp. 62–3.
- 10 British Library, London (hereafter: BL), *Cape Colony House of Assembly Debates* (1891), pp. 329–30.
- 11 BL, *Cape Colony House of Assembly Debates* (1892), 11 July, Rhodes, p. 151.
- 12 PRO, CO 48/521, No. 151, Grendon, Secretary of the Coloured Agitation Committee, to HM Queen Victoria, enclosed in Cameron to Ripon, 26 October 1892.
- 13 Rotberg, *The Founder*, pp. 360–8; Switzer, 'Beginnings of African Protest Journalism', p. 63.
- 14 PRO, CO 48/521, Loch to Ripon, Secret and Confidential, 28 September 1892.
- 15 Editorial 'The Future of the Bill', *Imvo Zabantsundu*, 15 August 1894, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, p. 17; see also PRO, CO 48/524, No. 96, Jabavu to High Commissioner, 13 August 1894 and petitions from Kingwilliamstown and Natives of Port Elizabeth to HM the Queen in Council, enclosed in Cameron to Ripon, 29 August 1894.
- 16 A. Berriedale Keith, *A Historical Geography of the British Colonies*, vol. 4: *South Africa – new edn, Part 3 – Geographical* (Oxford: Clarendon Press, 1913), p. 29.
- 17 Rotberg, *The Founder*, pp. 610–19.
- 18 Davenport, *Afrikaner Bond*, pp. 97–8; Switzer 'Beginnings of African Protest Journalism', pp. 63–6.
- 19 M. Adhikari, 'Voice of the Coloured Elite: APO, 1909–1923', in L. Switzer (ed.),

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- South Africa's Alternative Press. Voices of Protest and Resistance, 1880s–1960s* (Cambridge and New York: Cambridge University Press, 1997), pp. 127–46.
- 20 On Plaatje and the educated African elite in Kimberley, see B. Willan, *Sol Plaatje. South African Nationalist 1876–1932* (Berkeley: University of California Press, 1984), chapter 2.
 - 21 Rhodes House, Oxford, Natal Legislative Council Sessional Papers 1879–80: 'Petition No. 14, 1880, from Micah Mkumananzi and 17 other Natives exempted from Native Law, praying for the granting to them of certain privileges under the general laws of the Colony'.
 - 22 L. Thompson, *The Unification of South Africa 1902–1910* (Oxford: Clarendon Press, 1960), p. 110.
 - 23 PRO, DO 119/92, Ministers to Governor, 10 July 1894, enclosed in Governor Hely-Hutchinson to High Commissioner, Cape Town, Confidential, 16 September 1895.
 - 24 PRO, DO 119/92, Natal Legislative Council, extracts of debate on 2nd Reading of the Franchise Law Amendment Bill, 20 June 1894, enclosed in Governor Hely-Hutchinson to High Commissioner, Cape Town, Confidential, 16 September 1895.
 - 25 PRO, DO 119/92, Natal Legislative Council, extracts of debate on 2nd Reading of the Franchise Law Amendment Bill, 4 July 1894, enclosed in Governor Hely-Hutchinson to High Commissioner, Cape Town, Confidential, 16 September 1895.
 - 26 *Who's Who of British Members of Parliament* (Hassocks, Sussex: Harvester Press, 1976–81), vol. 2: 1886–1918. Both MPs were wealthy Indian Parsees: Dadabhai Naoroji, elected Liberal MP for the Central Division of Finsbury in 1892; and Sir Mancherjee Merwanjee Bhownagree, a barrister elected Conservative MP for the North-East Division of Bethnal Green in 1895.
 - 27 PRO, DO 119/92, Chamberlain to Governor Hely-Hutchinson, 12 September 1895, Enclosure No. 1 in Hely-Hutchinson to High Commissioner, Cape Town, Confidential, 10 October 1895.
 - 28 PRO, DO 119/92, 'Bill to Amend the Law Relating to the Franchise', enclosed in Governor to High Commissioner, Confidential, 10 October 1895.
 - 29 PRO, DO 119/92, Ministers' minute (No. 15/1895) to Governor of Natal 18 October 1895, enclosed in Governor to High Commissioner, Confidential, 21 October 1895.
 - 30 Thompson, *Unification of South Africa*, p. 111
 - 31 See C. Walker, *Women and Resistance in South Africa* (London: Onyx Press, 1982), pp. 1–11; 'The Women's Suffrage Movement: The Politics of Gender, Race and Class', in C. Walker (ed.), *Women and Gender in South Africa to 1945* (Cape Town: David Philip; London: James Currey, 1990), pp. 313–45; and C. Burdett, *Olive Schreiner and the Progress of Feminism: Evolution, Gender, Empire* (Basingstoke: Palgrave, 2001).
 - 32 BL, *Cape Colony House of Assembly Debates* (1892), July 25, pp. 252–3.
 - 33 *Ibid.*, pp. 253–4.
 - 34 See, for example, BL, *Cape Colony House of Assembly Debates* (1908), 18 August, pp. 552–5.
 - 35 The first reference to women's suffrage at the national level was indeed framed in racially exclusive terms in 1908 when Prime Minister Moor of Natal (unsuccessfully) proposed enfranchising 'women of European descent' in the new Constitution of the Union of South Africa; see C. Walker, 'The Women's Suffrage Movement', p. 325. White women would not be enfranchised until 1930.
 - 36 On the South African War and its effect on Indigenous rights, see Thomas Pakenham, *The Boer War* (London: Weidenfeld & Nicolson, 1979); P. Warwick, *Black People and the South African War* (Cambridge and New York: Cambridge University Press, 1983); Bill Nasson, *The South African War, 1899–1902* (London: Arnold, 1999).
 - 37 J. L. Comaroff (ed.), *The Boer War Diary of Sol T. Plaatje* (Johannesburg: Macmillan, 1976). See also the strong expressions of 'the loyalty of the Native people of South Africa' to Britain, in the 1903 statement sent by the SANC to Chamberlain, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, pp. 18–29,
 - 38 In G. M. Young and W. D. Handcock (eds), *English Historical Documents*, vol. 12(2): 1874–1914 (London: Eyre & Spottiswoode 1977), p. 407.

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- 39 Chamberlain to Milner and Milner to Chamberlain, May 1902, quoted in *The Milner Papers (South Africa) 1897–1905*, ed. C. Headlam, 2 vols (London: Cassell, 1931–33), vol. 2 (1933), pp. 356–7.
- 40 ‘Questions Affecting the Natives and Coloured People Resident in British South Africa’: Statement by the Executive of the South African Native Congress, 1903, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, pp. 18–29, at 22.
- 41 See S. Marks and S. Trapido, ‘Lord Milner and the South African State’, *History Workshop*, 8 (1979), pp. 50–80.
- 42 On the issues and processes which led the South African colonies towards the Union, see Thompson, *Unification of South Africa*.
- 43 For the correspondence between Smuts and Merriman in the period leading up to Union, see *Selections from the Smuts Papers*, ed. J. van der Poel and W. K. Hancock, 7 vols (Cambridge: Cambridge University Press, 1965), vol. 2.
- 44 Thompson, *Unification of South Africa*, pp. 393–6.
- 45 See S. Marks, *Reluctant Rebellion: The 1906–8 Disturbances in Natal* (Oxford: Clarendon Press, 1970).
- 46 BL, Political and Economic Science, Collection Misc. 0399, Miscellaneous Papers re. Natal and Union with South Africa, 1905–9, Rev. F. Mason: *Natal and Union* [emphasis in original].
- 47 Thompson, *The Unification of South Africa*, p. 214.
- 48 Petition to the South African National Convention from ‘Aboriginal natives of South Africa, resident in the Transvaal’, 22 October 1908, quoted in Karis and Carter, vol. 1, pp. 52–3.
- 49 Resolutions of the South African Native Convention, 24–6 March 1909, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, p. 53.
- 50 Merriman to Smuts, 4 March 1906, in *Selections from the Smuts Papers*, vol. 2, pp. 239–40.
- 51 Petition to the House of Commons, from W. P. Schreiner, A. Abdurahman, J. Tengo Jabavu and others, July 1909, and Editorial ‘Latest Developments’, *Imvo Zabantsundu*, 31 August 1909, quoted in Karis and Carter, *From Protest to Challenge*, vol. 1, pp. 55–7; Thompson, *Unification of South Africa*, chapter 7.
- 52 Sir Charles Lucas, *A Historical Geography of the British Dominions* (Oxford: Clarendon Press, 1915), vol. 4, *South Africa*, Part 2, pp. 464–5.
- 53 *British Parliamentary Debates*, 5th series, Lords, ii (2nd Reading), col. 761 – quoted in Thompson, *Unification of South Africa*, p. 418.
- 54 *British Parliamentary Debates*, 5th series, Commons, ix (2nd Reading), col. 1010 – quoted in Thompson, *Unification of South Africa*, pp. 428–9. See similar examples from British parliamentarians, quoted in *ibid.*, pp. 416–31.
- 55 See the table in W. Beinart, *Twentieth Century South Africa* (Oxford, New York: Oxford University Press, 1994), p. 261.

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In 1995, Nelson Mandela, leader of the African National Congress (ANC) and recently elected president of South Africa, paid a formal state visit to Britain. He was warmly welcomed by the queen, by the British public and by the British Government. There had been instances of formerly imprisoned nationalist leaders who became heads of state after independence being welcomed to Britain – such as Jomo Kenyatta of Kenya. A century earlier, Queen Victoria had been prepared to welcome to London Indigenous leaders of royal or chiefly status, such as maharajahs from her Indian Empire, or African chiefs such as the Zulu Cetshwayo or the Tswana Khama. But Mandela was something more than a nationalist leader in a colony granted independence, and more than a king or chief – he was the first instance of an Indigenous person who had been elected (and by more than 60 per cent of the total vote) as head of government of a former colony of settlement, or White Dominion, in the old British Empire. It has never happened, and is perhaps unlikely to happen in the near future, in other former settler colonies. That this event occurred in South Africa is a striking illustration of the major political change which had taken place in that country in the 1990s, when the racially based apartheid regime was finally removed by an election in which – for the first time ever – all South African adults, Black and White, male and female, were free to vote.

This offers a dramatic example of the relevance, at the start of the twenty-first century, of the developments which this book has examined for the nineteenth and early twentieth centuries. And it is not only in South Africa that the 1990s revisited some of these developments with a renewed relevance. In Australia and Canada, a number of major judicial decisions of the 1990s on the issue of land rights for Indigenous peoples have proved to be of continuing significance. In Australia, the *Mabo* decision of 1992 finally pronounced the death sentence on the doctrine of *terra nullius* (land belonging to no one), which had undercut the legal rights to the land of the Indigenous peoples for just over 200 years; in Canada, decisions in British Columbia, in particular, upheld the claims of various Indigenous bands to their native areas. In addition, the Canadian government granted autonomous political status to the area of Nunavut for the Inuit peoples of its Arctic territories. In New Zealand, the Treaty of Waitangi was given renewed force and contemporary significance by the decisions of the Waitangi Tribunal on Maori claims to their land. And the governments of these

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former colonies of settlement came under pressure to make some serious moves towards reconciliation with their Indigenous peoples, and perhaps to offer some form of apology for their former racist policies and atrocities; this was done most fully in South Africa, through its Truth and Reconciliation Commission (1995–98), and to a lesser extent by government initiatives such as the Royal Commission on Aboriginal Peoples, in Canada (1997), and a government-sponsored Council on Aboriginal Reconciliation (1991–2001), in Australia. We are not suggesting that these moves – in any of the countries – have *achieved* reconciliation between Indigenous and settler people, or that that they went far enough to address the historical wrongs of the colonial dispossession of the Indigenous. But it is significant that at the end of the twentieth century the issues of the political disfranchisement, physical dispossession and spiritual alienation of the Indigenous peoples were firmly on the political agenda of all of these former settler colonies. However much White colonial politicians may have wished to believe, at the end of the nineteenth century, that they had settled the ‘Native Question’ for good, the Indigenous peoples had survived, to put their political, social and economic needs and demands with renewed vigour a century later.

The developments we have discussed in this book are of more than merely antiquarian interest. We have shown that, as White settlers in all four countries gained powers of self-government and the vote, in none of these countries did the Indigenous peoples get fully equal powers. The processes by which these issues were fought out and negotiated in the four countries were very different, as were the outcomes. By the early twentieth century, the Maori of New Zealand had achieved the most in terms of access to conventional White parliamentary power – with both men and women enfranchised and Maori men able to sit in parliament and government – and Aborigines in Australia probably the least; Indigenous Canadians and South Africans (depending on the province in which they lived) had very limited voting rights, but were a very long way from anything approaching true equality.

We should also note that our research does not bear out the comfortable liberal assumption that the history of the franchise is always one of simple linear progress over time – that once voting rights have been gained by particular groups, they are never lost and can only be added to by the widening of the qualified pool or the enfranchising of further groups. In the British colonies of settlement, this has not been the case. At the start of our period, the 1830s, there was at least a theoretical assumption that British colonies did not enshrine any form of colour bar, excluding people on the grounds of race; yet, by 1910, all four countries limited access to the franchise, to varying degrees, on racial

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criteria. Settler politicians during our period showed themselves willing to envisage disfranchising certain Indigenous groups. In Australia, there were specific racial exclusions in Western Australia and Queensland, and in the federal vote; in Canada, there was an almost bewildering sequence in which, at various points in time, Indigenous people were added to, or removed from, the pool of those qualified to vote; and, in South Africa, the vote for the new Union parliament was racially restricted in 1910 – and even the limited rights then allowed to African and Coloured voters were removed later in the century.

In considering the reasons for those outcomes, we have quoted relevant documents to illustrate the overt justifications offered by politicians at the time. Our analysis of the deeper underlying reasons for how events turned out would highlight in particular certain main issues: settlers' access to land and the uses they wished to make of it; the need of colonists for Indigenous peoples' labour; the demographic balance between colonisers and Indigenous peoples, especially the colonisers' fears of Indigenous peoples' potential to frustrate White political goals; the capacity of Indigenous peoples to mount effective resistance to colonial intrusion; issues of gender; and the intensity of the 'civilising mission' and Indigenous peoples' attainment of Western education and 'respectability'.

In all the colonies of settlement, the primary aim of the settlers was to get possession of the land by dispossessing the Indigenous peoples, whether by sale and treaty, as in Canada and New Zealand, by conquest and treaty, as in South Africa and New Zealand, or, as in Australia, by declaring the land to be *terra nullius* and therefore automatically the property of the British Crown. Whatever political powers were to be allowed to Indigenes, they could not be such as would be capable of blocking or interfering with the continuation of the process of acquiring the land and bringing in White settlers. In New Zealand, a major factor in blocking any real political rights for Maori for the first twenty-five years was settler fear that they could use such rights to block further settler acquisition of the land. Even in 1890, when Captain William Russell explained why commitment to Maori political rights would prevent New Zealand joining the Australian federation, he spoke of the reasons for granting those rights as turning upon 'the necessity for keeping the natives at peace, and yet obtaining enough of their lands to further colonisation'. In South Africa, the exclusion of the Indigenous peoples from political power in 1910 was followed almost immediately by the Natives' Land Act, restricting the areas in which they could legally buy land to just 7 per cent of the total area of the country.

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Furthermore, whereas under English property law land was a commodity to be bought and sold in individual title, for Indigenous communities the land was an integral part of their whole way of life and set of beliefs. But the issue of the form of tenure on which land was held became highly relevant politically. Where Indigenes could get a vote, it was usually on the basis of a qualified property franchise – as in the early years of representative government in Canada, Australia, New Zealand and the Cape. Colonial authorities were often prepared to set aside some areas of land as ‘reserves’, where Indigenous people could continue to occupy and work the land; but, in such cases, their tenure – whether by African or Maori tribal group or Indian band – was communal: the land belonged to that people as a whole. Sooner or later, colonial authorities in these cases insisted that communal property could not satisfy the property qualification, which required that it was individual property held under English property title. This was to provide an incentive to the Indigenous people to break up their communal holdings into individual plots of land – to drop their ‘Indian’ status and become full Canadian citizens, or become fully Christianised, educated, civilised capitalist Maori or Africans. Even the evangelicals and humanitarians who supported Indigenous rights, including access to political rights, attached considerable significance to individual property and settled agriculture as a criterion of civilisation and fitness for full political rights. People who roamed around, or who refused to abandon a communal lifestyle, were not fully qualified for political rights. In Australia, the only Aborigines who voted tended to be those who lived on mission stations. In the Cape, the politicians distinguished between the ‘respectable’ educated Coloureds and Africans who deserved the vote, and the raw ‘blanket Kaffirs’ who should not have it. And in Natal, of course, even owning individual property and gaining exemption from ‘Native Law’ was not enough to gain an African man a vote: the system had built in further discretions designed to ensure that almost no Africans voted.

The colonies of settlement varied in the importance attached to the labour of Indigenous people. In most parts of Australia, after the initial years of settlement, Aboriginal labour was not essential to the colonial project except on the cattle stations of Northern Australia; and in Canada, after the decline of the fur trade, Indigenous peoples’ labour was not central to the economy. In South Africa, on the other hand, the labour of the Indigenous people was crucial to the colonial economy, and it was important that they should not have political rights which might enable them to interfere with what colonial politicians called ‘Native labour supply’. So Rhodes’s Glen Grey Act, laying down a model for how to deal with land tenure and labour supply, withheld the

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vote in the Glen Grey district even from people who would qualify by virtue of individual tenure. After the South African War, the question of ensuring sufficient 'Native labour' for the mines and farms played an important part in deciding the political powers allowed to Indigenes under the Union Constitution and the legislation of the early Union governments.

All the colonial politicians operated within a general framework set up by British governments of avoiding explicit colour bars in their franchise qualifications. Where the Indigenes were few, and unlikely to make any serious difference, there was little risk in extending the vote to them; but where they were, actually or potentially, in a majority, their number could be the crucial factor in convincing politicians that their enfranchisement was too dangerous and that ways in which to bar Indigenes from the vote – if possible, without spelling this out in the legislation – would have to be found. South Africa was the only country in which, in all parts and throughout the whole period, the Indigenous people were numerically the clear majority. In the other countries, though the settlers were a vulnerable minority in the early years – as in New Zealand – the effects of disease, dispossession and violence on Indigenous peoples reduced their numbers significantly, at the same time as settler populations were rapidly increasing; by the end of the nineteenth century, the Indigenous populations of Canada and Australia were small minorities, and in New Zealand, though their number was somewhat larger, they were still a clear minority. Even so, White citizens were anxious for the future.

This was of fundamental importance to Indigenous political rights in South Africa. It is what led the Natal politicians to manipulate the theoretically non-racial system to deny the vote to all but a derisory handful of Africans and a very few Indians; and it led the Cape politicians to raise their property qualifications to prevent Africans 'swamping' the White voters. When the colonies met to draw up the Constitution of the Union of South Africa, they inserted a clear colour bar to exclude Indigenes from the parliament and from the vote in every province but the Cape; the seeds of apartheid were sown in that Constitution. This issue was also of importance, at certain times and in particular places, in the other settler colonies. In New Zealand, until at least 1867, White politicians used that same language of White voters being 'swamped', and schemed to counter it by confining the Maori vote within just four constituencies. In Canada, fear that Indigenous votes would 'swamp' those of settlers in certain constituencies was used by opponents of Macdonald's 1885 Bill for a uniform federal franchise. In British Columbia, in 1871, when the settlers found themselves outnumbered 4 to 1 by Indigenous Canadians, they excluded the Indigenes from the

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vote on the basis of race. Even in Australia, the only two colonies which specifically legislated to bar Aborigines from the colonial vote, and insisted on their exclusion from the federal vote in 1902, were Queensland and Western Australia – the colonies in which, at the end of the nineteenth century, the Aborigines were most numerous and could make the most difference by exercising their votes. Politicians could even use ostensibly ‘democratic’ arguments in Australia and Canada to deny Indigenes the vote – on the grounds that unsophisticated Indigenous voters were particularly liable to having their votes manipulated by powerful White patrons, and that (White) manhood suffrage was more democratic than a qualified franchise with no racial bar.

In all the colonies, the Indigenous peoples put up resistance to the European invasions and the dispossession of their lands. But the effectiveness of that resistance varied markedly, in terms of the size of the military forces they could mobilise, their logistical ability to sustain long campaigns, and their military technology. Perhaps the most effective were the Maori, whose close settlements and use of horticulture enabled them to mobilise large forces effectively, and who had acquired and mastered the use of firearms before formal British colonisation began. Also effective and feared were South Africa’s Bantu-speaking peoples (Xhosa, Zulu, Sotho) – whose military power could be defeated only by regular British troops, and then with considerable difficulty – and the Khoisan in the nineteenth century, whose mastery of firearms made the Kat River rebellion a serious problem for the Cape. On the other hand, the Australian Aborigines, while mounting guerilla attacks on settlers and their stock in many parts of the continent, were unable to mobilise the numbers of men and supplies to conduct large-scale wars.

The extent of resistance had some effect on the question of the concession of political rights to Indigenes. The inability of Australian Aborigines to offer serious large-scale and sustained resistance to settlement and dispossession made it easy for the settler politicians to ignore Aboriginal rights when discussing political reforms. Conversely, it is clear that Maori military prowess in the New Zealand wars of the 1860s was significant in convincing the settlers to admit Maori men to their parliamentary system. Similarly, fear of ‘the Hottentot with his musket’ played some part in the decision of the Cape politicians in 1853 to opt for a colour-blind franchise with a relatively low property qualification. A desire to prevent further frontier wars with the Xhosa may also have influenced the Cape’s cautious integration of an elite of Xhosa-speaking voters (albeit having to satisfy more restrictive qualifications than in 1853) into the system in the 1880s. On the other hand,

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in Natal, fear of the military might of the Zulu neighbours produced no such result, but rather strengthened their manipulative system, designed as it was to deny the vote to Africans in practice while holding it out in principle. Fear of Indigenous numbers led, similarly, in British Columbia to their outright exclusion from the vote. And in the federal Canadian parliament, the coincidence in time of the north-west rebellion with the debate about a uniform national franchise that would include the Indigenous people enabled opposition MPs to invoke that rebellion in support of their objections to the Bill.

Gender issues – particularly the issue of whether or not women should be admitted to the vote on the same terms as men – could be made to work very differently in their impact on Indigenous political rights in the four countries. It operated in favour of Indigenous rights in New Zealand: when it became the first country to legislate for full womanhood, as well as manhood, suffrage, it gave the vote to Maori women on equal terms with White women. By 1900, in New Zealand, Maori men and women had the vote on virtually the same terms as Whites, and Maori men could both sit in parliament and serve in government. In Australia, on the other hand, the White politicians of the new federal parliament used women's rights as a weapon to deny Aboriginal rights: the Commonwealth Franchise Act 1902 gave the vote in federal elections to all White women, while at the same time, in practice if not entirely in law, debarring all Aboriginal men and women from the federal franchise. New Zealand and Australia were world pioneers in granting women the vote. Although, in Canada, female suffrage was linked with the Indigenous vote on at least two occasions, it seems to have functioned primarily as a rhetorical device, enabling politicians to contrast 'the savage' and 'the squaw' with 'innocent white womanhood'. South Africa was far more conservative than Australasia, and did not grant women the vote until 1930; this was the work of a conservative National Party government which enfranchised White women only on the ground that they thereby doubled the size of the White electorate and further reduced the percentage and influence of the small Black vote.

Finally, and overlapping with some of the issues already raised, there are the more intangible issues, which we discerned as central to the claims raised on behalf of Indigenous people by evangelicals, missionaries and humanitarians as early as the Select Committee on Aborigines in the 1830s. Ideas that Indigenes should be able to qualify for the vote only if they passed some test of education – or more broadly of 'civilisation' or 'respectability' – were significant in some places at particular times. Ideas of the Christianised, educated, respectable, 'good native', who deserved to have the vote, were put forward in all of our countries at particular moments. Perhaps the Canadians laid the great-

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est stress on this: the key point in the province of Canada's Gradual Civilisation Act of 1857 and the federal Gradual Enfranchisement Act of 1869 was the distinction between the 'status Indian' and the Canadian citizen: Indigenes could qualify for the vote – but only if they dropped their Indian legal status by rejecting their traditional culture and social structure, becoming educated, leaving the communal band or group, and individuating their land. Despite Macdonald's attempt, in 1885, at a uniform national franchise, this continued essentially to be the case for Indigenous Canadians well into the twentieth century. The vote was, in effect, held out as a reward for those Indigenes who were prepared to assimilate White Canadian ideas of civilisation and a respectable lifestyle.

In Natal, in a fashion to similar Canada's, the government was able to manipulate the theoretically colour-blind franchise to exclude almost all Africans from the vote by insisting that voters must first apply to be exempted from 'Native Law', adopt Christianity and private property, and *then* satisfy a series of further White criteria of *civilisation*. In the Cape, in 1892 when the politicians feared being 'swamped' by African voters under their original 1853 qualification, they not only raised the property qualification by 200 per cent, but added a literacy test aimed specifically at the so-called 'blanket Kaffir' who fell short of the image of the ideal assimilated 'civilised' African. In New Zealand, the most dramatic achievements by Maori within the settler parliamentary system came from the 'Young Maori Party', whose members had been educated at Christian boarding-schools and had undergone tertiary education and gained professional qualifications – making them almost the epitome of the colonial ideal of the Christian respectable and civilised Indigene. Even in Australia, the debate on the Commonwealth Franchise Act (1902) showed some politicians who, while opposing the vote for Aborigines in general, declared their willingness to give it to educated respectable Christian Aborigines.

These final examples – showing colonial politicians changing the criteria when it looked as if too many Indigenes would be able to satisfy them, or holding out the vote as a prize only for those Indigenes who satisfied their criteria of civilisation – remind us, finally, that the crucial decisions about their political rights were taken *for* Indigenes, and not *by* them. The constitutions and franchise laws were the products of the imperial Parliament in London and of settler politicians in colonial parliaments. Indigenous peoples were, however, far from being passive victims: they thrust themselves and their demands on their governments by actions ranging from military violence through public meetings to petitions and deputations; and when they could make life difficult for the colonial authorities by withholding labour or denying

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access to land, they sometimes did so. In the period we have examined, the power to bestow or withhold that ultimate political accolade of the nineteenth century – the vote – lay with the White politicians in their local parliaments, and to an extent (which had diminished so substantially by the turn of the century as to be little more than a formality) with governments and with Parliament in London.

In many ways, the attendance of the White male prime ministers of the Dominions at the Imperial Conference in London in 1911 signalled the culmination of Britain's nineteenth-century colonial enterprises in Canada, Australia, New Zealand and South Africa. Outside of the Indigenous 'reserves', the land had been successfully alienated to settlers as private property. Four almost independent nations had emerged from the inefficient and unwieldy proliferation of colonies that had characterised the settlements for most of the previous century. Mature legal and administrative structures had been permanently installed, and the electorates of these fledgling 'democracies', shaped to protect settler hegemony, would now entrench their dominance and privilege as full members of the nation. Contemporary middle-class values defined the dominant culture. Along the way, a diversity of measures had been adopted to deal with the Indigenous peoples who had stood in the way of settler access to land in the early days of each settlement's expansion, and to contain the threats that their continuing presence presented to colonial sovereignty and authority.

Events of the twentieth century showed that possessing the power of the vote was not an empty token: as Canadian Indigenous peoples, Australian Aborigines and, perhaps most forcefully of all, Black South Africans found, to be without the vote could have a crippling effect. In Canada Indigenous war veterans were enfranchised nationally in 1924, but when the vote was extended to inmates of charitable institutions, in 1929, there was no suggestion that Indigenous people, also notionally disfranchised on the basis of their dependence, should be similarly treated. The 1946 Canadian Citizenship Act declared that all persons born in Canada were Canadian citizens, but this conflicted with the Indian Act which retained a definition of 'person' that until 1951 excluded 'Indians'.¹ This inconsistency was resolved only when individual provinces voted to remove their 'Indian' disqualification clauses, beginning with British Columbia in 1949. The provinces of Manitoba, in 1952, and Ontario, in 1954, followed before the federal government acted to restore Indigenous voting rights nationally in 1960. Over the next nine years the remaining provinces amended their legislation (Saskatchewan in 1960, New Brunswick and Prince Edward Island in 1963, and Quebec in 1969), rendering Canadian citizenship a category no longer defined by racial origins.²

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Through the early decades of the twentieth century, not much changed to offer Aborigines greater control of their lives. Protective legislation denied the civil rights of most at some point in their lives, and for many it totally dominated their life chances, even to suffering state removal of their children to distant destinations in an effort to wipe out Aboriginal cultures and enforce assimilation. They did not have the slight bargaining power that political citizenship could have conferred. Aborigines and other supporters campaigned from the 1920s to reverse their lack of citizenship. It wasn't until 1962, however, that the Commonwealth franchise was re-instated for all Aboriginal men and women, and 1967 that the discriminatory clauses of the Constitution were removed by national referenda and the protective legislation dismantled.³ In New Zealand the four Maori seats had longevity, as did Maori peoples' support for the Labour Party. The entry of further Maori representatives into parliament awaited the recent introduction of a system of mixed proportional and electorate-based representation that afforded Maori entry through a range of new parties that broke the Left-Right mould.

The optimistic British liberal scenario that the Union of South Africa would be followed by a gradual extension of the vote to bring in a steadily increasing proportion of the African and Coloured population, together with a gradual liberalisation of the racial laws, was completely wrong. Instead, it proved to be indeed 'a White Man's Union': successive governments tailored their policies specifically to the White electorate. Governments led by Botha, Smuts and Hertzog passed legislation restricting African ownership of land to the 'tribal reserves', just 13 per cent of the country; requiring African males to carry passes to move around the country; declaring the cities to be 'White' areas, with Africans allowed in them only so long as their labour was useful to the Whites; and introducing an industrial colour bar restricting skilled positions to Whites only. Though Plaatje and his colleagues in 1912 founded the body which became the African National Congress, to represent African political interests, their representations were ignored by successive South African governments.

There was no further extension of the common franchise to any non-White people. When women were finally given the vote in South Africa in 1930, the government gave it to White women only – and did so because they thus doubled the size of the White electorate and further reduced the percentage and influence of the Black vote: it reduced the 'non-White' voters in the Cape from 19.9 per cent of the electorate in 1929 to 10.9 per cent in 1931. In 1936, a coalition of the two main White parties provided the necessary two-thirds' majority to remove the Africans from the common voting roll in the Cape. In 1955, the

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National Party government, as part of its apartheid policy, removed the Coloured voters from the common roll. So, the year 1955 – 102 years after the Cape had first enacted a non-discriminatory qualified franchise for its new system of representative government – proved to be the sour end of the nineteenth-century dream of 'Cape liberalism'. From 1955 onwards, the electorate which returned successive apartheid governments in South Africa was pure White. White and Black South Africans were not again to vote on a common voters' roll until the first genuinely free and democratic election, in April 1994, after the end of apartheid.

Far from being contained in the past, the presence of the Indigenous peoples continued to unsettle these societies whose foundations had been built upon concerted attempts to bring about their demise. Indigenous issues are still persistent items, unevenly addressed, on the national agendas in Canada, Australia and New Zealand, while Indigenous peoples' tenacity in nurturing cultural integrity, despite centuries of contact, has been a powerful counterpoint to official regimes of assimilation and control. The long struggle to achieve full democracy in South Africa remains the outstanding example of the reversal of White rule, a situation that was inconceivable in the other colonies once the demographic balance in favour of settlers became overwhelming. Despite the importance of this political milestone, the massive legacies of colonialism in the social and economic sphere continue to challenge the different sense of community that is now being built in the new South Africa.

Notes

- 1 R. Bartlett, 'Citizens Minus: Indians and the Right to Vote', *Saskatchewan Law Review*, 44 (1979–80), p. 189.
- 2 Elections Canada, *A History of the Vote in Canada* (Ottawa: Elections Canada, 1997), pp. 191–3.
- 3 See Brian Galligan and John Chesterman, *Citizens Without Rights: Aborigines and Australian Citizenship* (Cambridge: Cambridge University Press, 1998); Tom Clarke and Brian Galligan, "'Aboriginal Native" and the Institutional Construction of the Australian Citizen 1901–48', *Australian Historical Studies*, 26:105 (1995).

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