

# A Hanging Matter: the Colonial South African Politics of Citizenship

DONAL P. MCCrackEN

University of KwaZulu-Natal

*Leli phepha lihlahziya ubuzwe ngesikhathi sokuthunjwa kweNingizimu Afrika. Laph a abantu abansundu babethathwa njengabantu abanamalungelo amancane, ngaphandle kwaseKapa lapho yayinganakiwe indaba yebala ohlwimi labantu abavotayo. Kwakusezingeni eliphezulu kakhulu ukufinyelela kulesi sigaba. Leli phepha lizobuye lihlolisise udaba lobuzwe eNingizimu Afrika ngonyaka we 1890's. Okokugcina kuzohloliswa icala lika-Arthur Lynch. Wanikwa isigwebo sentambo ngabaseBrithani ngokuthi abe isakhamuzi saseTransvaal ngesikhathi sempi.*

Citizenship in most countries today, when considered at all by the individual, is a matter of innocuous pride: support of the country in a soccer, rugby or cricket test or a mild indignant patriotism when a fellow citizen is incarcerated by some distant and unpronounceable dictatorship. Wartime, of course, is another matter and then the ancient prejudices and xenophobia emerge refreshed and encouraged by the state apparatus – only to be quickly curbed and silenced once peace returns; one of the few examples when Pandora's box is successfully closed.

The emergence of the modern national state in the 19th century brought with it a bureaucracy that had not previously existed. True, one had had to have 'papers' to travel in some parts of the globe in the 18th century but the ability to flit from region to region and into those areas of the map blank or illustrated by fanciful beasts was (in time of peace) a relatively simple affair. It was the advent of Citizen Jacques that spoiled everything for the itinerant cosmopolitan.

By the 1870s the citizen state had transmogrified into something a little more sinister. The old British music hall song of the 1870s stirred the English working classes as only a soccer chant would today, but with more pernicious repercussions:

We don't want to fight but by jingo if we do,  
We've got the ships, we've got the men,  
We got the money too.  
We've beat the Bear before and whilst Britons they are true,  
The Russians shall not have Constantinople!

Nationalism was not confined to establishing fixed frontiers with established specialist security police, but it extended even to the realm of botany. Plants may have no ideology but France, Austria, Belgium and Britain had no doubts that the plants hunted in their particular colonial processions were undoubtedly an addition to national pride. One

morning in the late Victorian period a German diplomat in evening dress called at the herbarium of the Royal Botanic Gardens at Kew to inquire on behalf of Prince Otto Bismarck about the 'secret of Kew'. The perplexed assistant curator who had the misfortune to open the door tried to explain Kew's success was simply due to 'assiduous attention to its business'. This explanation the German chancellor subsequently dismissed as 'entirely unsatisfactory'<sup>1</sup>.

When it came to the issue of the franchise, the great 19th-century battles in European countries between liberals and conservatives resulted in the more progressive nation states in a chess game between gentlemen as to the degree of concession to be granted. And, of course, until a secret ballot and a relatively corruption-free election could be guaranteed, such concessions were in part illusory.

Maybe so, but at the turn of the 19th century citizenship in many countries was being largely associated with the advance of democracy. Prisoners, the insane, children and women might not have the vote but the concept of the citizen state was well established.

How did this translate in the colonial milieu? The answer is not what the radicals of the day might have imagined. Take the British empire, covering a quarter of the surface of the globe and present on every continent of the earth. The white settlers from England, Scotland, Wales and Ireland were British citizens, and by the 1880s in Britain had enjoyed the franchise for the male artisan. It could reasonably be assumed that the colonial politic could not be as progressive as the metropolitan country, but this was by no means always the case: *vide* New Zealand granting the franchise to women. There were, of course, vast swathes of the British empire, not least the 100 million in India, who were disenfranchised. So what was the situation in the South African political entities in particular?

South Africa as a country did not exist until 1910. Previous to that the region was divided up in a haphazard fashion between the surviving African chieftainships or kingdoms; the British; and the Afrikaners or Boers as they were called, the descendants of mainly Dutch and German settlers with some intermixing with the indigenous population. This jigsaw puzzle of states, colonial and black princedoms was the product of interaction between trade, religion, warfare and a bewildering fluidity of alliances in the early-to-mid-19th century. In such a milieu the concept of citizenship was for long vague and nebulous.

In African society there was a strong concept of community or *ubuntu*, but the remarkable thing about African society was the freedom afforded individual families and clans. The unifying factors – the military regime, 'taxes', family networks and to some extent language – worked remarkably well. The influx of significant numbers of white settlers in the 19th century, coupled with an expansion of white influence and power, spelt doom for many of these societies, though the point needs to be made that even in subjugation it is remarkable how much culture, way of life and even political infrastructure survived.

That said, by the 1890s the last truly independent African state had to some degree or another been bridled by being annexed or brought into a protectorate system. Sometimes the latter had been requested as the least of two or more evils. Basutoland (Lesotho) [Basotho], Bechuanaland (Botswana) [Tswana], Swaziland, the Transkei [Xhosa], and the greatest of the African martial states, Zululand, militarily occupied in 1879 and con-

quered only after stiff resistant and the humiliation of Isandwana. Of course, many other Africans lived within the boundaries of the white-run states and colonies, some of them, such as the BaPedi, offering up resolute and prolonged resistance prior to inevitable defeat before more advanced military technology<sup>2</sup>.

### THE PRICE OF DEFEAT, HOWEVER, WAS THE POLITICAL VOID

For the Afrikaners the creation of an identity was one of the crucial factors in shaping South Africa, a legacy which survived even after African hegemony was finally restored in 1994. The 'Cape Boer' and the Afrikaners who vacated the Cape Colony after British conquest and the abolition by Britain of slavery created a dichotomy. On the one hand there was a large sector of whites who were not first-generation settlers, who worked within the British colonial institutions. The Cape had an elected white representative assembly (the Legislative Assembly) from 1854 and self-government or responsible government from 1872.

Far away, deep into the subcontinent, were two Boer republics, the Orange Free State Republic and the South African Republic (*Zuid Afrika Republiek*) or the Transvaal Republic. The latter was an amalgam of several disparate and ill-run former republics. It is wrong to regard these entities as possessing sophisticated state machinery. They were impoverished, theocracy-based and sorely lacking in skilled personnel. The importation of clerics and other educated Afrikaners from the Cape was vital to their survival. The influence of the state in these republics was weak as the Afrikaners' Old Testament and Calvinist tendencies balked at any form of interference. The sight of the smoke from one neighbour's hearth on the distant horizon was annoyance enough.

The complacency of this quasi-state was shattered when gold was found in the 1880s on the ridge known as the Witwatersrand (the ridge of white water). Not that the Transvaal had been a particularly tranquil place in recent years. In 1879 it was annexed to Britain by a body of 11 Natal Mounted Police, Theophilus Shepstone (Natal Minister of Native Affairs) and a clerk who would become the famous writer, Henry Rider Haggard. Two years later on the top of Majuba Hill on the borders of Natal and the Transvaal the Boer commandos (citizen force) inflicted a humiliating defeat on General Colley and a British military detachment. The Transvaal regained its independence but with an ambiguous suzerainty still claimed over it by Britain.

As for the British, they held the Cape Colony permanently from 1814, having conquered it in 1795 and then relinquished it at the Peace of Amiens. At the Cape they found themselves administering a form of government left by the Dutch East India Company and the latter-day Batavian Republic, a different language of administration (High Dutch) and a different legal code (Roman Dutch). In many respects the British were remarkably accommodating to the defeated Dutch colonists, not that they viewed things that way. Just as 'African native law' survived in many areas, so much of the old Dutch dispensation survived; but English settlers began to arrive and it became clear that the British were there for the long haul. Not only had the Cape a substantial African population but it also had a large coloured population made up of San and Khoi (formerly referred to as Bushmen

and Hottentot), Cape Malays and other people of mixed race. Some of the African population, such as the Mfengu, were regarded as 'being more civilised' than their brethren across the Kei River where the White domain did not extend.

As the Afrikaners were divided so too was the Cape – between the more radical, security-conscious, racially motivated white English-speaking Eastern Cape and the somewhat more enlightened Western Cape compatriots.

Finally, the other principal political entity in colonial South Africa was the British colony of Natal, two thousand kilometres up the south-east coast from Cape Town. From 1824 a collection of ne'er-do-wells, adventurers and ivory-hunters had lived in primitive conditions in what they called Port Natal (from 1836 renamed Durban). Natal had for a brief period in the late 1830s and early 1840s been the Republic of Natalia, another of the many self-governing states set up by itinerant Boers. It was at the coast sub-tropical, it was the land of the powerful Zulus, and it had no discernible exploitable natural resources beyond farming.

The British annexed Natal in 1842 mainly to prevent the Boers from securing a foothold at the coast. It remained a province of the Cape Colony until 1856, when it achieved colonial status in its own right with a lieutenant governor. Like the Cape, Natal eventually had a small and partially elected white Legislative Council (1856) and responsible government or home rule only in 1893. Natal, whilst regarded as very beautiful, was notoriously unstable. Here were the South African Marches where the wars for hegemony were played out: Boer versus Zulu; British versus Boer; Zulu versus Swazi; Zulu versus British; and finally the great South African War or second Anglo-Boer war at the turn of the century.

## THE COLOUR-BLIND FRANCHISE

In this patchwork of mainly unstable political entities, the concept of citizenship was as fluid as were the regimes themselves. In the Boer republics every white male Boer had a vote for the state assembly; in the British protectorates no one had the vote for there were no representative assemblies; and in the British colonies, once representative assemblies were established, the franchise was restricted to certain categories of white males. What is interesting is not the small numbers involved so much as the principle laid down in the two British colonies that people of colour should have the vote. This dated back to 1828 when Ordinance 50 extended a degree of civil liberty to 'Hottentots and other free persons of colour'. An ordinance of 1836 creating municipal bodies gave the vote to those who annually paid rent of at least £10 and six shillings a year. In 1843 elected road boards were introduced with a colour-blind £50 immovable property franchise. So before the Cape achieved representative government in 1854 it had local government organised on a non-racial basis.

More significant, though, was that the House of Assembly colour-blind franchise granted the vote irrespective of colour to those who occupied fixed immovable property valued at £25 and had an annual salary of £50. The author of this bill, William Porter, was quite blunt about the matter, stating that he would rather 'meet the Hottentot at the hustings, voting for his representative, than meet him in the wilds with his gun upon his shoul-

der<sup>3</sup>. Porter had no doubts that there would be trouble if this measure was not passed, 'in a country where every man is a soldier and where the coloured man, feeling that he is denied what he deserves, concludes that he is first disfranchised in order that he may be afterwards oppressed'.

As J.L. McCracken has illustrated, in practice the 'coloured vote' was never a threat to white hegemony, and indeed was somewhat whittled away in 1887 and again in 1892. In 1892 the black vote numbered 21,960, about a quarter of the total electorate. A 'tightening up' of the electoral system meant that whilst the number of black voters remained fairly constant the proportion of the electorate fell to an average of about 15%. There has been a tendency to dismiss the colour-blind franchise as being fairly meaningless to black political advancement. And it is true that these figures were not great, but they were also not insignificant. But most important, it did open the door to future hope and its restriction and final abolition in the new Union of South Africa was, rightly, regarded as one of the great betrayals of the black person in South Africa. The authors of the colour-blind franchise were well aware that what they had created was a beginning, not an end.

In Natal anti-black feeling amongst white settlers was as bitter as on the Eastern Cape frontier. The 'Native franchise' or 'King Charles's Head' existed in theory. African men in Natal could vote if they qualified, but in 1865 they were debarred from the franchise, excepting those who had been exempt from local African law for seven years and who then met the qualification requirements. This meant in reality that Africans did not have the vote. In 1905 only three Africans in Natal and Zululand were on the voters' roll<sup>4</sup>. The position of the Indian population in Natal was no better. Under the provisions of Act No. 8 of 1896 Indian people were deprived of the franchise<sup>5</sup>. Natal proved a trying apprenticeship for the young Mohandas Karamchand Gandhi during his African sojourn.

## THE BOER REPUBLICS AND THE UITLANDER ISSUE

Milner championed the cause of the Cape Coloured population in the Transvaal who had none of the political advantages existing in the Cape Colony. These overtures came to nothing. But political rights were also denied to most of the foreign white gold miners, the *uitlanders*, and it was around this rather than the rights of the black population that the showdown between Britain and the Boer republics developed, leading eventually to war.

The Transvaal Afrikaners were worried that they would be swamped by British settlers with voting rights. *Uitlanders* constituted about four-fifths of the white population in the big mining towns. The Transvaal government addressed this situation by lengthening the residency qualification for white settlers from two years residence to five years. As Johannesburg grew and the gold-mining industry strengthened, so did the political pressure for reform. In 1890 a second chamber, a fairly toothless institution, the Second Volksraad, was established to placate *die Engelse*. It did not. It had a two-year residency franchise qualification. Simultaneously and defiantly President Kruger increased the franchise for the presidency and for the First Volksraad to 14 years.

In December 1895, in a Boys' Own-style exploit, Dr Starr Jameson and a commando of 500 men, mainly British colonial police, crossed the border between Bechuanaland (Botswana) and the Transvaal Republic and set off across arid territory to liberate the Transvaal for the *uitlanders*. They were soon to be humiliated. The would-be *uitlander* citizens did not rally to meet Jameson and he was stopped in a brief encounter at Doornkop in the west Rand and arrested on the charge of treason.

The rumour was that Jameson and his cronies would be shot and the pressure was certainly on Kruger to stage a show trial and to hang the leaders. The cunning action of Kruger to hand the raiders over to Britain for trial certainly finished that particular match in his favour, but it was a dangerous game Kruger played, not least because the leaders of the *uitlanders* rounded up for supporting the conspiracy were put on trial and sentenced to death. In somewhat farcical manner, this subsequently was modified first to 15 years' imprisonment, then to a fine each of £25000 and finally to deportation.

But the final fate of the Reformers was largely irrelevant in the power-play underway. The gloves were now off and High Commissioner Milner set to see to it that this archaic statelet be crushed and crushed soon.

## THE ANGLO-BOER WAR AND CITIZENSHIP

War did come in October 1899. In most respects the question of citizenship was not a major issue in this sub-continental war with international ramifications. The Boers were *burgers* [citizens] and the British (British army and colonial levied) were British citizens. The complications occurred in two specific areas. First of all there was a minority of the Cape Afrikaner population who were British citizens, who fought with their kith-and-kin in the republican commandos.

From August 1900 increasingly large numbers of commando members were rounded up by the British army or British Military Intelligence. Some of these were disarmed and sent on their way; many were loaded into train wagons and transported to prison camps, some of which were overseas, in Sri Lanka (Ceylon), India, Bermuda and St Helena. There was harsher treatment meted out to those Cape Boers who had crossed into enemy territory and joined a Boer commando. These individuals were regarded by the British authorities simply as traitors in time of war and as such liable for the ultimate penalty, the firing squad. The most famous execution of a Cape Boer was of Captain Gideon Scheepers who (like James Connolly in Dublin in 1916) was shot by a firing squad whilst sitting on a chair as he was injured and could not stand. And like Connolly, that execution was to have major political repercussions with Scheepers being added to the pantheon of dead heroes, treacherously murdered by *die Engelse*.

The other awkward category of fighting men who were vulnerable on account of their citizenship were the foreign fighters in the Boer army. The Boer army, or more correctly, Boer armies, were essentially part-time militia forces. There was a permanent artillery corps, but the commandos themselves were drawn from the districts in which the men lived. There were one or two exceptions. There was for instance the famous and heroic police commando (ZAPS) which was decimated at the battle of Diamond Hill on 11 and 12 June 1900. And there were the foreign commandoes. These included:

German corps under Colonel Schiel  
 Hollander corps under Commandant Jan Lombard  
 Italian corps under Colonel Camillo Ricchiardi  
 Russian corps under Count Alexis de Ganetzky  
 Scandinavian corps under Fieldcornet Flygare

There were also American Scouts; ambulance units from Belgium, Germany, Italy, the Netherlands and Russia; and an ill-fated International Legion under the colourful Comte de Villebois<sup>6</sup>.

There were two Irish commandos, which whilst both Irish republican in outlook were bitter enemies of each other. One was commanded by an Irish-American called Colonel Blake with Major John MacBride as a Second-in-command, while the second Irish Transvaal Brigade was commanded by an Irish-Australian named Arthur Lynch. The former numbered about 350 men at full strength and the latter about 40 men. Lynch's outfit was described by a member of Blake's commando as "fifty or sixty soreheads, greasers, half-breeds and dagos". When the war turned against the Boer republics and Lord Roberts' massive military force bludgeoned its way first into Johannesburg (31 May 1900) and then into Pretoria (1 June 1900), many of these foreign troops were rounded up. By now they were of little use to the Boer forces, whose tactics were increasingly those of guerrilla fighters. To survive in the raw veldt with a horse and a rifle one needed local knowledge and local languages. Foreign fighters were more of a hindrance now than a help. Those foreigners who could make the Mozambique frontier and neutral Portuguese territory did so, the rest found themselves rounded up by the enemy.

For the British these foreigners were not regarded with much favour and were usually shipped off to one of the remote prison camps as prisoners of war. The one category that was particularly frowned upon were the Irish.

Ireland was, after all, part of the United Kingdom and eleven Irish regiments in the British army had fought with much gallantry in the Anglo-Boer War, sustaining high casualties in such battles as Colenso (15 December 1899) and Tugela Heights (27-28 February 1900). But there was little the British could do to punish these recalcitrant Irish as they had joined the Boer commandos prior to the war and had become *burgers*. In other words they could not be regarded as traitors.

But, significantly, some of the Catholic Irish had joined the Boer army 'after' the commencement of hostilities and then sworn an oath of allegiance to the Calvinist republic.

In 1900 Arthur Lynch, like so many Irish, slipped across the border at Koomatipoort and made his way back to Europe and to Paris, where he was closely associated with Madame Gonne, the fervent Irish republican. Lynch had always had political ambitions. In 1892 he had narrowly been defeated in a parliamentary election in the city of Galway. Then in 1901, when the sitting member was elevated to the peerage, Lynch stood again (*in absentia*) and won against the celebrated Horace Plunkett (1247 votes to 472). In 1902 Lynch crossed the English Channel to take his seat in Westminster and was promptly arrested on a charge of high treason.

The case against Lynch, heard at the Old Bailey, was that he was a British citizen at the time the Anglo-Boer War broke out, that he went to South Africa as a British citizen with

the intention of joining the enemy army and that his becoming a *burger* in January 1900 was an act of treachery in itself in time of war. He was found guilty and sentenced to be executed.

Luckily for Lynch his sentence was commuted and he was pardoned by the Liberal government in 1906. He was elected to the British parliament and remained an Irish nationalist MP until 1918. During the Great War Lynch served as a recruiting agent for the British army and he finally retired to become a general practitioner in an upmarket suburb of London – a respectable British citizen<sup>7</sup>.

## NOTES

- <sup>1</sup> D. McCracken, *Fraternity in the age of jingoism*, in B. Stuchtey, *Science across the European empires, 1800-1850*, Oxford 2005, p. 49.
- <sup>2</sup> See for example, on the Zulu nation J. Laband, *Rope of sand*, Johannesburg 1995 and on the Xhosa, J. Peires, *The house of Phalo: A history of the Xhosa people in the days of their independence*, Johannesburg-Cape Town 1981, 2003 edition.
- <sup>3</sup> J.L. McCracken, *New light at the Cape*, Belfast p. 106.
- <sup>4</sup> E.H. Brookes - C. Webb, *A history of Natal*, Pietermaritzburg 1979, p. 77.
- <sup>5</sup> J. Brain, *Natal's Indians, 1860-1910; From co-operation, through competition, to conflict*, in A. Duminy - B. Guest (eds.), *Natal and Zululand: From earliest times to 1910*, Pietermaritzburg 1989, p. 261.
- <sup>6</sup> For details of the foreign units on the Boer side, see B. Pottinger, *The foreign volunteers: they fought for the Boers (1899-1902)*, Johannesburg 1986.
- <sup>7</sup> D. McCracken, *From Paris to Paris, via Pretoria: Arthur Lynch at war*, "Études Irlandaises", 28, 1, 2003, pp. 125-142.

## BIBLIOGRAPHY

- Aston P.E., *The raid on the Transvaal by Dr Jameson*, London n.d.
- Davenport R. - Saunders C., *South Africa: A modern history*, 5th edition, Houndmills-London 2000.
- Duminy A.. Guest B., *Natal and Zululand from earliest times to 1910: a new history*, Pietermaritzburg 1989.
- McCracken D.P., *From Paris to Paris, via Pretoria: Arthur Lynch at war*, "Études Irlandaises", 28, 1, 2003, pp. 125-142.
- McCracken D.P., *MacBride's Brigade: Irish commandos in the Anglo-Boer war*, Dublin 1999.
- McCracken J.L., *The Cape Parliament, 1854-1910*, Oxford 1967.
- Id., *New Light at the Cape of Good Hope: William Porter, the father of Cape liberalism*, Belfast 1993.

## SOURCES

Memorandum by Attorney General William Porter, 1848

I deem it to be just and expedient to place the suffrage within the reach of the more intelligent and industrious of the men of colour, because it is a privilege which they would prize and a privilege which they deserve, and because by showing to all classes, those above and those below them, that no man's station is, in this free country, determined by the accident of his colour, all ranks of men are stimulated to improve or maintain their relative positions.

*Establishment of representative assembly* [Cape of Good Hope], H.C. 1850, XXXVIII [1337] 2, p. 8.



## THE KING v. LYNCH

Jan. 21, 22, 23 1903

On a trial for high treason the Court will not entertain a motion to quash the indictment as defective, but will leave the prisoner to his remedy by motion in arrest of judgment or by writ of error.

The Naturalization Act, 1870 [33 & 34 Vict. C.14], provides by s. 6 that "Any British subject who has at any time before or may at any time after the passing of this Act, when in any foreign State and not under any disability, voluntarily become naturalized in such a State, shall, from and after the time of his so having become naturalized in such foreign State, be deemed to have ceased to be a British subject and be regarded as an alien": –

Held, that the section does not empower a British subject to become naturalized in an enemy State in time of war; and that the act of becoming naturalized under such circumstances is itself an act of treason, and ineffectual to afford protection against an indictment for treason in subsequently joining the military forces of the enemy.

TRIAL at bar for high treason.

The first count of the indictment charged that upon January 18, 1900, and long before and continually from thence until the death of the late Queen Victoria, an open and public war was being carried on by the Government and burghers of the South African Republic against the said Queen and her subjects, and that the prisoner on January 18, 1900, at Pretoria ... was adhering to, aiding, and comforting the Government of the South African Republic and the burghers ... The first overt acts charged was a declaration made by the prisoner during the continuance of the war ... in the following terms:

"In terms of First Volksraad resolution dated 29 September, 1899. Art. 1442.

I the undersigned Arthur Alfred Lynch, up to the present an Irishman (British subject) born in Australia, inhabitant of the South African Republic since .... 5 days, hereby declare my willingness to take up arms for this Republic in order to maintain and defend its independence, which now is or in the future may be threatened, and therefore desire to take the oath of allegiance as a full burgher of the South African Republic.

Signed at Pretoria on the 18<sup>th</sup> of January 1900.

(Signed) Arthur Lynch."

[Summary of the case]

WILLS J.

If Mr. Shee's [Defence Counsel] argument were sound, an army might, if each member of it were individually to accept letters of naturalization from the enemy, desert in the hour of battle without rendering any of its members liable to the penalties of treason. So extravagant a conclusion shews conclusively that the contention cannot be supported.

*Law Reports*, (Britain), King's Bench Division, [1903], volume 1, pp. 444-460.

