

JEWISH IMMIGRATION AS AN ISSUE IN SOUTH AFRICAN POLITICS, 1937—39

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The Aliens Act, 1937

Richard Stuttaford, as Minister of the Interior in the Fusion Cabinet (United Party Government) in 1937, inherited the problem of growing Anti-Semitism which had found sanctuary within the Purified Nationalist Party of Dr D F Malan and had resulted from the influx of Jews from Europe into South Africa in the wake of the repressive racialism of the Nazi Fuehrer, in 1930. Owing to the relatively large immigration from eastern Europe, mainly of Jews, the Quota Bill was piloted through parliament by Dr D F Malan, Minister of the Interior, at the time. The Bill set a limit to the number of immigrants permitted to enter the Union from eastern Europe, but for the rest, the door remained open. Though the Quota Bill did not specifically mention Jews, it could not be denied that it was directed against them,¹ and it was for that reason that Jan Smuts, heading the South African Party, led his reluctant followers into opposition against the Bill.

The Quota Act achieved its purpose, but when Hitler came to power in Germany in 1933 a new situation developed, and a mass emigration ensued. In these circumstances there was a considerable increase in the number of Jewish immigrants into the Union after 1933. Between 1933 and 1936, 9 947 German immigrants entered the Union, and of these, 3 615 were Jews. By 1936 the Jewish community constituted 4.75% of South Africa's European population.² During the latter half of 1936 there was mounting agitation in the Union for the restriction of Jewish immigration, considerably aggravated by anti-Jewish immigration campaigns organised by the Greyshirt movement and the Malanites. In November 1936 the government, under this increased pressure, drafted an Aliens Bill "to check the Israelitish invasion".³ "There can be little doubt that the agitation in the country ... forced the Government's hand", declared *The Round Table*,⁴ but J H Hofmeyr assured Parliament that the Aliens Bill had been drafted before the agitation reached its culminating stages. Stuttaford substantiated this claim during the second reading debate on the Aliens Bill in January 1937 when he assured the House "that the Government's Bill was prepared long before the honourable member's Bill saw the light of day, so I am sorry ... that the honourable member cannot enjoy the satisfaction of the Government's having in any way been worried about his Bill".⁵ This statement endorses the view that the Bill was essentially Hofmeyr's, and not devised by Stuttaford. The most accurate assessment of the origin of the Bill is that it was a Cabinet measure.

1. D.W. Kruger, *The Making of a Nation* (Johannesburg, 1969), p.181.
2. M. Cohen, 'Anti-Jewish Manifestations in the Union of South Africa during the 1930's' (unpublished B.A. Hons. thesis, U.C.T., 1968), p.102.
3. E.A. Walker, *A History of Southern Africa* (London, 1957), p.664.
4. *Round Table*, No. 107, April 1937, p.671.
5. *H.A. Deb.*, vol. 28, col. 55, 12.1.37.

It is evident, however, that Hofmeyr, Minister of the Interior in 1936, had contemplated some refinement of immigration legislation, and the government had appointed a committee to investigate the immigration question. In March 1936 Hofmeyr reviewed a "Memorandum on European Emigration to South Africa for submission to the Honourable the Prime Minister" drafted by a Nationalist party pressure group led by Eric Louw who became an ardent advocate of anti-Semitism.⁶ In this memorandum the signatories decried the fact that in various international circles South Africa was referred to as "a Jewish country". Hofmeyr attacked the anti-Semitic sentiments expressed in this document, and also exposed the inherent impracticability of the government committee's proposals for the exclusion of Jews from the Union on the ground of unassimilability.⁷ The government was as concerned about immigration as the Nationalists, and consequently the Jewish question was projected into the political arena as a major issue. It is true, however, that the first intimation that the government was to alter the existing Immigration Act was given by General J J Pienaar as late as October 1936, at the Transvaal United Party Congress held in Pretoria.⁸ Some weeks later, Smuts informed his constituents at Standerton that while South Africa required new immigrants in order to strengthen the country, it was both desirable and necessary to control immigration, and he intimated that it was the intention of the government to do so.⁹ Hofmeyr had been aware of Hertzog's intention to introduce legislation to prevent 'unassimilable aliens' from entering the Union.

In December 1936 the King agreed to appoint Patrick Duncan, the Minister of Mines, as Governor General. With this development as the pretext for a Cabinet reshuffle, Hertzog relieved Hofmeyr of the Department of the Interior, and gave him the portfolios of Mines and Labour. The problems of Jewish immigration, Indian land purchases, and mixed marriages were transferred to Stuttaford who succeeded Hofmeyr in the Interior Ministry. It was widely believed that this was a political move on the part of Hertzog, but Hofmeyr discredited this prevalent view in a letter to Underhill, his well-known confidant since their Oxford days. He wrote: "I have given up the Interior and Public Health, while retaining Education ... the occasion for the Cabinet reshuffle was provided by the elevation of one of my colleagues, Patrick Duncan, to the Governor-Generalship".¹⁰ However, Hofmeyr had long been a thorn in Hertzog's side, and Stuttaford was on good terms with the General. Stuttaford was not as inflexible on matters of political principle as Hofmeyr, yet he displayed an equal capacity for ministerial duty as did his liberal predecessor. Hancock remarks that at this time "Hertzog must have asked himself whether Hofmeyr's statements were not putting too heavy a strain upon the cohesion of the United Party".¹¹

The Aliens Bill of 1937 was the United Party Government's reply to the excitement stirred up by the Nationalists, and it passed its first reading before Dr Malan introduced his motion censuring the government for its neglect in the matter of Jewish immigration. Malan's motion showed that the Nationalists wanted a law which would specifically name the Jews as prohibited immigrants and debar Jewish aliens already resident in South Africa from accepting any paid employment without the permission

6. Hofmeyr Collection, A.1, Dh-Immigration and anti-Semitism 1934-36, 30.3.36.

7. *Ibid.*, Hofmeyr's memorandum on the government committee's proposals on Immigration, p. 3.

8. *Rand Daily Mail*, 9.10.36.

9. *Ibid.*, 12.12.36.

10. A. Paton, *Hofmeyr* (London, 1964), p.256.

See W.K. Hancock, *Smuts*, vol. II, pp.291 - 292.

of the government. At the Nationalist Party Congress held in Bloemfontein during the second week of November 1936, Malan had stated his intention to introduce a Bill in which he would propose:

- (1) that only people who could be assimilated by the nation should be allowed to enter the country;
- (2) that Yiddish be not recognised as a European language as far as the immigration laws were concerned;
- 3) that Union citizenship be not granted to any person who belonged to a class described by the law as "a class which cannot be assimilated".¹²

Cohen argues that it was this kind of threat that resulted in the Cabinet's decision to introduce the Aliens Bill. The enactment of the Aliens Act in January 1937, he claims, is in itself of little consequence: "The importance of the law lies primarily in the different pressures exerted upon a somewhat reluctant government, compelling it to introduce such a measure in Parliament; the dissatisfaction of the agitators over the mild implications of the Act; and the resultant increase in anti-Jewish sentiment amongst official and political circles prior to and after the enactment of the Bill".¹³ The introduction of such a measure was calculated to steal Malan's thunder. Malan's promised Bill was published in the *Government Gazette*, incorporating all the points enunciated at the Bloemfontein Nationalist Congress. But on 11 January 1937, Stuttaford gave notice of the Aliens Bill which, unlike Malan's proposed legislation was aimed at controlling immigration and allowing for the screening of all immigrants except born subjects of the King. Under this legislation aliens would be forbidden to change their occupations for three years, and the changing of surnames was forbidden "except in accordance with well-established custom".

On 12 January Malan introduced his motion of censure. He claimed that stringent legislation was required to offset the Jewish influx into South Africa.¹⁴ Without mentioning the Jews by name, the amended Act would empower the immigration authorities to refuse entry to all Jews intending to settle in the Union. He denied that his position had been dictated by the German Nazis or the anti-Jewish organisations which existed in South Africa. Replying to the charge that his motion of censure was anti-Semitic, he declared:

"I have been reproached ... that I am now discriminating against the Jews as Jews. Now let me say frankly that I admit that it is so, but let me add that if you want to effectively protect South Africa against the spectral influx from outside, it must inevitably be done."

Malan insisted that South Africa had a "Jewish problem" and that the only way in which that problem could be solved, and the good relations between all sections of the population be maintained, was to close the doors to Jewish immigrants. This would ensure that South African commerce and industry did not fall into the hands of Jews,

12. Cited by Cohen, 'Anti-Jewish Manifestations', pp.115 – 116.

13. *Ibid.*, p. 103.

14. *H.A. Deb.*, vol. 28, col. 32 *et seq.*, 12.1.37; See P.F. van der Schyff, Eric H. Louw in die Suid-Afrikaanse Politiek tot 1948 (D. Litt. dissertation, Potchefstroom University for Christian Higher Education, 1974). pp. 430–435.

and in consequence anti-Semitism would be greatly reduced. South African Jewry, he warned, was part of an international organised Jewry which formed a distinct racial entity which constituted in South Africa an "imperium in imperio", rendering Jews unassimilable.

Replying to the motion before the House, Stuttaford declared strongly: "I appreciate that the whole intention of his motion is unabashed racialism. It is an appeal ... to the least creditable instincts of our people ... that does not, I am sorry to say do much credit to the honourable member for Calvinia [Dr Malan]. Every paragraph in this motion is a hit at the Jews ...". Stuttaford reminded the House of the debt owed by South Africa to many Jews who had occupied prominent positions and contributed handsomely to the development of the country. He detested the injustice of Malan's motion and spoke out against this "example of the new republicanism": "If we are not going to stand for justice and right for every man legally in this country, then, I say, God help our country To me, the honourable member's motion, if he can ever find a Government to accept it, simply means the establishment of a tyranny, and the end of democracy ...". Stuttaford then proceeded to quote from speeches made by Malan during the debate on the Quota Bill in 1930. He argued that Malan had advocated "full equality in every respect and every opportunity which every other section enjoys" for South African Jewry in 1930. But in 1937, as leader of the Opposition Nationalists, Malan had changed his attitude, expounding an anti-Jewish policy; Stuttaford caustically asked which of these was the true view — "the anti-Jewish view that he has been expounding this afternoon, or the liberal view, with which I entirely agree, which he expounded in 1930?" Stuttaford also attacked Malan on the question of the assimilability of the Jews, and contended that the Jews of South Africa were entirely assimilated into the national life of the country, citing various examples to support his argument.

The speakers who addressed the House subsequently execrated the remarks made by Malan. Walter Madeley, whose singularly pro-Jewish outlook had not changed since the 1930 debate on Malan's Quota Bill, stated emphatically that "the roots of the emotion that has caused this motion lie deep down in ... bitter racialism". He decried Malan's open alignment with the Greyshirt Movement, while C W A Coulter rebuked Malan for his attempt to deprive Jews of the fundamental rights of citizenship, and of attempting to discriminate against citizens of the country on the basis of race and religion.

Dr Karl Bremer, M.P. for Graaff-Reinet, defended the motion, claiming that the attitude of the Nationalists was not motivated by racial hatred, but was a device to preserve the racial composition of South Africa's population. He declared that South Africa had more Jews in the total population than could be assimilated into a "White country". Morris Alexander's reply to such a view was that "The whole of this motion is anti-Semitic, and it is a curious thing that I am the last remaining member of this house of the Old Cape House of Assembly and I have never in all my experience seen this House descend to such a low political level, where it is possible for a man, and him the leader of a party, to bring forward something that might be alright in a country built upon hate, envy and jealousy ...". Alexander condemned Malan's intention "to get a few miserable votes" by formerly attacking the Englishman, the Native and the Coloured — and now the Jew.¹⁵

15. *H.A. Deb.*, vol. 28, cols. 62 - 104; See T. Schechter, 'Morris Alexander; the study of the position of a 'liberal in the old Cape Tradition' in relation to white politics and black attitudes, with special emphasis on the years 1932 - 39' (B.A. Hons. thesis, U.C.T., 1973).

On 13 January the Aliens Bill was read a second time. Stuttaford stated that the Bill aimed at repealing the Quota Act which had become ineffective since it applied only to certain countries. The Aliens Bill was based instead on "the selective principle", implying that only persons who would strengthen the South African nation, and who would, within a reasonable period of time, be assimilated into the population of the country, could enter the Union as immigrants. Stuttaford said that the Bill would stress quality rather than quantity in regard to immigration. He denied categorically that the measure was directed against the German-Jewish refugees. Defending his view he postulated "that in the present mentality of Europe we may get waves of immigration from many sources, not only ... from Germany, but ... from practically all ... densely populated countries of Europe, and it is in order to control that immigration that the present Bill is brought in".¹⁶ Paton deftly observes that "the Bill did not mention Jews, but everyone knew it was meant to check Jewish immigration. The Malanites taunted Stuttaford because he would not say so".¹⁷ Stuttaford himself rightly assessed his position when he complained that "on one side of the House I am criticized and told that I mean the Jews, and on the ... [other side] ... is another honourable member who criticizes me because I don't mean the Jews". Despite this realization of his ambiguous approach to the Bill he insisted unconvincingly that "the suggestion of certain of our opponents ... that this Bill is directed against the Jews ... is not true".

During the debate it became clear that the Bill, if enacted, would vest full powers in a Selection Board, thereby granting it absolute discrimination in the selection of immigrants. Stuttaford insisted that this selection was not to rest upon racial grounds but rather on "the good character of the applicant, his likelihood of ready assimilation with the European population and of becoming a desirable citizen within a reasonable time, and the fact that he is not harmful to the economic and industrial welfare of the country and is not likely to pursue a vocation in which, in the Board's opinion, there are sufficient numbers engaged". Malan was not satisfied with the effect the Bill would have in preventing refugee Jews from Germany from entering the Union. If the Bill was not directed specifically against German Jews then it was a "pure pretence", according to Malan. If, however, it was indirectly aimed at Jewish refugees, Malan challenged Stuttaford, then "why not have the courage to say so plainly? Is it not better to play open cards with the Jewish race in connection with this matter? So far as I am concerned, my attitude in connection with this Bill is that I would like to stop that particular immigration from Germany ... because there are too many Jews here — too many for South Africa's good, and too many for the good of the Jews themselves. And accordingly, I say clearly whom I want to see excluded, and I do not try to hide the matter in any way". Having expounded the Nationalists' opposition to the Government's Aliens Bill, Malan moved an amendment that the Order for the Second Reading be discharged, and that the Bill be referred to a Select Committee which would, *inter alia*, make adequate provision for the discriminatory measures which he had postulated in his motion of censure.¹⁸

Morris Kentridge, M.P. for Troyeville and an executive member of the South African Zionist Federation,¹⁹ joined Alexander in the attack upon Malan's amend-

16. *H.A. Deb.*, vol. 28, col. 104 *et seq.*, 12.1.37.

17. Paton, *Hofmeyr*, p.258.

18. *H.A. Deb.*, vol. 28, cols. 106—112.

19. *South African Who's Who 1940*, p.225.

ment. Kentridge defended Stuttford's emphasis on the principle of quality *vis-a-vis* quantity with regard to immigration selection, and he denounced legislation discriminating against the Jew as a Jew. M J van den Berg, M.P. for Krugersdorp, followed Kentridge's onslaught, arguing that the Malanite attitude to the Jewish question was prompted by anti-Semitic and consequently anti-Christian notions. Countering such a view, Paul Sauer, M.P. for Humansdorp, declared that the Jews had begun "to form a state within a state", and the inevitable result was a widespread anti-Semitism. He stated Nationalist policy when he concluded that unless restrictions were made upon Jewish immigration the anti-Jewish movement in South Africa would continue to grow.

The most notable speech in the debate was made on 14 January by Smuts. Cohen praises this "brilliant oration, tempered with tolerance, understanding and a deep insight into the universal Jewish problem".²⁰ The aim of the Bill was, in Smuts's view, to welcome desirable immigrants, but would effectively exclude "the unwanted ... the flotsam and jetsam that might flow to our shores". Smuts warned against curbing white immigration, as this would severely endanger the exiguous basis on which white South Africa existed. He supported Stuttford's denial that the Aliens Bill was directed against the Jews in particular: "There will be no discrimination on racial grounds — none whatever. This Bill is not directed against any particular race, but against all undesirables who do not comply with the conditions which are laid down in this Bill. Whatever a man is, a Jew or a Gentile, whatever his race may be, or whatever his outlook may be, if he can comply with the conditions laid down, he will be welcome". Smuts criticized the Malanites for using anti-Semitism as a political device: "I never thought that I would live to see the time when a political party in this country ... should ever have so far forgotten themselves and forgotten the true interests of South Africa, as to take up this unsavoury and discreditable course". Smuts demonstrated to Stuttford the courageous stand required to check the prejudices of an extreme Nationalism. His stand remonstrated with Stuttford's vacillation, typified by the latter's inconclusive defence that the Bill "does not prohibit the immigration, and it does not promote the immigration of Jews. It simply controls and regularises the immigration of all sorts and conditions of persons".

The debate became more and more heated in its criticism of the government as well as of the anti-Jewish stance adopted by the Purified Nationalists. Opponents of the Bill argued that the government had been forced into introducing such a Bill, and that there was no necessity for immigration legislation. They criticized the envisaged Selection Board which could be used for party political ends. J Christie, M.P. for Rosettenville and a member of the Labour party, summed up the Bill as a measure "so designed that it can be used in the towns to tell the Jewish people and their friends that it will help them", and "that it can be used on the platteland to tell the people that it will be applied against the Jews". Duncan Burnside, M.P. for Umbilo, stated vociferously the Socialist view:

"This debate is a very important occasion, because it marks the formation of another new party ... a South African Nazi Party. I myself, have always had considerable suspicions that the Leader of the Opposition was being pushed into the Nazi position Watching very carefully, I have seen [him] ... gradually come nearer and nearer to the Nazi position, and today ... he has undoubtedly shown ... that he is an ardent disciple of this particular form of politics which found its origin under Herr Hitler in Germany."

20. Cohen, 'Anti-Jewish Manifestations', p.128.

Earlier in the debate Dr De Waal, a Nationalist M.P. and prominent leader of the Greyshirts, asked why the Jewish M.P.'s had opposed the Quote Bill in 1930, but were supporting the government in its bid to restrict Jewish immigration further. Christie and Burnside provided a feasible answer to this question when they stated that Jews on the whole acquiesced in the new legislation because they feared the pro-Nazi attitude of the Malanites.

Certainly this insight provides the probable motive for Stuttaford's willingness to present and defend the Bill in the House. Though not himself a Jew, his intense hatred of Nazism and the possible infiltration of German Nazis into South African Nationalist party circles through immigration, are considerable factors in any explanation of his actions in fostering this discriminatory measure. For him, it was designed to screen immigrants in an attempt to prevent subversive elements from arousing a new national-socialist movement within the Union.

On 18 January the Prime Minister addressed the House and contradicted Stuttaford's statements regarding the Bill. It became apparent from his remarks that the views of Stuttaford and Smuts on the rationale of the Bill were as far removed from Hertzog's as they were from Malan's. It was a major blunder which severely damaged the cohesion of the United Party which was already feeling the strains of political dissension within its Cabinet. Enumerating the reasons for the proposed Aliens legislation, Hertzog declared that "the influx of the Jews is ... one of the two immediate causes for the introduction of this Bill", a fact which Stuttaford and Smuts had categorically denied. While Hertzog did dissociate himself from the charge that the measure was anti-Semitic, he did admit that by restricting the entry of Jewish refugees from Germany, the government would be averting an increase of anti-Semitism in South Africa. Did Hertzog know what had been said by members of his Cabinet earlier in the debate? J.G. Strijdom, Leader of the Nationalist Party in Transvaal, pointed out that the reasons given by Hertzog for the introduction of the Bill contradicted the explanations given by Stuttaford and Smuts, but expressed sentiments largely reminiscent of those adumbrated by Malan in his opposition to the Bill. According to Strijdom, Smuts "turned scarlet while the Prime Minister was speaking", and Strijdom further declared that Hertzog's speech was "certainly one of the most astonishing speeches which has yet been made in this House". Strijdom also exposed the complete contradiction inherent in the government's immigration policy. This unfortunate speech by the Prime Minister caused the question of the intention of the Bill to bulk larger than ever before. Was it in fact directly aimed at keeping prospective Jewish immigrants out of South Africa or was it directed exclusively against 'undesirables'?

Hertzog's blunder prompted a spate of anti-Semitic addresses from the Nationalist branches. Leading the attack was A L. Badenhorst, M.P. for Riversdale, who declared that the Nationalists were "not against Jews as Jews, but the Jew does not assimilate himself with us. They do not have our religion; they do not believe in my Saviour and in my church, and on Sundays they take my children to go fishing along with them". Other Nationalist members spoke in a similar vein.

Attempting to sum up the debate, Stuttaford maintained that the object of the Bill was neither to prohibit, nor promote the immigration of the Jews, but simply to control the influx of persons hoping to settle in the Union. The government was in favour of immigration, as long as it was controlled: "We want immigrants, but they must be of the right kind ... This question of assimilation is a question both of quantity and quality". In the voting which followed, Malan's amendment was defeated by 91 votes to 18, and the second reading of the Bill was accepted by 84 to 28, the Labour

members siding against the government in the latter vote.²¹

In the Committee Stage of the Aliens Bill, the Nationalists attempted unsuccessfully to amend the Bill effectively to prevent the further immigration of Jews to the Union. In proposing his amendment, Malan referred again to Hertzog's speech, claiming, "we had a clear statement from the Prime Minister a few days ago — that this Bill was intended to keep out the Jews. He acknowledged frankly that there were too many Jews in the country, and that a further influx of the Jewish race into the country would give rise to internal trouble". Stuttaford persisted, "I made it perfectly clear, in introducing the Bill, that it was not directed against any particular race, I shall maintain that attitude right throughout the passage of this Bill ...". Stuttaford's justification and handling of the Bill came under fire continually, but the severest personal ridicule came from Burnside: "I think the Bill is being very adequately made a fool of by the Minister himself. The more we discuss the matter and the more the Minister replies to the debate, the more foolish it becomes". Finally on the 27th January, the Bill was read for the third time and was enacted and became law on the 1st February 1937.²²

It is almost impossible to gauge the government's real reasons for introducing this legislation. D W Kruger maintains that "although Jews were not specifically referred to in the Act, the intention was clearly to exclude as many of them as possible".²³ Clearly the Cabinet was divided on the issue, and the Nationalists made capital out of the obvious disagreement among United Party Ministers. Badenhorst was only one Nationalist who queried, "am I to believe the Minister of Mines [Hofmeyr], the Minister of the Interior [Stuttaford], and the Minister of Justice [Smuts], or must I believe the Prime Minister?"²⁴ This would suggest that Nationalists viewed Stuttaford as a proponent of the same view as Smuts and Hofmeyr on the Jewish question, yet they taunted him for his ambiguity. Malan felt that Stuttaford's ambiguity was deception to the Jewish population, and argued that Stuttaford was not courageous enough to name the Jews as the "undesirables of the other countries", to which the Minister had continually referred in speeches in the House, and at the United Party Congress at Worcester.²⁵ Stuttaford tried to exonerate himself by claiming that the Nationalists were "suffering from an anti-Jewish complex". Much stronger condemnations of the Nationalists came from outside the House, blaming them for "going Nazi" and for brandishing the anti-Semitic slogan in order to win electoral favour.²⁶ Such condemnation met with an equally stout defence by others who believed the Nationalist principles to be in the interests of South Africa, and not merely sops to racial prejudice.²⁷

The Round Table contended that while "the Government congratulated itself on having forestalled a piece of purely racial legislation", and while "its spokesmen admitted that the new immigration law would be applied primarily against the Jews during the next few years", it nevertheless "declared that it [the Act] could and would be used equally against any other immigrants whose entry was considered prejudicial to the welfare of the Union".²⁸ The promulgators of the Act suffered sharp criticism in

21. *H.A. Deb.*, vol. 28, cols. 257–338.

22. My account of this debate follows the record as given in *Hansard*, vol. 28, cols. 9–746.

23. D.W. Kruger, *The Making of a Nation*, p.181.

24. *H.A. Deb.*, vol. 28, col. 410.

25. cf. *Ibid.*, col. 111

26. *Sunday Times*, 17.1.37.

27. 'The National Party and Jewish Immigration', National Party, Cape Province (Cape Town, 1937).

28. *Round Table*, vol. 27, p.671.

the press, particularly because it left the word "unassimilability" undefined.²⁹ Stuttaford was largely responsible for the avoidance of any clear statement of definition, and resorted to ambiguous retorts that the word had the same meaning as it had in 1930. Dr Bernard Friedman wrote on the question of assimilability in the *Jewish Times* on 22nd January 1937 declaring the conception to be "vague and nebulous"; lending itself to a variety of interpretations. His argument in support of maintaining the Jewish "identity" was that "it is a fundamental principle of every democratic state to permit within its borders a diversity of elements who are held together by a common bond of loyalty", but he gave assurance that "anything that menaces South Africa is a menace to everything we hold dear", and concluded that "in a very real sense, we are better citizens for being good Jews".³⁰

Stuttaford cannot be excused for his ambiguity throughout the Aliens Bill debate. He was not convincing in his defence of the Bill, and though he professed a non-racial intention in introducing the Bill, its effect as law was to prove that it certainly was directed against the Jews. The number of Jews entering the Union was halved during the three year period following the enactment of the Bill.³¹ Stuttaford's speeches during the debate were characteristic of his style, especially when he introduced his homespun analogy of the plum pudding when attempting to illustrate the meaning of assimilability — for which he had provided no satisfactory definition — and to explain the selective principle of the Bill. This rather amusing and simplistic analogy was given in reply to Sauer and Erasmus who, Stuttaford felt, were making an issue of assimilability of Jews. The analogy is couched in sarcasm, poking fun at Nationalist insistence upon a definition for something "quite trivial" in Stuttaford's view. He had maintained in debate that the Jews had been entirely assimilated into the life of the nation, and were readily assimilable elements. Addressing these two Nationalists he said, "they will remember not so many years ago that when they had a helping of plum pudding they might get a pain below the belt (a) because the quality was bad, and also (b) because, though good, they had taken too much of it. It is exactly the same position with regard to a nation. The quality may be all right, but you may have too great a quantity, and therefore it is necessary to restrict On the other hand, if you have a small quantity of it and the quality is bad, you are in an equally uncomfortable position. I think that will appeal to both these members".³² This was a debating tactic rather than a clear statement of what the government meant by the concept of assimilability, and such analogy contributed little to the standard of debate, and emphasized Stuttaford's avoidance of the main contention of who was to be prevented from entering South Africa and who was not.

If it was the government's intention to limit Jewish immigration from Germany by means of the Aliens Act then it was largely successful. Cohen argues that, prior to the Aliens Act, the Nationalist Party had moved closer than ever towards the Greyshirts. After the enactment of the Aliens legislation of 1937 the Nationalists began using the Jewish question to an increasing extent in their political campaigns.³³ During the period following the passing of the Aliens Act, the most noteworthy development

29. *Cape Argus*, 23.1.37.

30. Hofmeyr Collection, Al, Dh, 1937–1939, 'Assimilability' by Bernard Friedman, unpublished.

31. Cohen, 'Anti-Jewish Manifestations', p.134.

32. *H.A. Deb.*, vol. 28, col. 336.

33. Cohen, 'Anti-Jewish Manifestations', p.135; See E. Bradlow, 'Immigration in the Union of South Africa 1910–1948' (unpublished Ph.D., U.C.T., 1978), chapter on Jewish Immigration.

in the anti-Jewish movement was the increased emergence of anti-Semitism as a political issue, culminating in Eric Louw's notorious Aliens Amendment Bill of 1939.

The Aliens Amendment Bill, 1939

Hofmeyr described Louw's Aliens Bill as "Nazism at its crudest",³⁴ and asked, "Is it only coincidence that for some time past there have been unmistakable signs of Nationalist sympathy for Germany?"³⁵ He referred to the numerous articles in praise of conditions in Nazi Germany published by the editor of *Die Volksblad*. He pointed to the presence of leaders of various 'shirt' movements within Nationalist ranks, quoting one such leader, Louis Weichardt,³⁶ of the Greyshirts, who had declared that, in putting forward the Bill of Eric Louw, the Nationalists had shown that the "Jewish problem is tackled as a whole".³⁷ *Die Burger*, in welcoming Weichardt, said that as the political conflict in South Africa was on the question of what sort of nation would be created, "it is a struggle between two directly opposing ideals: on the one hand the ideals of nationalism and on the other hand the ideals of a triple alliance (driebond): imperialism, money-power, liberalism".³⁸ Hofmeyr warned of the anti-British attitude of the Nationalists, and mentioned a widely held English view that the Nazis hoped to strike their first blow at the British Empire by creating a split in South Africa through Nazi and Nationalist activities. He also regarded as sinister the glee with which German newspapers hailed Louw's Bill.³⁹

Paton describes Eric Louw, M.P. for Beaufort West, as "a slight man, and a speaker of considerable ability with a sharp humourless tongue. Until it became unacceptable to do so, he referred to non-white South Africans in contemptuous terms. Above all he was master of the *tu quoque*, and developed to its perfection the argument, 'You say I am bad, but I shall now prove you are bad too.'"⁴⁰

Louw's Bill crystallised all the intensity of the anti-Semitic campaign waged by the Nationalists since 1936, and satisfied the critics of the Aliens Act. The Bill had behind it the opinion of such Afrikaner intellectuals as prof Verloren van Themaat, Dean of the Faculty of Law at Stellenbosch University, who decried "the privileged position of the British immigrant, merely because he happens to be British ...". Dr Verloren van Themaat attempted to expose what he described as "the absurdity of the differentiation made in the [Aliens] Act between British subjects and Aliens", and deplored the fact that it was not possible for any alien (i.e. non-British subject) to take up residence in the Union without the permission of the Selection Board. Over the arrival of British subjects by birth, however, the Board had no control, he argued. He declared that such differentiation was "a peculiar commentary on the country's independence in practice". He questioned the justice of allowing Britons to enter South Africa freely regardless of whether their entry was "in harmony with our national in-

34. Paton, *Hofmeyr*, p.315.

35. Hofmeyr Papers, A1, Dh, Anti-Semitism and Immigration 1937-39, 'Some Features of Mr. Louw's Bill'.

36. 'A barber of German extraction who had fought for the Fatherland during the Kaiser's War'; founded the Nazi-minded Greyshirts organisations. (E.A. Walker, *A History of Southern Africa*, p.656.)

37. Hofmeyr Papers, 'Some Features of Mr. Louw's Bill'.

38. *Burger*, quoted by Hofmeyr in 'Eric Louw's Bill', article in Hofmeyr Papers, A1, Dh, 1939.

39. Hofmeyr Papers, 'Some features of Mr. Louw's Bill'.

40. Paton, *Hofmeyr*, p.314.

terests".⁴¹ Another writer in *Die Burger*, prof M Bokhorst of the University of Pretoria, described the Aliens Act as "one of the most important imperialist victories of recent times, as a link in the British plan by means of predominantly British immigration to the Dominions to give them a pure British character".⁴² In a leading article in *Die Burger* on 10th January 1939, the editor appealed for an amendment of the Aliens Act, claiming that when the Act was being discussed in Parliament in 1937, "*Die Burger* opposed the exemption of British subjects from its application. That our opposition was well founded, appears from the fruits of the Act".

Die Volksblad also warned the Nationalist electorate that "our population gain from immigration under the Aliens Act is becoming more and more one-sidedly British ... they are going to constitute more and more overwhelmingly the new comers to our country, while the cognates of the majority of our white population are systematically excluded".⁴³ Combined with the anti-Jewish thrust of the Nationalist Opposition was this overwhelming anti-British sentiment, which together constituted the strategy adopted by the Malanites during the 1939 session of Parliament. This was anticipated by the *Daily News* when it declared, "Once begin denying the rights of normal humanity to any civilised group on the grounds of race, and the end is not far distant. And as the Italians slaughtered the Abyssinians for the good of the Abyssinians, so does Mr Louw discriminate against the Jews for their own sake, and so shall we be told at a later date that it would be an excellent thing for the British if they would restrict their numbers".⁴⁴

Anti-Semitism was one of the recurrent themes of the 1939 session. The debate on Eric Louw's Bill was discussed at intervals in the first part of the session. Thereafter, issues of anti-Semitic propaganda value were constantly raised in questions and debate. Hofmeyr reported, "It is unnecessary, therefore, to emphasise the first-class importance of anti-Semitism in South Africa as a political issue ... Its adoption by the Nationalist Party as part of its programme has removed it from the sphere of the demagogue of the "shirt" type, and given it political respectability".⁴⁵ Stuttaford's role in the 1939 session was central, because all the contentious issues raised were Interior Ministry concerns, and *The Forum* did not exaggerate when it commented that "No member of the Union Cabinet had a more difficult time during the past session of Parliament than the Minister of the Interior, round whose head has raged a storm of controversy, criticism and some applause".⁴⁶ The main reasons for this were twofold, namely the amended Aliens Bill and the interim Asiatic legislation.

Louw, in moving his Bill, made an excellent case for restricting the immigration of Jews. His speech was well prepared, supported by statistics, and cleverly argued. Morris Kentridge, however, recounts in his autobiography that Louw's many quotations were shown to be incorrect, inaccurate and distorted.⁴⁷ Despite this claim Louw's Bill was not systematically and effectively destroyed, but instead, both Stuttaford and Hofmeyr replied with feeble and horrified reproach at Louw's flank attack on democracy, ignoring the real issues that Louw had raised. *The Forum* was particularly harsh in its criticism of Hofmeyr: "Anyone not acquainted with Mr Hofmeyr's politics

41. *Burger*, 10.1.39, translation by Hofmeyr, Hofmeyr Papers.

42. *Ibid.*

43. *Volksblad*, 13.12.38.

44. *Daily News*, 2.3.39.

45. Article by Hofmeyr entitled, 'Anti-Semitism' in *Forum*, 24.6.39.

46. *Forum*, 10.6.39, p.3.

47. M. Kentridge, *I Recall* (Johannesburg, 1959), pp.272 – 275.

might have been forgiven for concluding that he was at heart on Mr Louw's side".⁴⁸ He was less powerful in debate on this occasion than he was in his critique of Louw's Bill to be found among his political papers.⁴⁹

In moving his amendment to kill this Bill, Stuttaford resorted to his old tactics, sardonically thanking Louw for stating so clearly and effectively, and "in such an extensive way" the case against the Jews:⁵⁰ "When I read the Bill I appreciated ... that it is racial in the extreme and reactionary, and it had the musty smell of ... the middle ages". His reply to Louw was reminiscent of his performance in 1937, pledging "that this country [South Africa] is going to maintain its democratic principles and its ideals of freedom and justice, and nothing is going to alter that". Once again, in 1939, he was side-tracked from the central issue contained in this Aliens Amendment Bill into a vague discussion of democratic principles. Surprisingly, Hofmeyr followed Stuttaford's cue, also debating the concepts of freedom and democracy. He stated the reasons for his repugnance of the measure, asserting that "if there are two things which are irreconcilable with one another then they are freedom and intolerance. The people who are free are encroaching on their right to freedom if they treat their own minorities with intolerance". Hofmeyr, the arch antagonist of extreme Nationalist policy, was capable of systematically discrediting Louw's arguments supporting further restriction of Jewish rights, but in debate he theorised only about "what is at the root of this proposed discrimination?", a question which had been answered by the Nationalists themselves ever since 1936.

Stuttaford did at least attempt a clause-by-clause analysis of Louw's Bill, reserving his major criticism for the envisaged restrictions on Jews already resident in South Africa under the provisions of the 1937 Law, having received the imprimatur that they could stay permanently. He likened the proposed banishment of Jews to the action of an inquisition in which the "dice" was loaded against them. He skated round all the other clauses of the Bill, concluding that it would be remembered "as a measure intended to attract to a party those who are prejudiced and ignorant and who have some revenge that they want to exercise on this poor Jewish race", and accused the Nationalists of creating "racial friction with every section of the population which does not follow their narrow, sectarian opinions", whereupon he proposed his amendment "to bury this measure".

Kentridge draws attention to the fact that it was Dr Colin Steyn, son of former President Steyn, who gave the only fit reply to Eric Louw's "contemptible" Bill on 17 March 1939, and he quotes extensively from Steyn's speech, while ignoring those delivered by Stuttaford and Hofmeyr.⁵¹ But in the final assessment of the debate on Louw's Aliens Amendment Bill, it was left to Kentridge to expose the incredibility of Louw's contentions. The English press too had some strong invective reserved for the subscribers to this Bill: "The debate on Mr Louw's Aliens Amendment Bill has at least served the purpose of exposing, in all its abject nakedness, how attenuated is the case for anti-Semitism which now forms the major article of Republican Nationalist policy. Racial intolerance, suspicion, envy, and prejudice are ready means to influence an ignorant audience ...".⁵²

48. *Forum*, 'An Authoritative view of Anti-Semitism', 18.3.39, p.32.

49. Hofmeyr Papers. 'Some Features of Mr. Louw's Bill'.

50. *H.A. Deb.*, vol. 33, col. 825 et seq., 24.3.39; see P F van der Schyff, 'Eric H Louw in die Suid-Afrikaanse Politiek tot 1948', pp.435-470.

51. Kentridge, *I Recall*, pp.271-272.

52. *Forum*, 4.3.39, p.1.

On 3 May 1939 Stuttaford introduced the Aliens Registration Bill to compel every alien to register. Kentridge considers that this measure interfered with the freedom of the individual, and advised, in the Second Reading of the Bill, that "Anyone who is concerned with the freedom of the individual must view a measure of this kind with very considerable misgiving, and must satisfy himself to what extent the measure is necessary".⁵³

Stuttaford, in presenting his new Registration Bill, assured Members of the House that the Bill had not been introduced because of the "unsettled conditions in Europe", but that such legislation had been deemed necessary by the government since 1936 in order to check illegal entry of aliens into South Africa from Angola, Bechuanaland, Southern Rhodesia and Mocambique.⁵⁴ It was over the definition of an "alien" that Stuttaford came into conflict with the Dominionites, who viewed it as a breach of Commonwealth agreements. Stuttaford defined an alien as one "who is not a natural born British subject. Those aliens who have either in England or elsewhere acquired British nationality for our purposes are still considered to be aliens". Stuttaford was here adopting the definition used in the 1937 Aliens Act, which satisfied the Nationalists and aroused opposition from the Dominion party. Clause 21 of the Bill enabled the Minister of the Interior to grant exemption from the restrictions of the Bill if enacted. This proved to be another contentious paragraph in Stuttaford's proposed legislation.

It is obvious from the Nationalists' attitude to immigration that they would welcome Stuttaford's Bill, and it is ironical that once again the Nationalists had coaxed the reluctant United Party Government into legislating more Nationalist measures. Louw taunted Stuttaford that "A large part of it [Stuttaford's Bill] was largely a repetition of the speech which I made during last session, when I touched upon the same points which the Minister referred to today". Indeed there was an uncanny resemblance. In fact, Louw had in his Bill advocated the registration of aliens, and along similar lines to those suggested by Stuttaford in May 1939. Stuttaford opposed such registration then, now he was advocating it. Louw, however, had by this time extended his concept of registration to that of a "national registration" after the same type as the pass system used for non-whites in South Africa. The Nationalists praised Stuttaford's Bill with one reservation, and that was clause 21. Louw opposed the granting of such extensive power to the Minister of the Interior, declaring that the "exemption" clause gave "the Minister the right ... to tear up the Act if he feels like it. That gives him far too wide powers". Congratulating Eric Louw, Mr Rooth remarked on Louw's non party-political appraisal of Stuttaford's Bill, possibly not realizing that party-political pressure was partly the reason for Stuttaford's Bill being introduced in the first place.

On the whole the Bill was well received by the House, and criticisms were concentrated upon the irksomeness of some of the provisions which would require enormous administration. It is evident from Stuttaford's apologetic justification of the Bill that he did not expect such favourable response.⁵⁵ It was Kentridge who provided a more positive justification of the measure: "...there are tangible reasons why those who stand for individual freedom must accept an infringement of that freedom because of

53. *H.A. Deb.*, vol. 34, cols. 3967–3971, 3.5.39.

54. *Ibid.*, col. 3953 *et seq.*

55. See *H.A. Deb.*, vol. 34, col. 3968; G.C. Cuthbertson, 'The Political Career of Richard Stuttaford 1924–1942' (unpublished M.A., U.C.T., 1977), pp.95–105.

the dangers we may be subject to in this country as a result of the subversive measures which are being carried out by aliens, whether they be Nazis or Communists".⁵⁶ Kentridge was, however, one of those Members who chided Stuttaford for his definition of an alien declaring, "to provide in the Bill that a British subject by naturalisation shall be regarded as an alien is in itself a breach of the arrangements that we have with the Commonwealth of Nations ...". Morris Alexander's reception of the Bill was the same, though he offered Stuttaford some praise in the form of a compliment: "The necessity for the measure which has been so aptly proved by the Minister in his speech is evident ...", and confirmed his support by concluding that "One has to say on the whole that this Bill aims at getting rid of certain danger to the body politic and it is doing that in as fair a way as possible. If it imposes a certain hardship on some people whom you don't intend to get at, that may be unavoidable."

Stuttaford rejected the allegation that his Bill was the result of Nationalist pressure, assuring the House that his Bill had been on the cards for some time before Louw's Bill was published. In replying to Kentridge's speech, Stuttaford propounded his concept of freedom. He believed that freedom without "discipline" was nothing more than licence, and protested: "I am heartily in favour of freedom, but I particularly object to licence." Dealing with the recommendation of Dr Van der Merwe (Member for Winburg) "that all British subjects had to be registered", Stuttaford drew attention to the partnership basis of the Commonwealth, reminding Nationalists "that Australians and Canadians and people born in England ... are partners in the Commonwealth", and reproaching them — "do those members opposite treat their partners in exactly the same way as they treat strangers?". This statement was not made purely to placate the Dominionite attack of the alien's definition clause; it was at the heart of Stuttaford's political philosophy of extended co-operation within the Commonwealth, something which he had always maintained, and a position from which he had fought the 1938 election in his own constituency of Claremont.

In view of the support given to his Bill Stuttaford was foolish to destroy that confidence which his measure had obviously won, by introducing a "deportation" clause "extending the provisions of the Bill relating to the deportation of aliens for offences under the Bill to the deportation of aliens whose presence in the Union is considered harmful to the welfare of the state".⁵⁷ Stuttaford's justification for what Eric Louw called a "police measure" was that he, Stuttaford, as Minister of the Interior, had no power to deport an alien unless or until that alien had committed some crime. He appealed: "Now I think everybody will agree that it is very much better to be able to deport such a person before he has done any damage, rather than wait until the damage is done". Eric Louw suggested that this addition to the Bill may be "a pre-war measure for deporting persons who would be probable enemy subjects ...", but nevertheless entirely supported the need for such extra powers. He proposed an amendment which was to turn the debate into a heated political row. He moved that the deportation of aliens be extended to include "persons, not being Union nationals". In view of the definition of "alien" as used in the Aliens Bill of 1937, and which had been used by Stuttaford in his new Registration Bill, this amendment was aimed at British subjects. Both this amendment and Stuttaford's additional deportation clause met with vigorous opposition. Mr M J van den Berg declared that Stuttaford's clause placed too

56. *Ibid.*, col. 3969 *et seq.*

57. *Ibid.*, vol. 35, col 5009 *et seq.*, 22.5.39.

much power in the hands of the Minister of the Interior, accusing him of having "Communist or Fascist fever on his brain, and it looks as if he is thinking, possibly making Communist or Fascist or similar propaganda".

Stuttaford initially accepted Eric Louw's amendment and subsequently rejected it. It is evident that he had not realized the intention of the nationalist amendment, but after Marwick and other Dominionites had exposed the Nationalist attempt to include British subjects under the deportation clause, he immediately fought such a proposal. Obviously his wariness of the Nationalists' strategy had been allayed by their surprising concurrence in his proposed legislation, but once exposed, he showed his allegiance to the concept of Empire and he declared, "certainly one of the greatest bulwarks of peace in the world is the British Commonwealth". If anti-Semitism was the special political preoccupation behind the Louw Bill, then it was the second prong of the Nationalist attack — anti-British sentiment — that forced its way through Stuttaford's deportation clause in May 1939. He withdrew this contentious clause.

Opinion in the English press was unanimous on Stuttaford's wisdom in withdrawing the deportation clause, but the *Sunday Express* drew attention to the Minister's promise to introduce a new Bill the following year to deal with the deportation of British subjects, and expressed the hope that "he will be more alert to its dangerous implications than he was when he so foolishly accepted Mr Louw's amendment. After all, a reversal of Governments one of these days might mean that the powers of deportation which Mr Stuttaford is so light-heartedly enacting would be ruthlessly used to deport liberals who opposed Nationalism and Nazism".⁵⁸ Afrikaans sentiment, however, reflected no such general satisfaction over the withdrawal of the clause. In a leader on the subject, *Die Suiderstem* declared that it was unfortunate that Louw's amendment was first accepted and then rejected, thus giving the Nationalists a chance to accuse the government of imperialistic leanings.⁵⁹ *Die Burger* regarded the episode as yet another proof of the domination of the United Party by the imperialist members, and looked upon the excuses offered by Stuttaford for the withdrawal of the amendment as "farical pretexts".⁶⁰ *Die Transvaler* accused the government of weakly retreating, and claimed that Stuttaford's promise of firm legislation the following year was nothing but an "elaborate smoke screen".⁶¹

During the period 1937 to 1939 the Jewish question was "dragged into the forefront of party politics"⁶² and during the debates on the Aliens Bills it was amply evident that Malan and his Purified Nationalists were intent upon forcing division, and consolidating their exclusiveness. The Fusionists were not united and were consequently unable to withstand pressure to introduce these discriminatory laws.

58. *Sunday Express*, 9.6.39.

59. *Suiderstem*, translated in *Forum*, 10.6.39.

60. *Burger*, translated in *Forum*, 10.6.39.

61. *Transvaler*, translated in *Forum*, 10.6.39.

62. E.A. Walker, *A History of Southern Africa*, p.657.